

**HOUSE BILL NO. 1337**

Introduced by

Representatives Heinert, Guggisberg, Meier, Porter

Senators Burckhard, Dever, Meyer

1 A BILL for an Act to create and enact chapter 23-27.1 of the North Dakota Century Code,  
2 relating to the emergency medical services personnel licensure interstate compact.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** Chapter 23-27.1 of the North Dakota Century Code is created and enacted as  
5 follows:

6 **23-27.1-01. Purpose.**

7 To protect the public through verification of competency and ensure accountability for  
8 patient care-related activities all states license emergency medical services personnel, such as  
9 emergency medical technicians, advanced emergency medical technicians, and paramedics.  
10 This compact is intended to facilitate the day-to-day movement of emergency medical services  
11 personnel across state boundaries in the performance of their emergency medical services  
12 duties as assigned by an appropriate authority and authorize state emergency medical services  
13 offices to afford immediate legal recognition to emergency medical services personnel licensed  
14 in a member state. This compact recognizes states have a vested interest in protecting the  
15 public's health and safety through their licensing and regulation of emergency medical services  
16 personnel and state regulation shared among the member states will best protect public health  
17 and safety. This compact is designed to achieve the following purposes and objectives:

- 18 1. Increase public access to emergency medical services personnel;  
19 2. Enhance the states' ability to protect the public's health and safety, especially patient  
20 safety;  
21 3. Encourage the cooperation of member states in the areas of emergency medical  
22 services personnel licensure and regulation;  
23 4. Support licensing of military members who are separating from an active duty tour and  
24 their spouses;

- 1       5. Facilitate the exchange of information between member states regarding emergency  
2       medical services personnel licensure, adverse action, and significant investigatory  
3       information;
- 4       6. Promote compliance with the laws governing emergency medical services personnel  
5       practice in each member state; and
- 6       7. Invest all member states with the authority to hold emergency medical services  
7       personnel accountable through the mutual recognition of member state licenses.

8       **23-27.1-02. Definitions.**

9       In this chapter:

- 10      1. "Advanced emergency medical technician" means an individual licensed with cognitive  
11      knowledge and a scope of practice that corresponds to that level in the national  
12      emergency medical services education standards and national emergency medical  
13      services scope of practice model.
- 14      2. "Adverse action" means any administrative, civil, equitable, or criminal action  
15      permitted by law which may be imposed against licensed emergency medical services  
16      personnel by a state emergency medical services authority or state court, including  
17      actions against an individual's license such as revocation, suspension, probation,  
18      consent agreement, monitoring, or other limitation or encumbrance on the individual's  
19      practice, letters of reprimand or admonition, fines, criminal convictions, and state court  
20      judgments enforcing adverse actions by the state emergency medical services  
21      authority.
- 22      3. "Alternative program" means a voluntary, nondisciplinary substance abuse recovery  
23      program approved by a state emergency medical services authority.
- 24      4. "Certification" means the successful verification of entry-level cognitive and  
25      psychomotor competency using a reliable, validated, and legally defensible  
26      examination.
- 27      5. "Commission" means the national administrative body of which all states that have  
28      enacted the compact are members.
- 29      6. "Emergency medical technician" means an individual licensed with cognitive  
30      knowledge and a scope of practice that corresponds to that level in the national

- 1           emergency medical services education standards and national emergency medical  
2           services scope of practice model.
- 3        7.   "Home state" means a member state where an individual is licensed to practice  
4           emergency medical services.
- 5        8.   "License" means the authorization by a state for an individual to practice as an  
6           emergency medical technician, advanced emergency medical technician, paramedic,  
7           or a level in between an emergency medical technician and paramedic.
- 8        9.   "Medical director" means a physician licensed in a member state who is accountable  
9           for the care delivered by emergency medical services personnel.
- 10      10. "Member state" means a state that has enacted this compact.
- 11      11. "Paramedic" means an individual licensed with cognitive knowledge and a scope of  
12           practice that corresponds to that level in the national emergency medical services  
13           education standards and national emergency medical services scope of practice  
14           model.
- 15      12. "Privilege to practice" means an individual's authority to deliver emergency medical  
16           services in remote states as authorized under this compact.
- 17      13. "Remote state" means a member state in which an individual is not licensed.
- 18      14. "Restricted" means the outcome of an adverse action that limits a license or the  
19           privilege to practice.
- 20      15. "Rule" means a written statement by the interstate commission promulgated pursuant  
21           to section 23-27.1-12 which is of general applicability; implements, interprets, or  
22           prescribes a policy or provision of the compact; or is an organizational, procedural, or  
23           practice requirement of the commission and has the force and effect of statutory law in  
24           a member state and includes the amendment, repeal, or suspension of an existing  
25           rule.
- 26      16. "Scope of practice" means defined parameters of various duties or services that may  
27           be provided by an individual with specific credentials. Whether regulated by rule,  
28           statute, or court decision, it tends to represent the limits of services an individual may  
29           perform.
- 30      17. "Significant investigatory information" means:

