

2020 Regular Session

SENATE BILL NO. 46

BY SENATOR PEACOCK

HEALTH SERVICES. Provides for the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact (REPLICA). (gov sig)

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AN ACT

To enact R.S. 40:1133.1(E) and Part VI of Chapter 5-C of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1141, relative to the Emergency Medical Services Personnel Licensure Interstate Compact (REPLICA); to provide for enactment of the model legislation required to participate in the compact; to provide for criminal background checks; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1133.1(E) and Part VI of Chapter 5-C of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1141, are hereby enacted to read as follows:

§1133.1. Emergency medical personnel training; licensure

* * *

E.(1) The bureau shall be entitled to the criminal history record and identification files of the Louisiana Bureau of Criminal Identification and Information, located within the Department of Public Safety and Corrections, of any person who is required to be licensed as an emergency medical personnel. Fingerprints and other identifying information of the applicant shall be

1 submitted to the Louisiana Bureau of Criminal Identification and Information
 2 for qualification and registry, and the Louisiana Bureau of Criminal
 3 Identification and Information shall, upon request of the bureau and after
 4 receipt of such fingerprint card and other identifying information from the
 5 applicant, make available to the bureau all arrest and conviction information
 6 contained in the Louisiana Bureau of Criminal Identification and Information's
 7 criminal history record and identification files which pertain to the applicant
 8 for licensure. In addition, the fingerprints shall be forwarded by the Louisiana
 9 Bureau of Criminal Identification and Information to the Federal Bureau of
 10 Investigation for a national criminal history record check.

11 (2) In accordance with the authority provided for in this Chapter, the
 12 bureau may require the applicant to reimburse the bureau or the Louisiana
 13 Bureau of Criminal Identification and Information for the expense of
 14 fingerprinting and facilitating the criminal background check.

15 * * *

16 PART VI. RECOGNITION OF EMERGENCY MEDICAL

17 SERVICES PERSONNEL LICENSURE INTERSTATE

18 COMPACT (REPLICA)

19 §1141. Recognition of Emergency Medical Services Personnel Licensure

20 Interstate Compact (REPLICA); adoption

21 The Recognition of Emergency Medical Services Personnel Licensure
 22 Interstate Compact (REPLICA) is hereby recognized and enacted into law and
 23 entered into by this state with all states legally joining therein in the form
 24 substantially as follows:

25 EMERGENCY MEDICAL SERVICES PERSONNEL LICENSURE

26 INTERSTATE COMPACT (REPLICA)

27 SECTION 1. PURPOSE

28 In order to protect the public through verification of competency and
 29 ensure accountability for patient care related activities all states license

1 emergency medical services (EMS) personnel, such as emergency medical
2 technicians (EMTs), advanced EMTs, and paramedics. This compact is
3 intended to facilitate the day-to-day movement of EMS personnel across state
4 boundaries in the performance of their EMS duties as assigned by an
5 appropriate authority and authorize state EMS offices to afford immediate legal
6 recognition to EMS personnel licensed in a member state. This compact
7 recognizes that states have a vested interest in protecting the public's health and
8 safety through their licensing and regulation of EMS personnel and that such
9 state regulation shared among the member states will best protect public health
10 and safety. This compact is designed to achieve the following purposes and
11 objectives:

12 (1) Increase public access to EMS personnel.

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

15 (3) Encourage the cooperation of member states in the areas of EMS
16 personnel licensure and regulation.

17 (4) Support licensing of military members who are separating from an
18 active duty tour, and their spouses.

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

22 (6) Promote compliance with the laws governing EMS personnel practice
23 in each member state.

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

26 SECTION 2. DEFINITIONS

27 In this compact:

28 A. "Advanced Emergency Medical Technician (AEMT)" means an
29 individual licensed with cognitive knowledge and a scope of practice that

1 corresponds to that level in the National EMS Education Standards and
2 National EMS Scope of Practice Model.

3 B. "Adverse action" means any administrative, civil, equitable, or
4 criminal action permitted by a state's laws which may be imposed against
5 licensed EMS personnel by a state EMS authority or state court, including but
6 not limited to actions against an individual's license such as revocation,
7 suspension, probation, consent agreement, monitoring, or other limitation or
8 encumbrance on the individual's practice, letters of reprimand or admonition,
9 finances, criminal convictions, and state court judgments enforcing adverse actions
10 by the state EMS authority.

