

2018 Regular Session

SENATE BILL NO. 198

BY SENATOR PEACOCK

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

1 AN ACT

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

8 Be it enacted by the Legislature of Louisiana:

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

11 §1133.1. Emergency medical personnel training; certification

12 * * *

13 **D. (1) The bureau shall be entitled to the criminal history record and**
14 **identification files of the Louisiana Bureau of Criminal Identification and**
15 **Information, located within the Department of Public Safety and Corrections,**
16 **of any person who is required to be licensed as an emergency medical personnel.**
17 **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 addition to the fees authorized by this Chapter, the bureau may
 12 require the applicant to reimburse the bureau or the Louisiana Bureau of
 13 Criminal Identification and Information for the expense of fingerprinting and
 14 facilitating the criminal background check.

15 * * *

16 PART VI. RECOGNITION OF EMERGENCY MEDICAL SERVICES

17 PERSONNEL LICENSURE INTERSTATE COMPACT ("REPLICA")

18 §1141. Recognition of Emergency Medical Services Personnel Licensure

19 Interstate Compact ("REPLICA"); adoption

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

24 EMERGENCY MEDICAL SERVICES PERSONNEL LICENSURE

25 INTERSTATE COMPACT ("REPLICA")

26 SECTION 1. PURPOSE

27 In order to protect the public through verification of competency and
 28 ensure accountability for patient care related activities all states license
 29 emergency medical services (EMS) personnel, such as emergency medical

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

11 (1) Increase public access to EMS personnel.

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

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

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

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

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

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

25 SECTION 2. DEFINITIONS

26 In this compact:

27 A. "Advanced Emergency Medical Technician (AEMT)" means an
28 individual licensed with cognitive knowledge and a scope of practice that
29 corresponds to that level in the National EMS Education Standards and

1 National EMS Scope of Practice Model.

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

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

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

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

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

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

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

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

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

29 K. "Privilege to practice" means an individual's authority to deliver

1 emergency medical services in remote states as authorized under this compact.

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

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

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

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

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

19 Q. "Significant investigatory information" means:

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

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

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

29 S. "State EMS authority" means the board, office, or other agency with

1 the legislative mandate to license EMS personnel.

2 SECTION 3. HOME STATE LICENSURE

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

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

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

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

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

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

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

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

25 SECTION 4. COMPACT PRIVILEGE TO PRACTICE

26 A. Member states shall recognize the privilege to practice of an
27 individual licensed in another member state that is in conformance with Section
28 (3).

29 B. To exercise the privilege to practice under the terms and provisions

1 of this compact, an individual must:

2 (1) Be at least eighteen years of age.

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

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

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

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

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

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

24 SECTION 5. CONDITIONS OF PRACTICE IN A REMOTE STATE

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

29 (1) The individual originates a patient transport in a home state and

1 transports the patient to a remote state.

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

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

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

9 (5) Other conditions as determined by rules promulgated by the
10 commission.

11 SECTION 6. RELATIONSHIP TO EMERGENCY MANAGEMENT

12 ASSISTANCE COMPACT

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

19 SECTION 7. VETERANS, SERVICE MEMBERS SEPARATING FROM

20 ACTIVE DUTY MILITARY, AND THEIR SPOUSES

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

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

1 spouses.

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

4 SECTION 8. ADVERSE ACTIONS

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

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

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

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

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

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

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

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

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

8 SECTION 9. ADDITIONAL POWERS INVESTED IN A
9 MEMBER STATE'S EMS AUTHORITY

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

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

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

23 SECTION 10. ESTABLISHMENT OF THE INTERSTATE
24 COMMISSION FOR EMS PERSONNEL PRACTICE

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

27 (1) The commission is a body politic and an instrumentality of the
28 compact states.

29 (2) Venue is proper and judicial proceedings by or against the

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

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

7 B. Membership, voting, and meetings

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

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

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

26 (4) All meetings shall be open to the public, and public notice of meetings
27 shall be given in the same manner as required under the rulemaking provisions
28 in Section (12).

29 (5) The commission may convene in a closed, nonpublic meeting if the

1 commission must discuss:

2 (a) Noncompliance of a member state with its obligations under the
3 compact.

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

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

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

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

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

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

15 (h) Disclosure of investigatory records compiled for law enforcement
16 purposes.

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

21 (j) Matters specifically exempted from disclosure by federal or member
22 state statute.

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

26 The commission shall keep minutes that fully and clearly describe all matters
27 discussed in a meeting and shall provide a full and accurate summary of actions
28 taken, and the reasons therefor, including a description of the views expressed.

29 All documents considered in connection with an action shall be identified in

1 such minutes. All minutes and documents of a closed meeting shall remain
2 under seal, subject to release by a majority vote of the commission or order of
3 a court of competent jurisdiction.