- 1           a. Investigative information that a state emergency medical services authority, after  
2           a preliminary inquiry that includes notification and an opportunity to respond if  
3           required by state law, has reason to believe, if proved true, would result in the  
4           imposition of an adverse action on a license or privilege to practice; or  
5           b. Investigative information that indicates an individual represents an immediate  
6           threat to public health and safety regardless of whether the individual has been  
7           notified and had an opportunity to respond.

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

9       19. "State emergency medical services authority" means the board, office, or other agency  
10       with the legislative mandate to license emergency medical services personnel.

11       **23-27.1-03. Home state licensure.**

12       1. Any member state in which an individual holds a current license is deemed a home  
13       state for purposes of this compact.

14       2. Any member state may require an individual to obtain and retain a license to be  
15       authorized to practice in the member state under circumstances not authorized by the  
16       privilege to practice under the terms of this compact.

17       3. A home state's license authorizes an individual to practice in a remote state under the  
18       privilege to practice only if the home state:

19       a. Currently requires the use of the national registry of emergency medical  
20       technicians examination as a condition of issuing initial licenses at the  
21       emergency medical technician and paramedic levels;

22       b. Has a mechanism in place for receiving and investigating complaints about  
23       individuals;

24       c. Notifies the commission, in compliance with the terms herein, of any adverse  
25       action or significant investigatory information regarding an individual;

26       d. No later than five years after activation of the compact, requires a criminal  
27       background check of all applicants for initial licensure, including the use of the  
28       results of fingerprint or other biometric data checks compliant with the  
29       requirements of the federal bureau of investigation with the exception of federal  
30       employees who have suitability determination in accordance with title 5, Code of

1                   Federal Regulations, section 731, part 202 and submit documentation of such as  
2                   promulgated in the rules of the commission; and

3                   e. Complies with the rules of the commission.

4                   **23-27.1-04. Compact privilege to practice.**

5                   1. Member states shall recognize the privilege to practice of an individual licensed in  
6                   another member state that is in conformance with section 23-27.1-03.

7                   2. To exercise the privilege to practice under the terms and provisions of this compact, an  
8                   individual must:

9                   a. Be at least 18 years of age;

10                  b. Possess a current unrestricted license in a member state as an emergency  
11                  medical technician, advanced emergency medical technician, paramedic, or state  
12                  recognized and licensed level with a scope of practice and authority between  
13                  emergency medical technician and paramedic; and

14                  c. Practice under the supervision of a medical director.

15                  3. An individual providing patient care in a remote state under the privilege to practice  
16                  shall function within the scope of practice authorized by the home state unless and  
17                  until modified by an appropriate authority in the remote state as may be defined in the  
18                  rules of the commission.

19                  4. Except as provided in subsection 3, an individual practicing in a remote state is subject  
20                  to the remote state's authority and laws. A remote state may, in accordance with due  
21                  process and that state's laws, restrict, suspend, or revoke an individual's privilege to  
22                  practice in the remote state and may take any other necessary actions to protect the  
23                  health and safety of its citizens. If a remote state takes action, that remote state shall  
24                  promptly notify the home state and the commission.

