SPONSOR: Sen. Ennis & Rep. Carson
Sens. Bushweller, Henry, Hocker, McBride, Pettyjohn, Poore; Reps. Briggs King, Hudson, Jaques, Q. Johnson, Keeley, Osienski, Paradee, B. Short, D. Short, Viola, Wilson

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 35
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE ADOPTION OF THE RECOGNITION OF EMERGENCY MEDICAL SERVICES PERSONNEL LICENSURE INTERSTATE COMPACT ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 98A. Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act ("REPLICA").

§ 98A-100. Adoption of REPLICA.

The Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act ("REPLICA") is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially in this chapter.

§ 98A-101. Purpose.

The purpose of this Compact is to protect the public through verification of competency and ensure accountability for patient care related activities of all states' licensed emergency medical services (EMS) personnel, such as emergency medical technicians (EMTs), advanced EMTs, and paramedics. This Compact is intended to facilitate the day-to-day movement of EMS personnel across state boundaries in the performance of their EMS duties as assigned by an appropriate authority and authorize state EMS offices to afford immediate legal recognition to EMS personnel licensed in a member state. This Compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of EMS personnel and that such state regulation shared among the member states will best protect public health and safety. This Compact is designed to achieve the following purposes and objectives:

1. Increase public access to EMS personnel.

2. Enhance the states' ability to protect the public's health and safety, especially patient safety.

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3. Encourage the cooperation of member states in the areas of EMS personnel licensure and regulation.

4. Support licensing of military members who are separating from an active duty tour and the spouses of military members.

5. Facilitate the exchange of information between member states regarding EMS personnel licensure, adverse action, and significant investigatory information.

6. Promote compliance with the laws governing EMS personnel practice in each member state.

7. Invest all member states with the authority to hold EMS personnel accountable through the mutual recognition of member state licenses.

§ 98A-102. Definitions.

As used in this Compact:

A. "Advanced emergency medical technician" or "AEMT" means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

B. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws that may be imposed against licensed EMS personnel by a state EMS authority or state court, including actions against an individual's license such as revocation, suspension, probation, consent agreement, monitoring, or other limitation or encumbrance on the individual's practice; letters of reprimand or admonition; fines; criminal convictions; and state court judgments enforcing adverse actions by the state EMS authority.

C. "Alternative program" means a voluntary, non-disciplinary substance abuse recovery program approved by a state EMS authority.

D. "Certification" means the successful verification of entry-level cognitive and psychomotor competency using a reliable, validated, and legally defensible examination.

E. "Commission" means the national administrative body of which all states that have enacted the Compact are members.

F. "Emergency medical technician" or "EMT" means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

G. "Home state" means a member state where an individual is licensed to practice emergency medical services.

H. "License" means the authorization by a state for an individual to practice as an EMT, AEMT, paramedic, or at a level between EMT and paramedic.

I. "Medical director" means a physician licensed in a member state who is accountable for the care delivered by EMS personnel.

J. "Member state" means a state that has enacted this Compact.

K. "Paramedic" means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

L. "Privilege to practice" means an individual's authority to deliver emergency medical services in remote states as authorized under this Compact.

M. "Remote state" means a member state in which an individual is not licensed.

N. "Restricted" means the outcome of an adverse action that limits a license or the privilege to practice.

O. "Rule" means a written statement by the Commission promulgated pursuant to § 98A-112 of this title that is of general applicability; implements, interprets, or prescribes a policy or provision of this Compact; or is an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a member state. "Rule" includes the amendment, repeal, or suspension of an existing rule.

P. "Scope of practice" means defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute, or court decision, it tends to represent the limits of services an individual may perform.

Q. "Significant investigatory information" means one of the following:

1. Investigative information that a state EMS authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proved true, would result in the imposition of an adverse action on a license or privilege to practice.

2. Investigative information that indicates that the individual represents an immediate threat to public health and safety, regardless of whether the individual has been notified and had an opportunity to respond.

R. "State" means any state, commonwealth, district, or territory of the United States.

S. "State EMS Authority" means the board, office, or other agency with the legislative mandate to license EMS personnel.

§ 98A-103. Home state licensure.

A. Any member state in which an individual holds a current license is deemed a home state for purposes of this Compact.

B. Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this Compact.

C. A home state's license authorizes an individual to practice in a remote state under the privilege to practice only if the home state meets all of the following requirements:

1. Currently requires the use of the National Registry of Emergency Medical Technicians (NREMT) examination as a condition of issuing initial licenses at the EMT and paramedic levels.

2. Has a mechanism in place for receiving and investigating complaints about individuals.

3. Notifies the Commission, in compliance with the terms of the Compact, of any adverse action or significant investigatory information regarding an individual.