11 C. "Alternative program" means a voluntary, nondisciplinary substance
12 abuse recovery program approved by a state EMS authority.

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

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

18 F. "Emergency Medical Technician (EMT)" means an individual
19 licensed with cognitive knowledge and a scope of practice that corresponds to
20 that level in the National EMS Education Standards and National EMS Scope
21 of Practice Model.

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

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

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

29 J. "Member state" means a state that has enacted this compact.

1 K. "Privilege to practice" means an individual's authority to deliver
2 emergency medical services in remote states as authorized under this compact.

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

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

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

10 O. "Rule" means a written statement by the interstate commission
11 promulgated pursuant to Section (12) of this compact that is of general
12 applicability; implements, interprets, or prescribes a policy or provision of the
13 compact; or is an organizational, procedural, or practice requirement of the
14 commission and has the force and effect of statutory law in a member state and
15 includes the amendment, repeal, or suspension of an existing rule.

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

20 Q. "Significant investigatory information" means:

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

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

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

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

3 SECTION 3. HOME STATE LICENSURE

4 A. Any member state in which an individual holds a current license shall
5 be deemed a home state for purposes of this compact.

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

9 C. A home state's license authorizes an individual to practice in a remote
10 state under the privilege to practice only if the home state:

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

14 (2) Has a mechanism in place for receiving and investigating complaints
15 about individuals.

16 (3) Notifies the commission, in compliance with the terms herein, of any
17 adverse action or significant investigatory information regarding an individual.

18 (4) No later than five years after activation of the compact, requires a
19 criminal background check of all applicants for initial licensure, including the
20 use of the results of fingerprint or other biometric data checks compliant with
21 the requirements of the Federal Bureau of Investigation with the exception of
22 federal employees who have suitability determination in accordance with US
23 CFR §731.202 and submit documentation of such as promulgated in the rules
24 of the commission.

25 (5) Complies with the rules of the commission.

26 SECTION 4. COMPACT PRIVILEGE TO PRACTICE

27 A. Member states shall recognize the privilege to practice of an
28 individual licensed in another member state that is in conformance with Section

29 (3).

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

3 **(1) Be at least eighteen years of age.**

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

7 **(3) Practice under the supervision of a medical director.**

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

12 **D. Except as provided in Section (4), Subsection (C), an individual**
13 **practicing in a remote state will be subject to the remote state's authority and**
14 **laws. A remote state may, in accordance with due process and that state's laws,**
15 **restrict, suspend, or revoke an individual's privilege to practice in the remote**
16 **state and may take any other necessary actions to protect the health and safety**
17 **of its citizens. If a remote state takes action it shall promptly notify the home**
18 **state and the commission.**

19 **E. If an individual's license in any home state is restricted or suspended,**
20 **the individual shall not be eligible to practice in a remote state under the**
21 **privilege to practice until the individual's home state license is restored.**

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

25 **SECTION 5. CONDITIONS OF PRACTICE**

26 **IN A REMOTE STATE**

27 **An individual may practice in a remote state under a privilege to**
28 **practice only in the performance of the individual's EMS duties as assigned by**
29 **an appropriate authority, as defined in the rules of the commission, and under**

1 the following circumstances:

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

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

7 (3) The individual enters a remote state to provide patient care and/or
8 transport within that remote state.

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

11 (5) Other conditions as determined by rules promulgated by the
12 commission.

13 SECTION 6. RELATIONSHIP TO EMERGENCY

14 MANAGEMENT ASSISTANCE COMPACT

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

21 SECTION 7. VETERANS, SERVICE MEMBERS SEPARATING

22 FROM ACTIVE DUTY MILITARY, AND THEIR SPOUSES

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

29 B. Member states shall expedite the processing of licensure applications

1 submitted by veterans, active military service members, and members of the
2 National Guard and Reserves separating from an active duty tour, and their
3 spouses.

4 C. All individuals functioning with a privilege to practice under this
5 Section remain subject to the Adverse Actions provisions of Section (8).