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

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

1        **23-27.1-05. Conditions of practice in a remote state.**

2        An individual may practice in a remote state under a privilege to practice only in the  
3 performance of the individual's emergency medical services duties as assigned by an  
4 appropriate authority, as defined in the rules of the commission, and under the following  
5 circumstances:

- 6        1. The individual originates a patient transport in a home state and transports the patient  
7        to a remote state;
- 8        2. The individual originates in the home state and enters a remote state to pick up a  
9        patient and provide care and transport of the patient to the home state;
- 10       3. The individual enters a remote state to provide patient care or transport within that  
11       remote state;
- 12       4. The individual enters a remote state to pick up a patient and provide care and  
13       transport to a third member state; and
- 14       5. Other conditions as determined by rules promulgated by the commission.

15       **23-27.1-06. Relationship to emergency management assistance compact.**

16       Upon a member state's governor's declaration of a state of emergency or disaster that  
17 activates the emergency management assistance compact, all relevant terms and provisions of  
18 the emergency management assistance compact apply and to the extent any terms or  
19 provisions of this compact conflict with the emergency management assistance compact, the  
20 terms of the emergency management assistance compact prevails with respect to any  
21 individual practicing in the remote state in response to such declaration.

22       **23-27.1-07. Veterans, service members separating from active duty military, and their**  
23 **spouses.**

- 24       1. Member states shall consider a veteran, active military service member, and member  
25       of the national guard and reserves separating from an active duty tour, and a spouse  
26       thereof, who holds a current valid and unrestricted national registry of emergency  
27       medical technicians certification at or above the level of the state license being sought  
28       as satisfying the minimum training and examination requirements for such licensure.
- 29       2. Member states shall expedite the processing of licensure applications submitted by  
30       veterans, active military service members, and members of the national guard and  
31       reserves separating from an active duty tour, and their spouses.

1       3. All individuals functioning with a privilege to practice under this section remain subject  
2       to the adverse actions provisions of section 23-27.1-08.

3       **23-27.1-08. Adverse actions.**

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

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

9       a. All home state adverse action orders must include a statement that the  
10       individual's compact privileges are inactive. The order may allow the individual to  
11       practice in remote states with prior written authorization from both the home state  
12       and remote state's emergency medical services authority.

13       b. An individual currently subject to adverse action in the home state may not  
14       practice in any remote state without prior written authorization from both the  
15       home state and remote state's emergency medical services authority.

16       3. A member state shall report adverse actions and any occurrences that the individual's  
17       compact privileges are restricted, suspended, or revoked to the commission in  
18       accordance with the rules of the commission.

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

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

24       6. A home state's emergency medical services authority shall investigate and take  
25       appropriate action with respect to reported conduct in a remote state as it would if  
26       such conduct had occurred within the home state. In such cases, the home state's law  
27       shall control in determining the appropriate adverse action.

28       7. Nothing in this compact may override a member state's decision that participation in  
29       an alternative program may be used in lieu of adverse action and that such  
30       participation must remain nonpublic if required by the member state's laws. Member  
31       states must require individuals who enter any alternative programs to agree not to

1 practice in any other member state during the term of the alternative program without  
2 prior authorization from such other member state.

3 **23-27.1-09. Additional powers invested in a member state's emergency medical**  
4 **services authority.**

5 A member state's emergency medical services authority, in addition to any other powers  
6 granted under state law, is authorized under this compact to:

- 7 1. Issue subpoenas for both hearings and investigations that require the attendance and  
8 testimony of witnesses and the production of evidence. Subpoenas issued by a  
9 member state's emergency medical services authority for the attendance and  
10 testimony of witnesses or the production of evidence from another member state, or  
11 both, must be enforced in the remote state by any court of competent jurisdiction,  
12 according to that court's practice and procedure in considering subpoenas issued in its  
13 own proceedings. The issuing state's emergency medical services authority shall pay  
14 any witness fees, travel expenses, mileage, and other fees required by the service  
15 statutes of the state where the witnesses or evidence, or both, are located; and  
16 2. Issue cease and desist orders to restrict, suspend, or revoke an individual's privilege  
17 to practice in the state.