4. No later than 5 years after activation of the Compact, requires a criminal background check of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the federal bureau of investigation, with the exception of federal employees who have suitability determination in accordance with 5 CFR § 731.202, and submits documentation of the requirement as promulgated in the rules of the Commission.

5. Complies with the rules of the Commission.

§ 98A-104. Compact Privilege to Practice.

A. Member states shall recognize the privilege to practice of an individual licensed in another member state that is in conformance with § 98A-104 of this title.

B. To exercise the privilege to practice under the terms and provisions of this Compact, an individual must meet all of the following:

1. Be at least 18 years of age.

2. Possess a current, unrestricted license in a member state as an EMT, AEMT, paramedic, or state recognized and licensed level with a scope of practice and authority between EMT and paramedic.

3. Practice under the supervision of a medical director.

C. An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless and until modified by an appropriate authority in the remote state, as may be defined in the rules of the Commission.

D. Except as provided in this section, an individual practicing in a remote state is subject to the remote state's authority and laws. A remote state may, in accordance with due process and that state's laws, restrict, suspend, or revoke an individual's privilege to practice in the remote state and may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes action, the remote state shall promptly notify the home state and the Commission.

E. if an individual's license in any home state is restricted or suspended, the individual is not eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

F. If an individual's privilege to practice in any remote state is restricted, suspended, or revoked, the individual is not eligible to practice in any remote state until the individual's privilege to practice is restored.

§ 98A-105. Conditions of practice in a remote state.

An individual may practice in a remote state under a privilege to practice only in the performance of the individual's EMS duties as assigned by an appropriate authority, as defined in the rules of the Commission, and under the following circumstances:

1. The individual originates a patient transport in a home state and transports the patient to a remote state.

2. The individual originates in the home state and enters a remote state to pick up a patient and provide care and transport of the patient to the home state.

3. The individual enters a remote state to provide patient care or transport within that remote state.

4. The individual enters a remote state to pick up a patient and provide care and transport to a third member state.

5. Other conditions as determined by rules promulgated by the Commission.

§ 98A-106. Relationship to emergency management assistance compact.

Upon a member state's governor's declaration of a state of emergency or disaster that activates the Emergency Management Assistance Compact (EMAC), Chapter 34 of Title 20, all relevant terms and provisions of EMAC shall apply, and to the extent any terms or provisions of this Compact conflict with EMAC, the terms of EMAC shall prevail with respect to any individual practicing in the remote state in response to such declaration.

§ 98A-107. Veterans, service members separating from active duty military, and their spouses.

A. Member states shall consider a veteran, active military service member, and member of the National Guard and Reserves separating from an active duty tour, and a spouse of the veteran or member, who holds a current, valid, and unrestricted NREMT certification at or above the level of the state license being sought, as satisfying the minimum training and examination requirements for licensure.

B. Member states shall expedite the processing of licensure applications submitted by veterans, active military service members, and members of the National Guard and Reserves separating from an active duty tour, and their spouses.

C. All individuals functioning with a privilege to practice under this section remain subject to the adverse actions provisions of § 98A-108 of this title.

§ 98A-108. Adverse actions.

A. A home state shall have exclusive power to impose adverse action against an individual's license issued by the home state.

B. If an individual's license in any home state is restricted or suspended, the individual is not eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

1. All home state adverse action orders shall include a statement that the individual's Compact privileges are inactive. The order may allow the individual to practice in remote states with prior written authorization from both the home state and remote state's EMS authority.

2. An individual currently subject to adverse action in the home state shall not practice in any remote state without prior written authorization from both the home state and remote state's EMS authority.

C. A member state shall report adverse actions and any occurrences that the individual's Compact privileges are restricted, suspended, or revoked to the Commission in accordance with the rules of the Commission.

D. A remote state may take adverse action on an individual's privilege to practice within that state.

E. Any member state may take adverse action against an individual's privilege to practice in that state based on the factual findings of another member state, so long as each state follows its own procedures for imposing an adverse action.

F. A home state's EMS authority shall investigate and take appropriate action with respect to reported conduct in a remote state as it would if the conduct had occurred within the home state. In these cases, the home state's law controls in determining the appropriate adverse action.

G. Nothing in this Compact overrides a member state's decision that participation in an alternative program may be used in lieu of adverse action and that participation remains confidential if required by the member state's laws. Member states must require individuals who enter any alternative programs to agree not to practice in any other member state during the term of the alternative program without prior authorization from the other member state.

§ 98A-109. Additional powers invested in a member state’s EMS authority.