6 SECTION 8. ADVERSE ACTIONS

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

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

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

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

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

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

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

28 F. A home state's EMS authority shall investigate and take appropriate
29 action with respect to reported conduct in a remote state as it would if such

1 conduct had occurred within the home state. In such cases, the home state's law
2 shall control in determining the appropriate adverse action.

3 G. Nothing in this compact shall override a member state's decision that
4 participation in an alternative program may be used in lieu of adverse action
5 and that such participation shall remain nonpublic if required by the member
6 state's laws. Member states must require individuals who enter any alternative
7 programs to agree not to practice in any other member state during the term
8 of the alternative program without prior authorization from such other member
9 state.

10 SECTION 9. ADDITIONAL POWERS INVESTED IN A

11 MEMBER STATE'S EMS AUTHORITY

12 A member state's EMS authority, in addition to any other powers
13 granted under state law, is authorized under this compact to:

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

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

25 SECTION 10. ESTABLISHMENT OF THE INTERSTATE

26 COMMISSION FOR EMS PERSONNEL PRACTICE

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

29 (1) The commission is a body politic and an instrumentality of the

1 compact states.

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

7 (3) Nothing in this compact shall be construed to be a waiver of sovereign
8 immunity.

9 B. Membership, voting, and meetings

10 (1) Each member state shall have and be limited to one delegate. The
11 responsible official of the state EMS authority or his designee shall be the
12 delegate to this compact for each member state. Any delegate may be removed
13 or suspended from office as provided by the law of the state from which the
14 delegate is appointed. Any vacancy occurring in the commission shall be filled
15 in accordance with the laws of the member state in which the vacancy exists. In
16 the event that more than one board, office, or other agency with the legislative
17 mandate to license EMS personnel at and above the level of EMT exists, the
18 governor of the state will determine which entity will be responsible for
19 assigning the delegate.

20 (2) Each delegate shall be entitled to one vote with regard to the
21 promulgation of rules and creation of bylaws and shall otherwise have an
22 opportunity to participate in the business and affairs of the commission. A
23 delegate shall vote in person or by such other means as provided in the bylaws.
24 The bylaws may provide for delegates' participation in meetings by telephone
25 or other means of communication.

26 (3) The commission shall meet at least once during each calendar year.
27 Additional meetings shall be held as set forth in the bylaws.

28 (4) All meetings shall be open to the public, and public notice of meetings
29 shall be given in the same manner as required under the rulemaking provisions

1 in Section (12).

2 (5) The commission may convene in a closed, nonpublic meeting if the
3 commission must discuss:

4 (a) Noncompliance of a member state with its obligations under the
5 compact.

6 (b) The employment, compensation, discipline, or other personnel
7 matters, practices or procedures related to specific employees or other matters
8 related to the commission's internal personnel practices and procedures.

9 (c) Current, threatened, or reasonably anticipated litigation.

10 (d) Negotiation of contracts for the purchase or sale of goods, services,
11 or real estate.

12 (e) Accusing any person of a crime or formally censuring any person.

13 (f) Disclosure of trade secrets or commercial or financial information
14 that is privileged or confidential.

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

17 (h) Disclosure of investigatory records compiled for law enforcement
18 purposes.

19 (i) Disclosure of information related to any investigatory reports
20 prepared by or on behalf of or for use of the commission or other committee
21 charged with responsibility of investigation or determination of compliance
22 issues pursuant to the compact.

23 (j) Matters specifically exempted from disclosure by federal or member
24 state statute.

25 (6) If a meeting, or portion of a meeting, is closed pursuant to this
26 provision, the commission's legal counsel or designee shall certify that the
27 meeting may be closed and shall reference each relevant exempting provision.

28 The commission shall keep minutes that fully and clearly describe all matters
29 discussed in a meeting and shall provide a full and accurate summary of actions

1 taken, and the reasons therefor, including a description of the views expressed.

2 All documents considered in connection with an action shall be identified in
3 such minutes. All minutes and documents of a closed meeting shall remain
4 under seal, subject to release by a majority vote of the commission or order of
5 a court of competent jurisdiction.