18 **23-27.1-10. Establishment of the interstate commission for emergency medical**  
19 **services personnel practice.**

- 20 1. The compact states hereby create and establish a joint public agency known as the  
21 interstate commission for emergency medical services personnel practice.  
22 a. The commission is a body politic and an instrumentality of the compact states.  
23 b. Venue is proper and judicial proceedings by or against the commission must be  
24 brought solely and exclusively in a court of competent jurisdiction where the  
25 principal office of the commission is located. The commission may waive venue  
26 and jurisdictional defenses to the extent it adopts or consents to participate in  
27 alternative dispute resolution proceedings.  
28 c. Nothing in this compact may be construed to be a waiver of sovereign immunity.  
29 2. a. Each member state shall have and be limited to one delegate. The responsible  
30 official of the state emergency medical services authority or the official's designee  
31 shall be the delegate to this compact for each member state. Any delegate may

1 be removed or suspended from office as provided by the law of the state from  
2 which the delegate is appointed. Any vacancy occurring in the commission must  
3 be filled in accordance with the laws of the member state in which the vacancy  
4 exists. If more than one board, office, or other agency with the legislative  
5 mandate to license emergency medical services personnel at and above the level  
6 of emergency medical technician exists, the governor of the state shall determine  
7 which entity is responsible for assigning the delegate.

8 b. Each delegate is entitled to one vote with regard to the promulgation of rules and  
9 creation of bylaws and shall otherwise have an opportunity to participate in the  
10 business and affairs of the commission. A delegate shall vote in person or by  
11 such other means as provided in the bylaws. The bylaws may provide for  
12 delegates' participation in meetings by telephone or other means of  
13 communication.

14 c. The commission shall meet at least once during each calendar year. Additional  
15 meetings must be held as set forth in the bylaws.

16 d. All meetings must be open to the public, and public notice of meetings must be  
17 given in the same manner as required under the rulemaking provisions in section  
18 23-27.1-12.

19 e. The commission may convene in a closed, nonpublic meeting if the commission  
20 must discuss:

21 (1) Noncompliance of a member state with its obligations under the compact;

22 (2) The employment, compensation, discipline, or other personnel matters,

23 practices or procedures related to specific employees or other matters

24 related to the commission's internal personnel practices and procedures;

25 (3) Current, threatened, or reasonably anticipated litigation;

26 (4) Negotiation of contracts for the purchase or sale of goods, services, or real  
27 estate;

28 (5) Accusing any person of a crime or formally censuring any person;

29 (6) Disclosure of trade secrets or commercial or financial information that is  
30 privileged or confidential;

- 1           (7) Disclosure of information of a personal nature where disclosure would  
2           constitute a clearly unwarranted invasion of personal privacy;
- 3           (8) Disclosure of investigatory records compiled for law enforcement purposes;  
4           (9) Disclosure of information related to any investigatory reports prepared by,  
5           on behalf of, or for use of the commission or other committee charged with  
6           responsibility of investigation or determination of compliance issues  
7           pursuant to the compact; or
- 8           (10) Matters specifically exempted from disclosure by a federal or member state  
9           statute.
- 10          f. If a meeting, or portion of a meeting, is closed under this section, the  
11          commission's legal counsel or designee shall certify that the meeting may be  
12          closed and shall reference each relevant exempting provision. The commission  
13          shall keep minutes that fully and clearly describe all matters discussed in a  
14          meeting and shall provide a full and accurate summary of actions taken, and the  
15          reasons therefore, including a description of the views expressed. All documents  
16          considered in connection with an action must be identified in the minutes. All  
17          minutes and documents of a closed meeting must remain under seal, subject to  
18          release by a majority vote of the commission or order of a court of competent  
19          jurisdiction.
- 20          3. The commission shall, by a majority vote of the delegates, prescribe bylaws or rules,  
21          or both, to govern its conduct as may be necessary or appropriate to carry out the  
22          purposes and exercise the powers of the compact, including:
- 23          a. Establishing the fiscal year of the commission;  
24          b. Providing reasonable standards and procedures:  
25               (1) For the establishment and meetings of other committees; and  
26               (2) Governing any general or specific delegation of any authority or function of  
27               the commission;
- 28          c. Providing reasonable procedures for calling and conducting meetings of the  
29          commission, ensuring reasonable advance notice of all meetings, and providing  
30          an opportunity for attendance of such meetings by interested parties, with  
31          enumerated exceptions designed to protect the public's interest, the privacy of

