

# PA Compact Rule on Rulemaking

## PA Compact Commission

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| <b>Title of Rule:</b>   | Rule on Rulemaking  |
| <b>History of Rule:</b> | Drafted August 23, 2024<br>Adopted at public meeting on September 24, 2024  |
| <b>Reason for Rule:</b> | To further outline and clarify the rule promulgation process of the PA Compact Commission.  |
| <b>Effective Date:</b>  | October 24, 2024  |
| <b>Chapter 1:</b>       | Rulemaking  |
| <b>Authority:</b>       | Section 11: Date of Implementation of the Interstate Commission of the PA Licensure Compact<br>Section 7: Establishment of the PA Compact Commission<br>Section 9: Rulemaking |

### 1.0 Purpose:

Pursuant to Section 9, the PA Compact Commission shall promulgate reasonable and lawful uniform rules to facilitate and coordinate implementation and administration of the PA Compact. This Rule will become effective upon passage by the PA Compact Commission as provided in Section 9 of the PA Compact.

### 1.1 Definition(s):

- (a) **“PA Licensure Compact Commission,” “Compact Commission,” or “Commission”** mean the national administrative body created pursuant to Section 7.A of this Compact.
- (b) **“Model Compact”** means the model for the PA Licensure Compact on file with The Council of State Governments or other entity as designated by the Commission.
- (c) **“Participating State”** means a State that has enacted this Model Compact.
- (d) **“Rule”** means a regulation promulgated by an entity that has the force and effect of law.
- (e) **“Rules Committee”** means: a committee that is established as a standing committee to develop reasonable and lawful uniform rules for consideration by the Commission and subsequent implementation by the states and to review existing rules and recommend necessary changes to the Commission for consideration.

(f) **“Medical Services”** means health care services provided for the diagnosis, prevention, treatment, cure or relief of a health condition, injury, or disease, as defined by a State’s laws and regulations.

(g) **“State”** means any state, commonwealth, district, or territory of the United States.

## **1.2 Applicability of Rules:**

The Commission shall promulgate reasonable Rules in order to effectively and efficiently implement and administer this Compact and achieve its purposes. A Commission Rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the Rule is invalid because the Commission exercised its rulemaking authority in a manner that is beyond the scope of the purposes of this Compact, or the powers granted hereunder, or based upon another applicable standard of review. The Rules of the Commission shall have the force of law in each Participating State. If the Rules of the Commission conflict with the laws of the Participating State that establish the medical services a PA, the Rules of the Commission shall be ineffective in that State to the extent of the conflict.

If a majority of the legislatures of the Participating States rejects a Commission Rule, by enactment of a statute or resolution in the same manner used to adopt this Compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Participating State or to any State applying to participate in the Compact.

## **1.3 Notice:**

Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least thirty (30) days in advance of the meeting at which the Rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and
2. To persons who have requested notice of the Commission’s notices of proposed rulemaking; and
3. In such other way(s) as the Commission may by Rule specify.

The Notice of Proposed Rulemaking shall include:

- a. The time, date, and location of the public hearing on the proposed Rule and the proposed time, date and location of the meeting in which the proposed Rule will be considered and voted upon;
- b. The text of the proposed Rule and the reason for the proposed Rule;
- c. A request for comments on the proposed Rule from any interested person and the date by which written comments must be received; and
- d. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing or provide any written comments.

#### **1.4 Public Hearing:**

If the hearing is to be held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall as directed in the Notice of Proposed Rulemaking, not less than five (5) business days before the scheduled date of the hearing, notify the Commission of their desire to appear and testify at the hearing.
2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.
3. All hearings shall be recorded. A copy of the recording and the written comments, data, facts, opinions, and arguments received in response to the proposed rulemaking shall be made available to a person upon request.
4. Nothing in this section shall be construed as requiring a separate hearing on each proposed Rule. Proposed Rules may be grouped for the convenience of the Commission at hearings required by this section.

Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

Following the public hearing the Commission shall consider all written and oral comments timely received.

### **1.5 Adoption:**

The Commission shall, by majority vote of all delegates, take final action on the proposed Rule and shall determine the effective date of the Rule, if adopted, based on the Rulemaking record and the full text of the Rule.

1. If adopted, the Rule shall be posted on the Commission's website.
2. The Commission may adopt changes to the proposed Rule provided the changes do not enlarge the original purpose of the proposed Rule.
3. The Commission shall provide on its website an explanation of the reasons for substantive changes made to the proposed Rule as well as reasons for substantive changes not made that were recommended by commenters.
4. The Commission shall determine a reasonable effective date for the Rule. Except for an emergency as provided in subsection L, the effective date of the Rule shall be no sooner than thirty (30) days after the Commission issued the notice that it adopted the Rule.
5. Commission Rules shall be adopted at a regular or special meeting of the Commission.

### **1.6 Emergency Rulemaking:**

Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule with twenty-four (24) hours prior notice, without the opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in this Compact and in this section shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately by the Commission in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or Participating State funds;
3. Meet a deadline for the promulgation of a Commission Rule that is established by federal law or Rule; or
4. Protect public health and safety.

### **1.7 Non-Substantive Rule Revisions:**

The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Commission Rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made as set forth in the notice of revisions and delivered to the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

### **1.8 Status of Rules upon adoption of Compact additional Participating States and applicability:**

Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state. No Member State's rulemaking requirements shall apply under this Compact. The Rules of the Commission shall have the force of law in each Member State, provided however that where the Rules of the Commission conflict with the laws of the Member State that establish the Member State's Scope of Practice as held by a court of competent jurisdiction, the rules of the Commission shall be ineffective in that State to the extent of the conflict.

No Participating State's rulemaking requirements shall apply under this Compact.