A member state's EMS authority, in addition to any other powers granted under state law, is authorized under this Compact to do all of the following:

1. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a member state's EMS authority for the attendance and testimony of witnesses, or the production of evidence from another member state are enforceable in the remote state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state's EMS authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence are located.

2. Issue cease and desist orders to restrict, suspend, or revoke an individual's privilege to practice in the state.

§ 98A-110. Establishment of the Interstate Commission for EMS Personnel Practice.

A. The Compact states hereby create and establish a joint public agency known as the Interstate Commission for EMS Personnel Practice.

1. The Commission is a body politic and an instrumentality of the Compact states.

2. Venue is proper, and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact waives sovereign immunity.

B. Membership, voting, and meetings.

1. Each member state shall have and be limited to 1 delegate. The responsible official of the state EMS authority or his or her designee shall be the delegate to this Compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the member state in which the vacancy exists. If more than 1 board, office, or other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the governor of the state will determine which entity will be responsible for assigning the delegate.

2. Each delegate shall be entitled to 1 vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

3. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

4. All meetings are open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in § 98A-112 of this title.

5. The Commission may convene in a closed, non-public meeting if the Commission must discuss any of the following:

a. Non-compliance of a member state with its obligations under the Compact.

b. The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures.

c. Current, threatened, or reasonably anticipated litigation.

d. Negotiation of contracts for the purchase or sale of goods, services, or real estate.

e. An accusation of a crime against any person or formally censuring any person.

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential.

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

h. Disclosure of investigatory records compiled for law enforcement purposes.

i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with investigating or determining compliance issues pursuant to the Compact.

j. Matters specifically exempted from disclosure by federal or member state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this section, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a closed meeting and shall provide a full and accurate summary of actions taken, and the reasons for the actions, including a description of the views expressed. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

C. The Commission shall, by a majority vote of the delegates, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the Compact, including any of the following:

1. Establishing the fiscal year of the Commission.

2. Providing reasonable standards and procedures as follows.

a. For the establishment and meetings of other committees.

b. Governing any general or specific delegation of any authority or function of the Commission.

3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of Commission meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the Commission members vote to close a meeting in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting, revealing the vote of each member with no proxy votes allowed.

4. Establishing the titles, duties, and authority, and reasonable procedures for the election of the officers of the Commission.

5. Providing reasonable standards and procedures for establishing the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any member state, the bylaws exclusively govern the personnel policies and programs of the Commission.

6. Promulgating a code of ethics to address permissible and prohibited activities of Commission members and employees.

7. Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact and after the paying or reserving of all of its debts and obligations.

8. The Commission shall publish its bylaws and file a copy of its bylaws, and any amendments to the bylaws, with the appropriate agency or officer in each of the member states, if any.

9. The Commission shall maintain its financial records in accordance with the bylaws.

10. The Commission shall meet and take actions consistent with this Compact and Commission bylaws.

D. The Commission shall have the following powers:

1. To promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states.

2. To bring and prosecute legal proceedings or actions in the name of the Commission; provided, that the standing of any state EMS authority or other regulatory body responsible for EMS personnel licensure to sue or be sued under applicable law shall not be affected.

3. To purchase and maintain insurance and bonds.

4. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state.

5. To hire employees, elect or appoint officers, fix compensation, define duties, grant those individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.

6. To accept any appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the donations and grants; provided, that at all times the Commission shall strive to avoid any appearance of impropriety or conflict of interest.

7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use any real, personal, or mixed property; provided, that at all times the Commission shall strive to avoid any appearance of impropriety.

8. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any real, personal, or mixed property.

9. To establish a budget and make expenditures.

10. To borrow money.

11. To appoint committees, including advisory committees, comprised of members, state regulators, state legislators or their representatives, consumer representatives, and other interested persons as may be designated in this Compact and the bylaws.

12. To provide and receive information from, and to cooperate with, law enforcement agencies.

13. To adopt and use an official seal.

14. To perform other functions as may be necessary or appropriate to achieve the purposes of this Compact that are consistent with the state regulation of EMS personnel licensure and practice.

E. Financing of the Commission.

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the Commission's annual report.

F. Qualified immunity, defense, and indemnification.

1. The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of Commission employment, duties, or responsibilities; provided, that nothing in this paragraph F.1. of this section protects any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, unless the actual or alleged act, error, or omission resulted from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of

Commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, unless the actual or alleged act, error, or omission resulted from the intentional or willful or wanton misconduct of that person.

§ 98A-111. Coordinated database.