6 C. The commission shall, by a majority vote of the delegates, prescribe
7 bylaws and/or rules to govern its conduct as may be necessary or appropriate
8 to carry out the purposes and exercise the powers of the compact, including but
9 not limited to:

10 (1) Establishing the fiscal year of the commission.

11 (2) Providing reasonable standards and procedures:

12 (a) For the establishment and meetings of other committees.

13 (b) Governing any general or specific delegation of any authority or
14 function of the commission.

15 (3) Providing reasonable procedures for calling and conducting meetings
16 of the commission, ensuring reasonable advance notice of all meetings, and
17 providing an opportunity for attendance of such meetings by interested parties,
18 with enumerated exceptions designed to protect the public's interest, the
19 privacy of individuals, and proprietary information, including trade secrets.

20 The commission may meet in closed session only after a majority of the
21 membership votes to close a meeting in whole or in part. As soon as practicable,
22 the commission must make public a copy of the vote to close the meeting
23 revealing the vote of each member with no proxy votes allowed.

24 (4) Establishing the titles, duties and authority, and reasonable
25 procedures for the election of the officers of the commission.

26 (5) Providing reasonable standards and procedures for the establishment
27 of the personnel policies and programs of the commission. Notwithstanding any
28 civil service or other similar laws of any member state, the bylaws shall
29 exclusively govern the personnel policies and programs of the commission.

1 **(6) Promulgating a code of ethics to address permissible and prohibited**
2 **activities of commission members and employees.**

3 **(7) Providing a mechanism for winding up the operations of the**
4 **commission and the equitable disposition of any surplus funds that may exist**
5 **after the termination of the compact after the payment and/or reserving of all**
6 **of its debts and obligations.**

7 **(8) The commission shall publish its bylaws and file a copy thereof, and**
8 **a copy of any amendment thereto, with the appropriate agency or officer in**
9 **each of the member states, if any.**

10 **(9) The commission shall maintain its financial records in accordance**
11 **with the bylaws.**

12 **(10) The commission shall meet and take such actions as are consistent**
13 **with the provisions of this compact and the bylaws.**

14 **D. The commission shall have the following powers:**

15 **(1) The authority to promulgate uniform rules to facilitate and**
16 **coordinate implementation and administration of this compact. The rules shall**
17 **have the force and effect of law and shall be binding in all member states.**

18 **(2) To bring and prosecute legal proceedings or actions in the name of**
19 **the commission, provided that the standing of any state EMS authority or other**
20 **regulatory body responsible for EMS personnel licensure to sue or be sued**
21 **under applicable law shall not be affected.**

22 **(3) To purchase and maintain insurance and bonds.**

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

25 **(5) To hire employees, elect or appoint officers, fix compensation, define**
26 **duties, grant such individuals appropriate authority to carry out the purposes**
27 **of the compact, and to establish the commission's personnel policies and**
28 **programs relating to conflicts of interest, qualifications of personnel, and other**
29 **related personnel matters.**

1 **(6) To accept any and all appropriate donations and grants of money,**
2 **equipment, supplies, materials, and services, and to receive, utilize, and dispose**
3 **of the same; provided that at all times the commission shall strive to avoid any**
4 **appearance of impropriety and/or conflict of interest.**

5 **(7) To lease, purchase, accept appropriate gifts or donations of, or**
6 **otherwise to own, hold, improve or use, any property, real, personal or mixed,**
7 **provided that at all times the commission shall strive to avoid any appearance**
8 **of impropriety.**

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

11 **(9) To establish a budget and make expenditures.**

12 **(10) To borrow money.**

13 **(11) To appoint committees, including advisory committees comprised**
14 **of members, state regulators, state legislators or their representatives, and**
15 **consumer representatives, and such other interested persons as may be**
16 **designated in this compact and the bylaws.**

17 **(12) To provide and receive information from, and to cooperate with, law**
18 **enforcement agencies.**

19 **(13) To adopt and use an official seal.**

20 **(14) To perform such other functions as may be necessary or appropriate**
21 **to achieve the purposes of this compact consistent with the state regulation of**
22 **EMS personnel licensure and practice.**

23 **E. Financing of the commission**

24 **(1) The commission shall pay, or provide for the payment of, the**
25 **reasonable expenses of its establishment, organization, and ongoing activities.**

26 **(2) The commission may accept any and all appropriate revenue sources,**
27 **donations, and grants of money, equipment, supplies, materials, and services.**

28 **(3) The commission may levy on and collect an annual assessment from**
29 **each member state or impose fees on other parties to cover the cost of the**

1 operations and activities of the commission and its staff, which must be in a
2 total amount sufficient to cover its annual budget as approved each year for
3 which revenue is not provided by other sources. The aggregate annual
4 assessment amount shall be allocated based upon a formula to be determined
5 by the commission, which shall promulgate a rule binding upon all member
6 states.