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

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

9 (2) Providing reasonable standards and procedures:

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

11 (b) Governing any general or specific delegation of any authority or
12 function of the commission.

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

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

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

28 (6) Promulgating a code of ethics to address permissible and prohibited
29 activities of commission members and employees.

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

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

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

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

12 D. The commission shall have the following powers:

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

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

20 (3) To purchase and maintain insurance and bonds.

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

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

28 (6) To accept any and all appropriate donations and grants of money,
29 equipment, supplies, materials, and services, and to receive, utilize, and dispose

1 of the same; provided that at all times the commission shall strive to avoid any
2 appearance of impropriety and/or conflict of interest.

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

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

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

10 (10) To borrow money.

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

15 (12) To provide and receive information from, and to cooperate with, law
16 enforcement agencies.

17 (13) To adopt and use an official seal.

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

21 E. Financing of the commission

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

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

26 (3) The commission may levy on and collect an annual assessment from
27 each member state or impose fees on other parties to cover the cost of the
28 operations and activities of the commission and its staff, which must be in a
29 total amount sufficient to cover its annual budget as approved each year for

1 which revenue is not provided by other sources. The aggregate annual
2 assessment amount shall be allocated based upon a formula to be determined
3 by the commission, which shall promulgate a rule binding upon all member
4 states.

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

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

16 F. Qualified immunity, defense, and indemnification

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

27 (2) The commission shall defend any member, officer, executive director,
28 employee or representative of the commission in any civil action seeking to
29 impose liability arising out of any actual or alleged act, error, or omission that

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

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

17 SECTION 11. COORDINATED DATABASE

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

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

26 (1) Identifying information.

27 (2) Licensure data.

28 (3) Significant investigatory information.

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

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

3 (6) Nonconfidential information related to alternative program
4 participation.

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

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

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

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

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

18 SECTION 12. RULEMAKING

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

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

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

29 D. Prior to promulgation and adoption of a final rule or rules by the

1 commission, and at least sixty days in advance of the meeting at which the rule
2 will be considered and voted upon, the commission shall file a notice of
3 proposed rulemaking:

4 (1) On the website of the commission.

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

7 E. The notice of proposed rulemaking shall include:

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

10 (2) The text of the proposed rule or amendment and the reason for the
11 proposed rule.

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

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

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

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

22 (1) At least twenty-five persons.

23 (2) A governmental subdivision or agency.

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

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

28 (1) All persons wishing to be heard at the hearing shall notify the
29 executive director of the commission or other designated member in writing of

1 their desire to appear and testify at the hearing not less than five business days
2 before the scheduled date of the hearing.

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

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

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

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

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

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

24 L. Upon determination that an emergency exists, the commission may
25 consider and adopt an emergency rule without prior notice, opportunity for
26 comment, or hearing, provided that the usual rulemaking procedures provided
27 in the compact and in this Section shall be retroactively applied to the rule as
28 soon as reasonably possible, in no event later than ninety days after the effective
29 date of the rule. For the purposes of this provision, an emergency rule is one

1 **that must be adopted immediately in order to:**

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

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

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

6 **(4) Protect public health and safety.**

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

18 **SECTION 13. OVERSIGHT, DISPUTE RESOLUTION,**

19 **AND ENFORCEMENT**

20 **A. Oversight**

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

26 **(2) All courts shall take judicial notice of the compact and the rules in**
27 **any judicial or administrative proceeding in a member state pertaining to the**
28 **subject matter of this compact which may affect the powers, responsibilities, or**
29 **actions of the commission.**

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

6 **B. Default, technical assistance, and termination**

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

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

13 **(b) Provide remedial training and specific technical assistance regarding**
14 **the default.**

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

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

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

29 **(5) The commission shall not bear any costs related to a state that is**

1 found to be in default or that has been terminated from the compact, unless
2 agreed upon in writing between the commission and the defaulting state.

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

8 C. Dispute resolution

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

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

14 D. Enforcement

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

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

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

27 SECTION 14. DATE OF IMPLEMENTATION OF THE
28 INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE
29 AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

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

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

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

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

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

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

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

27 SECTION 15. CONSTRUCTION AND SEVERABILITY

28 This compact shall be liberally construed so as to effectuate the purposes
29 thereof. If this compact shall be held contrary to the constitution of any member

1 state thereto, the compact shall remain in full force and effect as to the
 2 remaining member states. Nothing in this compact supersedes state law or rules
 3 related to licensure of EMS agencies.

4 Section 2. This Act shall become effective upon signature by the governor or, if not
 5 signed by the governor, upon expiration of the time for bills to become law without signature
 6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 8 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 198 Engrossed

2018 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(D) and 1141)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Establishes the requirement for criminal background checks as a condition of licensure for emergency medical services personnel.