- 1           individuals, and proprietary information, including trade secrets. The commission  
2           may meet in closed session only after a majority of the membership votes to  
3           close a meeting in whole or in part. As soon as practicable, the commission must  
4           make public a copy of the vote to close the meeting, which includes the vote of  
5           each member with no proxy votes allowed;
- 6           d. Establishing the titles, duties and authority, and reasonable procedures for the  
7           election of the officers of the commission;
- 8           e. Providing reasonable standards and procedures for the establishment of the  
9           personnel policies and programs of the commission. Notwithstanding any civil  
10           service or other similar laws of any member state, the bylaws exclusively govern  
11           the personnel policies and programs of the commission;
- 12           f. Promulgating a code of ethics to address permissible and prohibited activities of  
13           commission members and employees;
- 14           g. Providing a mechanism for winding up the operations of the commission and the  
15           equitable disposition of any surplus funds that may exist after the termination of  
16           the compact after the payment or reserving of all of its debts and obligations;
- 17           h. The commission shall publish its bylaws and file a copy thereof, and a copy of  
18           any amendment, with the appropriate agency or officer in each of the member  
19           states, if any;
- 20           i. The commission shall maintain its financial records in accordance with the  
21           bylaws; and
- 22           j. The commission shall meet and take such actions as are consistent with the  
23           provisions of this compact and the bylaws.
- 24           4. The commission shall have the following powers:
- 25           a. The authority to promulgate uniform rules to facilitate and coordinate  
26           implementation and administration of this compact. The rules have the force and  
27           effect of law and are binding in all member states;
- 28           b. To bring and prosecute legal proceedings or actions in the name of the  
29           commission, provided that the standing of any state emergency medical services  
30           authority or other regulatory body responsible for emergency medical services  
31           personnel licensure to sue or be sued under applicable law may not be affected;

- 1           c. To purchase and maintain insurance and bonds;
- 2           d. To borrow, accept, or contract for services of personnel, including employees of a  
3           member state;
- 4           e. To hire employees, elect or appoint officers, fix compensation, define duties,  
5           grant such individuals appropriate authority to carry out the purposes of the  
6           compact, and to establish the commission's personnel policies and programs  
7           relating to conflicts of interest, qualifications of personnel, and other related  
8           personnel matters;
- 9           f. To accept any and all appropriate donations and grants of money, equipment,  
10          supplies, materials, and services, and to receive, utilize, and dispose of the  
11          same; provided that at all times the commission shall strive to avoid any  
12          appearance of impropriety or conflict of interest;
- 13          g. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own,  
14          hold, improve or use, any property, whether real, personal, or mixed; provided  
15          that at all times the commission shall strive to avoid any appearance of  
16          impropriety;
- 17          h. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise  
18          dispose of any property, whether real, personal, or mixed;
- 19          i. To establish a budget and make expenditures;
- 20          j. To borrow money;
- 21          k. To appoint committees, including advisory committees comprised of members,  
22          state regulators, state legislators or their representatives, and consumer  
23          representatives, and other interested persons as may be designated in this  
24          compact and the bylaws;
- 25          l. To provide and receive information from, and to cooperate with, law enforcement  
26          agencies;
- 27          m. To adopt and use an official seal; and
- 28          n. To perform such other functions as may be necessary or appropriate to achieve  
29          the purposes of this compact consistent with the state regulation of emergency  
30          medical services personnel licensure and practice.

- 1       5.   a.   The commission shall pay, or provide for the payment of, the reasonable  
2            expenses of its establishment, organization, and ongoing activities.
- 3        b.   The commission may accept appropriate revenue sources, donations, and grants  
4            of money, equipment, supplies, materials, and services.
- 5        c.   The commission may levy on and collect an annual assessment from each  
6            member state or impose fees on other parties to cover the cost of the operations  
7            and activities of the commission and its staff, which must be in a total amount  
8            sufficient to cover its annual budget as approved each year for which revenue is  
9            not provided by other sources. The aggregate annual assessment amount must  
10           be allocated based upon a formula to be determined by the commission, which  
11           shall promulgate a rule binding upon all member states.
- 12       d.   The commission may not incur obligations of any kind prior to securing the funds  
13            adequate to meet the same; nor may the commission pledge the credit of any of  
14            the member states, except by and with the authority of the member state.
- 15       e.   The commission shall keep accurate accounts of all receipts and disbursements.  
16            The receipts and disbursements of the commission are subject to the audit and  
17            accounting procedures established under its bylaws. However, all receipts and  
18            disbursements of funds handled by the commission must be audited yearly by a  
19            certified or licensed public accountant, and the report of the audit must be  
20            included in and become part of the annual report of the commission.
- 21       6.   a.   The members, officers, executive director, employees and representatives of the  
22            commission are immune from suit and liability, either personally or in their official  
23            capacity, for any claim for damage to or loss of property or personal injury or  
24            other civil liability caused by or arising out of any actual or alleged act, error, or  
25            omission that occurred, or that the person against whom the claim is made had a  
26            reasonable basis for believing occurred within the scope of commission  
27            employment, duties, or responsibilities. This subdivision may not be construed to  
28            protect any such person from suit or liability for any damage, loss, injury, or  
29            liability caused by the intentional or willful or wanton misconduct of that person.
- 30        b.   The commission shall defend any member, officer, executive director, employee,  
31            or representative of the commission in any civil action seeking to impose liability

