

§7091. Establishment of commission

1. Commission established. The compact member states hereby create and establish a joint government agency whose membership consists of all member states that have enacted the compact known as the Social Work Licensure Compact. The commission is an instrumentality of the compact states acting jointly and not an instrumentality of any one state. The commission comes into existence on or after the effective date of the compact as set forth in section 7095.

[PL 2023, c. 674, §1 (NEW).]

2. Membership, voting and meetings. Membership, voting and meetings of the commission are governed by this subsection.

A. Each member state has and is limited to one delegate selected by that member state's licensing authority. [PL 2023, c. 674, §1 (NEW).]

B. The delegate must be either:

(1) A member of the licensing authority at the time of appointment who is a licensed social worker or public member; or

(2) An administrator of the licensing authority or the administrator's designee. [PL 2023, c. 674, §1 (NEW).]

C. The commission may recommend removal or suspension of any delegate from office. [PL 2023, c. 674, §1 (NEW).]

D. The member state licensing authority shall fill any vacancy of its delegate occurring on the commission within 60 days of the vacancy. [PL 2023, c. 674, §1 (NEW).]

E. Each delegate is entitled to one vote with regard to all matters before the commission requiring a vote by commission members. [PL 2023, c. 674, §1 (NEW).]

F. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates to meet by telecommunication, videoconference or other similar electronic means. [PL 2023, c. 674, §1 (NEW).]

G. The commission shall meet at least once during each calendar year. Additional meetings must be held as set forth in the bylaws. The commission may meet by telecommunication, videoconference or other similar electronic means. [PL 2023, c. 674, §1 (NEW).]

H. The commission shall by rule establish a term of office for delegates and may by rule establish term limits. [PL 2023, c. 674, §1 (NEW).]

[PL 2023, c. 674, §1 (NEW).]

3. Powers and duties. The commission has the following powers and duties:

A. To establish the fiscal year of the commission; [PL 2023, c. 674, §1 (NEW).]

B. To establish code of conduct and conflict of interest policies; [PL 2023, c. 674, §1 (NEW).]

C. To establish and amend rules and bylaws; [PL 2023, c. 674, §1 (NEW).]

D. To maintain its financial records in accordance with the bylaws; [PL 2023, c. 674, §1 (NEW).]

E. To meet and take such actions as are consistent with the provisions of this compact and the bylaws; [PL 2023, c. 674, §1 (NEW).]

F. To initiate and conclude legal proceedings or actions in the name of the commission, as long as the standing of any state licensing authority to sue or be sued under applicable law is not affected; [PL 2023, c. 674, §1 (NEW).]

- G. To maintain and certify records and information provided to a member state as the authenticated business records of the commission and designate an agent to do so on the commission's behalf; [PL 2023, c. 674, §1 (NEW).]
- H. To purchase and maintain insurance and bonds; [PL 2023, c. 674, §1 (NEW).]
- I. To conduct an annual financial review; [PL 2023, c. 674, §1 (NEW).]
- J. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a member state; [PL 2023, c. 674, §1 (NEW).]
- K. To hire employees, elect or appoint officers, fix compensation, define duties and grant such individuals appropriate authority to carry out the purposes of the compact and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters; [PL 2023, c. 674, §1 (NEW).]
- L. To assess and collect fees; [PL 2023, c. 674, §1 (NEW).]
- M. To accept appropriate donations and grants of money, equipment, supplies, materials and services and receive, use and dispose of the same, as long as at all times the commission avoids any appearance of impropriety or conflict of interest; [PL 2023, c. 674, §1 (NEW).]
- N. To lease, purchase, accept appropriate gifts or donations of or otherwise own, hold, improve or use any property, real, personal or mixed, as long as at all times the commission avoids any appearance of impropriety; [PL 2023, c. 674, §1 (NEW).]
- O. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed; [PL 2023, c. 674, §1 (NEW).]
- P. To establish a budget and make expenditures; [PL 2023, c. 674, §1 (NEW).]
- Q. To borrow money; [PL 2023, c. 674, §1 (NEW).]
- R. To appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives and consumer representatives and such other interested persons as may be designated in this compact and the bylaws; [PL 2023, c. 674, §1 (NEW).]
- S. To provide and receive information from, and cooperate with, law enforcement agencies; [PL 2023, c. 674, §1 (NEW).]
- T. To establish and elect an executive committee, including a chair and vice-chair; [PL 2023, c. 674, §1 (NEW).]
- U. To determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact; [PL 2023, c. 674, §1 (NEW).]
- V. To adopt and prepare an annual report to member states; and [PL 2023, c. 674, §1 (NEW).]
- W. To perform other functions as may be necessary or appropriate to achieve the purposes of the compact. [PL 2023, c. 674, §1 (NEW).]
- [PL 2023, c. 674, §1 (NEW).]