7 (4) The commission shall not incur obligations of any kind prior to
8 securing the funds adequate to meet the same; nor shall the commission pledge
9 the credit of any of the member states, except by and with the authority of the
10 member state.

11 (5) The commission shall keep accurate accounts of all receipts and
12 disbursements. The receipts and disbursements of the commission shall be
13 subject to the audit and accounting procedures established under its bylaws.
14 However, all receipts and disbursements of funds handled by the commission
15 shall be audited yearly by a certified or licensed public accountant, and the
16 report of the audit shall be included in and become part of the annual report of
17 the commission.

18 F. Qualified immunity, defense, and indemnification

19 (1) The members, officers, executive director, employees, and
20 representatives of the commission shall be immune from suit and liability, either
21 personally or in their official capacity, for any claim for damage to or loss of
22 property or personal injury or other civil liability caused by or arising out of
23 any actual or alleged act, error or omission that occurred, or that the person
24 against whom the claim is made had a reasonable basis for believing occurred
25 within the scope of commission employment, duties or responsibilities; provided
26 that nothing in this Paragraph shall be construed to protect any such person
27 from suit and/or liability for any damage, loss, injury, or liability caused by the
28 intentional or willful or wanton misconduct of that person.

29 (2) The commission shall defend any member, officer, executive director,

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

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

19 SECTION 11. COORDINATED DATABASE

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

24 B. Notwithstanding any other provision of state law to the contrary, a
25 member state shall submit a uniform data set to the coordinated database on all
26 individuals to whom this compact is applicable as required by the rules of the
27 commission, including:

28 (1) Identifying information.

29 (2) Licensure data.

1 **(3) Significant investigatory information.**

2 **(4) Adverse actions against an individual's license.**

3 **(5) An indicator that an individual's privilege to practice is restricted,**
4 **suspended, or revoked.**

5 **(6) Nonconfidential information related to alternative program**
6 **participation.**

7 **(7) Any denial of application for licensure, and the reason(s) for such**
8 **denial.**

9 **(8) Other information that may facilitate the administration of this**
10 **compact, as determined by the rules of the commission.**

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

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

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

20 **SECTION 12. RULEMAKING**

21 **A. The commission shall exercise its rulemaking powers pursuant to the**
22 **criteria set forth in this Section and the rules adopted thereunder. Rules and**
23 **amendments shall become binding as of the date specified in each rule or**
24 **amendment.**

25 **B. If a majority of the legislatures of the member states rejects a rule, by**
26 **enactment of a statute or resolution in the same manner used to adopt the**
27 **compact, then such rule shall have no further force and effect in any member**
28 **state.**

29 **C. Rules or amendments to the rules shall be adopted at a regular or**

1 special meeting of the commission.

2 D. Prior to promulgation and adoption of a final rule or rules by the
3 commission, and at least sixty days in advance of the meeting at which the rule
4 will be considered and voted upon, the commission shall file a notice of
5 proposed rulemaking:

6 (1) On the website of the commission.

7 (2) On the website of each member state EMS authority or the
8 publication in which each state would otherwise publish proposed rules.

9 E. The notice of proposed rulemaking shall include:

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

12 (2) The text of the proposed rule or amendment and the reason for the
13 proposed rule.

14 (3) A request for comments on the proposed rule from any interested
15 person.

16 (4) The manner in which interested persons may submit notice to the
17 commission of their intention to attend the public hearing and any written
18 comments.

19 F. Prior to adoption of a proposed rule, the commission shall allow
20 persons to submit written data, facts, opinions, and arguments, which shall be
21 made available to the public.