1           arising out of any actual or alleged act, error, or omission that occurred within the  
2           scope of commission employment, duties, or responsibilities, or that the person  
3           against whom the claim is made had a reasonable basis for believing occurred  
4           within the scope of commission employment, duties, or responsibilities; provided  
5           that nothing herein may be construed to prohibit that person from retaining his or  
6           her own counsel; and provided further, that the actual or alleged act, error, or  
7           omission did not result from that person's intentional or willful or wanton  
8           misconduct.

9           c. The commission shall indemnify and hold harmless any member, officer,  
10           executive director, employee, or representative of the commission for the amount  
11           of any settlement or judgment obtained against that person arising out of any  
12           actual or alleged act, error, or omission that occurred within the scope of  
13           commission employment, duties, or responsibilities, or that such person had a  
14           reasonable basis for believing occurred within the scope of commission  
15           employment, duties, or responsibilities, provided that the actual or alleged act,  
16           error, or omission did not result from the intentional or willful or wanton  
17           misconduct of that person.

18           **23-27.1-11. Coordinated database.**

- 19           1. The commission shall provide for the development and maintenance of a coordinated  
20           database and reporting system containing licensure, adverse action, and significant  
21           investigatory information on all licensed individuals in member states.
- 22           2. Notwithstanding any other provision of state law to the contrary, a member state shall  
23           submit a uniform data set to the coordinated database on all individuals to whom this  
24           compact is applicable as required by the rules of the commission, including:
- 25           a. Identifying information;
- 26           b. Licensure data;
- 27           c. Significant investigatory information;
- 28           d. Adverse actions against an individual's license;
- 29           e. An indicator that an individual's privilege to practice is restricted, suspended, or  
30           revoked;
- 31           f. Nonconfidential information related to alternative program participation;

- 1           g. Any denial of application for licensure, and the reason for such denial; and  
2           h. Other information that may facilitate the administration of this compact, as  
3                 determined by the rules of the commission.
- 4       3. The coordinated database administrator shall promptly notify all member states of any  
5         adverse action taken against, or significant investigative information on, any individual  
6         in a member state.
- 7       4. Member states contributing information to the coordinated database may designate  
8         information that may not be shared with the public without the express permission of  
9         the contributing state.
- 10      5. Any information submitted to the coordinated database that is subsequently required  
11         to be expunged by the laws of the member state contributing the information must be  
12         removed from the coordinated database.

13       **23-27.1-12. Rulemaking.**

- 14      1. The commission shall exercise its rulemaking powers pursuant to the criteria set forth  
15         in this section and the rules adopted thereunder. Rules and amendments are binding  
16         as of the date specified in each rule or amendment.
- 17      2. If a majority of the legislatures of the member states rejects a rule, by enactment of a  
18         statute or resolution in the same manner used to adopt the compact, then such rule  
19         has no further force and effect in any member state.
- 20      3. Rules or amendments to the rules must be adopted at a regular or special meeting of  
21         the commission.
- 22      4. Prior to promulgation and adoption of a final rule or rules by the commission, and at  
23         least sixty days in advance of the meeting at which the rule will be considered and  
24         voted upon, the commission shall file a notice of proposed rulemaking:
- 25         a. On the website of the commission; and
- 26         b. On the website of each member state emergency medical services authority or  
27         the publication in which each state would otherwise publish proposed rules.
- 28      5. The notice of proposed rulemaking must include:
- 29         a. The proposed time, date, and location of the meeting in which the rule will be  
30         considered and voted upon;