4. Executive committee. The establishment of an executive committee is governed by this subsection.

A. The executive committee has the power to act on behalf of the commission according to the terms of the compact. The executive committee has the following duties and responsibilities:

- (1) To oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the provisions of the compact, its rules and bylaws and other such duties as determined necessary;

- (2) To recommend to the entire commission changes to the rules or bylaws, changes to the compact legislation, fees paid by compact member states, fees paid by licensees and other fees;
 - (3) To ensure compact administration services are appropriately provided, including by contract;
 - (4) To prepare and recommend the budget of the commission;
 - (5) To maintain financial records on behalf of the commission;
 - (6) To monitor compact compliance of member states and provide compliance reports to the commission;
 - (7) To establish additional committees as necessary;
 - (8) To exercise the powers and duties of the commission during the interim between commission meetings, except for adopting or amending rules, adopting or amending bylaws and exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and
 - (9) To perform other duties as provided in rules or bylaws. [PL 2023, c. 674, §1 (NEW).]
- B. The executive committee is composed of up to 11 members:
- (1) The chair and vice-chair of the commission, who are voting members of the executive committee;
 - (2) Five voting members who are elected by the commission from the membership of the commission; and
 - (3) Up to 4 ex officio, nonvoting members from 4 recognized national social work organizations. The ex officio members must be selected by their respective organizations. [PL 2023, c. 674, §1 (NEW).]
- C. The commission may remove any member of the executive committee as provided in the bylaws. [PL 2023, c. 674, §1 (NEW).]
- D. The executive committee shall meet at least once annually.
- (1) Executive committee meetings are open to the public, except that the executive committee may meet in a closed, nonpublic meeting as provided in subsection 5, paragraph B.
 - (2) The executive committee shall give 7 days' notice of its meetings, posted on its publicly accessible website and as determined to provide notice to persons with an interest in the business of the commission.
 - (3) The executive committee may hold a special meeting in accordance with subsection 5. [PL 2023, c. 674, §1 (NEW).]
- [PL 2023, c. 674, §1 (NEW).]

5. Meetings of commission. Meetings of the commission are governed by this subsection.

- A. Except as provided in paragraph B, all meetings are open to the public, and public notice of meetings must be given in the same manner as required under the rule-making provisions in section 7093. The commission may hold a special meeting when it must meet to conduct emergency business by giving 48 hours' notice to all delegates, on the commission's publicly accessible website and by other means as provided in the commission's rules. The commission's legal counsel shall certify that the commission's need to meet qualifies as an emergency. [PL 2023, c. 674, §1 (NEW).]

B. The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive committee or other committees of the commission must discuss:

- (1) Noncompliance of a member state with its obligations under the compact;
- (2) The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;
- (3) Current, threatened or reasonably anticipated litigation;
- (4) Negotiation of contracts for the purchase, lease or sale of goods, services or real estate;
- (5) Accusing any person of a crime or formally censuring any person;
- (6) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- (7) Disclosure of information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;
- (8) Disclosure of investigative records compiled for law enforcement purposes;
- (9) Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact;
- (10) Matters specifically exempted from disclosure by federal or member state statute; or
- (11) Other matters as promulgated by the commission by rule. [PL 2023, c. 674, §1 (NEW).]

C. If a meeting, or portion of a meeting, is closed pursuant to paragraph B, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. [PL 2023, c. 674, §1 (NEW).]

D. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons for those actions, including a description of the views expressed. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction. [PL 2023, c. 674, §1 (NEW).]

[PL 2023, c. 674, §1 (NEW).]

6. Financing of commission. Financing of the commission is governed by this subsection.

A. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities. [PL 2023, c. 674, §1 (NEW).]

B. The commission may accept any appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services. [PL 2023, c. 674, §1 (NEW).]

C. The commission may levy on and collect an annual assessment from each member state or impose fees on licensees of member states to whom it grants a multistate license to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states. [PL 2023, c. 674, §1 (NEW).]

D. The commission may not incur obligations of any kind prior to securing the funds adequate to meet those obligations, and the commission may not pledge the credit of any of the member states, except by and with the authority of the member state. [PL 2023, c. 674, §1 (NEW).]

E. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws; however, all receipts and disbursements of funds handled by the commission are subject to an annual financial review by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the commission. [PL 2023, c. 674, §1 (NEW).]

[PL 2023, c. 674, §1 (NEW).]

7. Qualified immunity, defense and indemnification. Qualified immunity, defense and indemnification are governed by this subsection.

A. The members, officers, executive director, employees and representatives of the commission are immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, except that this paragraph may not be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the commission may not in any way compromise or limit the immunity granted in this paragraph. [PL 2023, c. 674, §1 (NEW).]

B. The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities or as determined by the commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct. This paragraph may not be construed to prohibit that person from retaining the person's own counsel at the person's own expense. [PL 2023, c. 674, §1 (NEW).]

C. The commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person. [PL 2023, c. 674, §1 (NEW).]

D. This subsection may not be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which are governed solely by any other applicable state laws. [PL 2023, c. 674, §1 (NEW).]

E. Nothing in this compact may be interpreted to waive or otherwise abrogate a member state's state action immunity or state action affirmative defense with respect to antitrust claims under the federal Sherman Act, the federal Clayton Act or any other state or federal antitrust or anticompetitive law or regulation. [PL 2023, c. 674, §1 (NEW).]

F. Nothing in this compact may be construed to be a waiver of sovereign immunity by the member states or by the commission. [PL 2023, c. 674, §1 (NEW).]

[PL 2023, c. 674, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 674, §1 (NEW).

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