A. The Commission shall provide for the development and maintenance of a coordinated database and reporting system containing licensure, adverse action, and significant investigatory information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the coordinated database on all individuals to whom this Compact is applicable as required by the rules of the Commission, including all of the following:

1. Identifying information.

2. Licensure data.

3. Significant investigatory information.

4. Adverse actions against an individual's license.

5. An indicator that an individual's privilege to practice is restricted, suspended, or revoked.

6. Non-confidential information related to alternative program participation.

7. Any denial of application for licensure and the reason for the denial.

8. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. The coordinated database administrator shall promptly notify all member states of any adverse action taken against, or significant investigative information on, any individual in a member state.

D. Member states contributing information to the coordinated database may designate information that may not be shared with the public without the express permission of the contributing state.

E. Any information submitted to the coordinated database that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the coordinated database.

§ 98A-112. Rulemaking.

A The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted under this section. Rules and amendments are binding as of the date specified in the rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, the rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgating and adopting a final rule, and at least 60 days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking in the following manner:

1. On the Commission's web site.

2. On the web site of each member state's EMS authority or the publication in which each state would otherwise publish proposed rules.

E. The notice of proposed rulemaking shall include all of the following:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon.

2. The text of the proposed rule or amendment and the reason for the proposed rule.

3. A request for comments on the proposed rule from any interested person.

4. The manner in which interested persons may submit to the Commission notice of intent to attend the public hearing and any written comments.

F. Prior to adopting a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which the Commission shall make available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by any of the following:

1. At least 25 persons.

2. A governmental subdivision or agency.

3. An association having at least 25 members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than 5 business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made

in lieu of a transcript under the same terms and conditions as a transcript. This paragraph H.3. of this section shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.

4. Nothing in this section requires a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

K. If the Commission does not receive written notice of intent to attend the public hearing by interested parties, the Commission may proceed with promulgation of the proposed rule without a public hearing.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, but the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this subsection, an emergency rule is one that must be adopted immediately in order to do at least one of the following:

1. Meet an imminent threat to public health, safety, or welfare.

2. Prevent a loss of Commission or member state funds.

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical, format, consistency, or grammatical errors. Public notice of any revisions shall be posted on the Commission's web site. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

§ 98A-113. Oversight, dispute resolution, and enforcement.

A. Oversight.

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and

intent. The provisions of this Compact and the rules promulgated under the Compact shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Commission.

3. The Commission is entitled to receive service of process in any judicial or administrative proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Commission renders a judgment or order void as to the Commission, this Compact, or promulgated rules.

B. Default, technical assistance, and termination.

1. If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall do all of the following:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, and any other action to be taken by the Commission.

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. The Commission shall give notice of intent to suspend or terminate to the governor of the defaulting state, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices. The court shall award all costs of the litigation, including reasonable attorney's fees, to the prevailing party.

C. Dispute resolution.

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement.

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the court shall award all costs of the litigation, including reasonable attorney's fees, to the prevailing party.

3. The remedies contained in this Section shall not be the exclusive remedies available to the Commission. The Commission may pursue any other remedies available under federal or state law.

§ 98A-114. Date of implementation of the Interstate Commission for EMS Personnel Practice and associated rules, withdrawal, and amendment.

A. The Compact takes effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions that become effective at that time are limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to implement and administer the Compact.

B. Any state that joins the Compact after the Commission's initial adoption of the rules is subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission has the full force and effect of law on the day the Compact becomes law in that state.

C. Any member state may withdraw from this Compact by enacting a statute repealing the statute.

1. A member state's withdrawal shall not take effect until 6 months after enactment of the repealing statute.

2. Withdrawal does not affect the continuing requirement of the withdrawing state's EMS authority to comply with the investigative and adverse action reporting requirements of this Compact prior to the effective date of withdrawal.

D. Nothing contained in this Compact invalidates or prevents any EMS personnel licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.

E. The member states may amend the Compact. An amendment to this Compact is not effective and binding upon any member state until it is enacted into the laws of all member states.

§ 98A-115. Construction and severability.

This Compact shall be liberally construed so as to effectuate the purposes of the Compact. If a court finds that this Compact is contrary to the constitution of any member state, the Compact shall remain in full force and effect as to the remaining member states. Nothing in this Compact supersedes state law or rules related to licensure of EMS agencies.

Section 2. This Act takes effect immediately because at least 10 states have adopted the REPLICA Compact.

Section 3. Amend Chapter 98, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9815. Implementation of REPLICA.

(a) The Department of Health and Social Services, in collaboration with the Delaware State Fire Commission and the Division of Professional Regulations, shall promulgate regulations for implementation of the REPLICA Compact, Chapter 98A of this title.

(b) The Division of Public Health, the State Fire Commission, and the Division of Professional Regulations shall enter into a memorandum of understanding to identify roles and responsibilities of the partnering agencies under the REPLICA Compact, Chapter 98A of this title.