- 1           b. The text of the proposed rule or amendment and the reason for the proposed  
2           rule;
- 3           c. A request for comments on the proposed rule from any interested person; and  
4           d. The manner in which interested persons may submit notice to the commission of  
5           their intention to attend the public hearing and any written comments.
- 6        6. Prior to adoption of a proposed rule, the commission shall allow persons to submit  
7        written data, facts, opinions, and arguments, which must be made available to the  
8        public.
- 9        7. The commission shall grant an opportunity for a public hearing before it adopts a rule  
10       or amendment if a hearing is requested by:
- 11        a. At least twenty-five persons;  
12        b. A governmental subdivision or agency; or  
13        c. An association having at least twenty-five members.
- 14        8. If a hearing is held on the proposed rule or amendment, the commission shall publish  
15        the place, time, and date of the scheduled public hearing.
- 16        a. All persons wishing to be heard at the hearing shall notify the executive director  
17        of the commission or other designated member in writing of their desire to appear  
18        and testify at the hearing not less than five business days before the scheduled  
19        date of the hearing.
- 20        b. Hearings must be conducted in a manner providing each person who wishes to  
21        comment a fair and reasonable opportunity to comment orally or in writing.
- 22        c. No transcript of the hearing is required, unless a written request for a transcript is  
23        made, in which case the person requesting the transcript shall bear the cost of  
24        producing the transcript. A recording may be made in lieu of a transcript under  
25        the same terms and conditions as a transcript. This section does not preclude the  
26        commission from making a transcript or recording of the hearing if it so chooses.
- 27        d. Nothing in this section may be construed as requiring a separate hearing on each  
28        rule. Rules may be grouped for the convenience of the commission at hearings  
29        required by this section.

- 1        9. Following the scheduled hearing date, or by the close of business on the scheduled  
2        hearing date if the hearing was not held, the commission shall consider all written and  
3        oral comments received.
- 4        10. The commission shall, by majority vote of all members, take final action on the  
5        proposed rule and shall determine the effective date of the rule, if any, based on the  
6        rulemaking record and the full text of the rule.
- 7        11. If no written notice of intent to attend the public hearing by interested parties is  
8        received, the commission may proceed with promulgation of the proposed rule without  
9        a public hearing.
- 10       12. Upon determination that an emergency exists, the commission may consider and  
11       adopt an emergency rule without prior notice, opportunity for comment, or hearing,  
12       provided the usual rulemaking procedures provided in the compact and in this section  
13       are retroactively applied to the rule as soon as reasonably possible, in no event later  
14       than ninety days after the effective date of the rule. For the purposes of this provision,  
15       an emergency rule is one that must be adopted immediately in order to:
- 16       a. Meet an imminent threat to public health, safety, or welfare;  
17       b. Prevent a loss of commission or member state funds;  
18       c. Meet a deadline for the promulgation of an administrative rule that is established  
19       by federal law or rule; or
- 20       d. Protect public health and safety.
- 21       13. The commission or an authorized committee of the commission may direct revisions to  
22       a previously adopted rule or amendment for purposes of correcting typographical  
23       errors, errors in format, errors in consistency, or grammatical errors. Public notice of  
24       any revisions must be posted on the website of the commission. The revision is  
25       subject to challenge by any person for a period of thirty days after posting. The  
26       revision may be challenged only on grounds that the revision results in a material  
27       change to a rule. A challenge must be made in writing and delivered to the chair of the  
28       commission before the end of the notice period. If a challenge is not made, the  
29       revision will take effect without further action. If the revision is challenged, the revision  
30       may not take effect without the approval of the commission.

1       **23-27.1-13. Oversight, dispute resolution, and enforcement.**

2       1.    a.   The executive, legislative, and judicial branches of state government in each  
3           member state shall enforce this compact and take all actions necessary and  
4           appropriate to effectuate the compact's purposes and intent. The provisions of  
5           this compact and the rules promulgated hereunder have standing as statutory  
6           law.

7       b.    All courts shall take judicial notice of the compact and the rules in any judicial or  
8           administrative proceeding in a member state pertaining to the subject matter of  
9           this compact which may affect the powers, responsibilities, or actions of the  
10          commission.