22 G. The commission shall grant an opportunity for a public hearing
23 before it adopts a rule or amendment if a hearing is requested by:

24 (1) At least twenty-five persons.

25 (2) A governmental subdivision or agency.

26 (3) An association having at least twenty-five members.

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

1 (1) All persons wishing to be heard at the hearing shall notify the
2 executive director of the commission or other designated member in writing of
3 their desire to appear and testify at the hearing not less than five business days
4 before the scheduled date of the hearing.

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

8 (3) No transcript of the hearing is required, unless a written request for
9 a transcript is made, in which case the person requesting the transcript shall
10 bear the cost of producing the transcript. A recording may be made in lieu of
11 a transcript under the same terms and conditions as a transcript. This
12 Subsection shall not preclude the commission from making a transcript or
13 recording of the hearing if it so chooses.

14 (4) Nothing in this Section shall be construed as requiring a separate
15 hearing on each rule. Rules may be grouped for the convenience of the
16 commission at hearings required by this Section.

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

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

23 K. If no written notice of intent to attend the public hearing by interested
24 parties is received, the commission may proceed with promulgation of the
25 proposed rule without a public hearing.

26 L. Upon determination that an emergency exists, the commission may
27 consider and adopt an emergency rule without prior notice, opportunity for
28 comment, or hearing, provided that the usual rulemaking procedures provided
29 in the compact and in this Section shall be retroactively applied to the rule as

1 soon as reasonably possible, in no event later than ninety days after the effective
2 date of the rule. For the purposes of this provision, an emergency rule is one
3 that must be adopted immediately in order to:

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

5 (2) Prevent a loss of commission or member state funds.

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

8 (4) Protect public health and safety.

9 M. The commission or an authorized committee of the commission may
10 direct revisions to a previously adopted rule or amendment for purposes of
11 correcting typographical errors, errors in format, errors in consistency, or
12 grammatical errors. Public notice of any revisions shall be posted on the website
13 of the commission. The revision shall be subject to challenge by any person for
14 a period of thirty days after posting. The revision may be challenged only on
15 grounds that the revision results in a material change to a rule. A challenge
16 shall be made in writing, and delivered to the chair of the commission prior to
17 the end of the notice period. If no challenge is made, the revision will take effect
18 without further action. If the revision is challenged, the revision may not take
19 effect without the approval of the commission.

20 SECTION 13. OVERSIGHT, DISPUTE RESOLUTION,

21 AND ENFORCEMENT

22 A. Oversight

23 (1) The executive, legislative, and judicial branches of state government
24 in each member state shall enforce this compact and take all actions necessary
25 and appropriate to effectuate the compact's purposes and intent. The provisions
26 of this compact and the rules promulgated hereunder shall have standing as
27 statutory law.

28 (2) All courts shall take judicial notice of the compact and the rules in
29 any judicial or administrative proceeding in a member state pertaining to the

1 subject matter of this compact which may affect the powers, responsibilities, or
2 actions of the commission.

3 (3) The commission shall be entitled to receive service of process in any
4 such proceeding, and shall have standing to intervene in such a proceeding for
5 all purposes. Failure to provide service of process to the commission shall
6 render a judgment or order void as to the commission, this compact, or
7 promulgated rules.

8 B. Default, technical assistance, and termination

9 (1) If the commission determines that a member state has defaulted in
10 the performance of its obligations or responsibilities under this compact or the
11 promulgated rules, the commission shall:

12 (a) Provide written notice to the defaulting state and other member
13 states of the nature of the default, the proposed means of curing the default,
14 and/or any other action to be taken by the commission.

15 (b) Provide remedial training and specific technical assistance regarding
16 the default.

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

23 (3) Termination of membership in the compact shall be imposed only
24 after all other means of securing compliance have been exhausted. Notice of
25 intent to suspend or terminate shall be given by the commission to the governor,
26 the majority and minority leaders of the defaulting state's legislature, and each
27 of the member states.

28 (4) A state that has been terminated is responsible for all assessments,
29 obligations, and liabilities incurred through the effective date of termination,

1 including obligations that extend beyond the effective date of termination.