11       c.    The commission is entitled to receive service of process in any such proceeding,  
12          and has standing to intervene in such a proceeding for all purposes. Failure to  
13          provide service of process to the commission renders a judgment or order void  
14          as to the commission, this compact, or promulgated rules.

15       2.    a.    If the commission determines that a member state has defaulted in the  
16          performance of its obligations or responsibilities under this compact or the  
17          promulgated rules, the commission shall:

18           (1)   Provide written notice to the defaulting state and other member states of the  
19           nature of the default, the proposed means of curing the default, or any other  
20           action to be taken by the commission; and

21           (2)   Provide remedial training and specific technical assistance regarding the  
22           default.

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

29       c.    Termination of membership in the compact may be imposed only after all other  
30          means of securing compliance have been exhausted. Notice of intent to suspend  
31          or terminate shall be given by the commission to the governor, the majority and

1                   minority leaders of the defaulting state's legislature, and each of the member  
2                   states.

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

6           e.   The commission may not bear any costs related to a state that is found to be in  
7           default or that has been terminated from the compact, unless agreed upon in  
8           writing between the commission and the defaulting state.

9           f.   The defaulting state may appeal the action of the commission by petitioning the  
10           United States district court for the District of Columbia or the federal district  
11           where the commission has its principal offices. The prevailing member shall be  
12           awarded all costs of such litigation, including reasonable attorney's fees.

13       3.   a.   Upon request by a member state, the commission shall attempt to resolve  
14           disputes related to the compact that arise among member states and between  
15           member and nonmember states.

16           b.   The commission shall promulgate a rule providing for both mediation and binding  
17           dispute resolution for disputes as appropriate.

18       4.   a.   The commission, in the reasonable exercise of its discretion, shall enforce the  
19           provisions and rules of this compact.

20           b.   By majority vote, the commission may initiate legal action in the United States  
21           district court for the District of Columbia or the federal district where the  
22           commission has its principal offices against a member state in default to enforce  
23           compliance with the provisions of the compact and its promulgated rules and  
24           bylaws. The relief sought may include both injunctive relief and damages. In the  
25           event judicial enforcement is necessary, the prevailing member shall be awarded  
26           all costs of such litigation, including reasonable attorney's fees.

27           c.   The remedies herein are not the exclusive remedies of the commission. The  
28           commission may pursue any other remedies available under federal or state law.

1       **23-27.1-14. Date of implementation of the interstate commission for emergency**  
2 **medical services personnel practice and associated rules, withdrawal, and amendment.**

- 3       1. The compact becomes effective on the date on which the compact statute is enacted  
4 into law in the tenth member state. The provisions, which become effective at that  
5 time, are limited to the powers granted to the commission relating to assembly and the  
6 promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking  
7 powers necessary to the implementation and administration of the compact.
- 8       2. Any state that joins the compact subsequent to the commission's initial adoption of the  
9 rules is subject to the rules as they exist on the date on which the compact becomes  
10 law in that state. Any rule that has been previously adopted by the commission has the  
11 full force and effect of law on the day the compact becomes law in that state.
- 12       3. Any member state may withdraw from this compact by enacting a statute repealing the  
13 same.
- 14       a. A member state's withdrawal may not take effect until six months after enactment  
15 of the repealing statute.
- 16       b. Withdrawal may not affect the continuing requirement of the withdrawing state's  
17 emergency medical services authority to comply with the investigative and  
18 adverse action reporting requirements of this act prior to the effective date of  
19 withdrawal.
- 20       4. Nothing contained in this compact may be construed to invalidate or prevent any  
21 emergency medical services personnel licensure agreement or other cooperative  
22 arrangement between a member state and a nonmember state that does not conflict  
23 with the provisions of this compact.
- 24       5. This compact may be amended by the member states. No amendment to this compact  
25 may become effective and binding upon any member state until it is enacted into the  
26 laws of all member states.

27       **23-27.1-15. Construction and severability.**

28       This compact shall be liberally construed so as to effectuate the purposes thereof. If this  
29 compact is held to be contrary to the constitution of any state member thereto, the compact  
30 shall remain in full force and effect as to the remaining member states. Nothing in this compact  
31 supersedes state law or rules related to licensure of emergency medical services agencies.