2 (5) The commission shall not bear any costs related to a state that is
3 found to be in default or that has been terminated from the compact, unless
4 agreed upon in writing between the commission and the defaulting state.

5 (6) The defaulting state may appeal the action of the commission by
6 petitioning the United States District Court for the District of Columbia or the
7 federal district where the commission has its principal offices. The prevailing
8 member shall be awarded all costs of such litigation, including reasonable
9 attorney fees.

10 C. Dispute resolution

11 (1) Upon request by a member state, the commission shall attempt to
12 resolve disputes related to the compact that arise among member states and
13 between member and nonmember states.

14 (2) The commission shall promulgate a rule providing for both mediation
15 and binding dispute resolution for disputes as appropriate.

16 D. Enforcement

17 (1) The commission, in the reasonable exercise of its discretion, shall
18 enforce the provisions and rules of this compact.

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

26 (3) The remedies herein shall not be the exclusive remedies of the
27 commission. The commission may pursue any other remedies available under
28 federal or state law.

29 SECTION 14. DATE OF IMPLEMENTATION OF THE

1 INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE
2 AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

3 A. The compact shall come into effect on the date on which the compact
4 statute is enacted into law in the tenth member state. The provisions, which
5 become effective at that time, shall be limited to the powers granted to the
6 commission relating to assembly and the promulgation of rules. Thereafter, the
7 commission shall meet and exercise rulemaking powers necessary to the
8 implementation and administration of the compact.

9 B. Any state that joins the compact subsequent to the commission's
10 initial adoption of the rules shall be subject to the rules as they exist on the date
11 on which the compact becomes law in that state. Any rule that has been
12 previously adopted by the commission shall have the full force and effect of law
13 on the day the compact becomes law in that state.

14 C. Any member state may withdraw from this compact by enacting a
15 statute repealing the same.

16 (1) A member state's withdrawal shall not take effect until six months
17 after enactment of the repealing statute.

18 (2) Withdrawal shall not affect the continuing requirement of the
19 withdrawing state's EMS authority to comply with the investigative and adverse
20 action reporting requirements of this Act prior to the effective date of
21 withdrawal.

22 D. Nothing contained in this compact shall be construed to invalidate or
23 prevent any EMS personnel licensure agreement or other cooperative
24 arrangement between a member state and a nonmember state that does not
25 conflict with the provisions of this compact.

26 E. This compact may be amended by the member states. No amendment
27 to this compact shall become effective and binding upon any member state until
28 it is enacted into the laws of all member states.

29 SECTION 15. CONSTRUCTION AND SEVERABILITY

1 **This compact shall be liberally construed so as to effectuate the purposes**
 2 **thereof. If this compact shall be held contrary to the constitution of any member**
 3 **state thereto, the compact shall remain in full force and effect as to the**
 4 **remaining member states. Nothing in this compact supersedes state law or rules**
 5 **related to licensure of EMS agencies.**

6 Section 2. This Act shall become effective upon signature by the governor or, if not
 7 signed by the governor, upon expiration of the time for bills to become law without signature
 8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 9 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 10 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Christine Arbo Peck.

DIGEST

SB 46 Original

2020 Regular Session

Peacock

Proposed law enacts the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact (REPLICA). Proposed law allows Louisiana to join a multistate compact for EMS personnel to obtain multistate license privileges to practice in participating compact states, to decrease redundancies in the consideration and issuance of EMS licenses, and provide opportunity for interstate practice by EMS personnel who meet the uniform licensure requirements.

Proposed law provides that each participating state in the compact adopt similar requirements for criminal background checks, licensure, and education. Proposed law requires exchange of information regarding discipline and adverse actions by all participating states.

Proposed law requires EMS personnel leaving his home state to practice in a participating state comply with the laws of the participating state. Proposed law provides for a home state license and process for changing home state and location of primary residence. Proposed law provides that the home state is responsible for taking adverse action against EMS personnel in violation of practice act requirements, including deactivation of multistate licensure privileges.

Proposed law establishes the Interstate Commission for EMS Personnel Practice and grants each participating state a single seat on the commission.

Proposed law establishes the requirement for criminal background checks as a condition of licensure for emergency medical services personnel.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 40:1133.1(E) and 1141)