

RCW 18.33.060 Establishment and operation of the commission.

(1) The compact participating states hereby create and establish a joint government agency whose membership consists of all participating states that have enacted the compact. The commission is an instrumentality of the participating states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact as set forth in RCW 18.33.100(1).

(2) (a) Each participating state shall have and be limited to one commissioner selected by that participating state's state licensing authority or, if the state has more than one state licensing authority, selected collectively by the state licensing authorities.

(b) The commissioner shall be a member or designee of such authority or authorities.

(c) The commission may by rule or bylaw establish a term of office for commissioners and may by rule or bylaw establish term limits.

(d) The commission may recommend to a state licensing authority or authorities, as applicable, removal or suspension of an individual as the state's commissioner.

(e) A participating state's state licensing authority or authorities, as applicable, shall fill any vacancy of its commissioner on the commission within 60 days of the vacancy.

(f) Each commissioner shall be entitled to one vote on all matters that are voted upon by the commission.

(g) The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The commission may meet by telecommunication, videoconference, or other similar electronic means.

(3) The commission shall have the following powers:

(a) Establish the fiscal year of the commission;

(b) Establish a code of conduct and conflict of interest policies;

(c) Adopt rules and bylaws;

(d) Maintain its financial records in accordance with the bylaws;

(e) Meet and take such actions as are consistent with the provisions of this compact, the commission's rules, and the bylaws;

(f) Initiate and conclude legal proceedings or actions in the name of the commission, provided that the standing of any state licensing authority to sue or be sued under applicable law shall not be affected;

(g) Maintain and certify records and information provided to a participating state as the authenticated business records of the commission, and designate a person to do so on the commission's behalf;

(h) Purchase and maintain insurance and bonds;

(i) Borrow, accept, or contract for services of personnel including, but not limited to, employees of a participating state;

(j) Conduct an annual financial review;

(k) Hire employees, elect or appoint officers, fix compensation, define duties, 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;

(l) As set forth in the commission rules, charge a fee to a licensee for the grant of a compact privilege in a remote state and thereafter, as may be established by commission rule, charge the

licensee a compact privilege renewal fee for each renewal period in which that licensee exercises or intends to exercise the compact privilege in that remote state. Nothing herein shall be construed to prevent a remote state from charging a licensee a fee for a compact privilege or renewals of a compact privilege, or a fee for the jurisprudence requirement if the remote state imposes such a requirement for the grant of a compact privilege;

(m) Accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety and/or conflict of interest;

(n) Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;

(o) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(p) Establish a budget and make expenditures;

(q) Borrow money;

(r) Appoint committees, including standing committees, which may be composed of members, state regulators, state legislators or their representatives, consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(s) Provide and receive information from, and cooperate with, law enforcement agencies;

(t) Elect a chair, vice chair, secretary, treasurer, and such other officers of the commission as provided in the commission's bylaws;

(u) Establish and elect an executive board;

(v) Adopt and provide to the participating states an annual report;

(w) Determine whether a state's enacted compact is materially different from the model compact language such that the state would not qualify for participation in the compact; and

(x) Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact.

(4) (a) All meetings of the commission that are not closed pursuant to this subsection shall be open to the public. Notice of public meetings shall be posted on the commission's website at least 30 days prior to the public meeting.

(b) Notwithstanding (a) of this subsection, the commission may convene an emergency public meeting by providing at least 24 hours prior notice on the commission's website, and any other means as provided in the commission's rules, for any of the reasons it may dispense with notice of proposed rule making under RCW 18.33.080(12). The commission's legal counsel shall certify that one of the reasons justifying an emergency public meeting has been met.

(c) Notice of all commission meetings shall provide the time, date, and location of the meeting, and if the meeting is to be held or accessible via telecommunication, videoconference, or other electronic means, the notice shall include the mechanism for access to the meeting through such means.

(d) The commission may convene in a closed, nonpublic meeting for the commission to receive legal advice or to discuss:

(i) Noncompliance of a participating state with its obligations under the compact;

(ii) 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;

(iii) Current or threatened discipline of a licensee or compact privilege holder by the commission or by a participating state's licensing authority;

(iv) Current, threatened, or reasonably anticipated litigation;

(v) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

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

(vii) Trade secrets or commercial or financial information that is privileged or confidential;

(viii) Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(ix) Investigative records compiled for law enforcement purposes;

(x) Information related to any investigative reports prepared by, 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;

(xi) Legal advice;

(xii) Matters specifically exempted from disclosure to the public by federal or participating state law; and

(xiii) Other matters as promulgated by the commission by rule.

(e) If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

(f) 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 therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

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

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

(c) The commission may levy on and collect an annual assessment from each participating state and impose fees on licensees of participating states when a compact privilege is granted 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 fiscal year for which sufficient revenue is not provided by other sources. The aggregate annual assessment amount for participating states shall be allocated based upon a formula that the commission shall promulgate by rule.

(d) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any participating state, except by and with the authority of the participating state.

(e) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the financial review and accounting procedures

established under its bylaws. All receipts and disbursements of funds handled by the commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the commission.

(6) (a) The executive board shall have the power to act on behalf of the commission according to the terms of this compact. The powers, duties, and responsibilities of the executive board shall include:

(i) Overseeing the day-to-day activities of the administration of the compact including compliance with the provisions of the compact and the commission's rules and bylaws;

(ii) Recommending to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to compact participating states, fees charged to licensees, and other fees;

(iii) Ensuring compact administration services are appropriately provided, including by contract;

(iv) Preparing and recommending the budget;

(v) Maintaining financial records on behalf of the commission;

(vi) Monitoring compact compliance of participating states and providing compliance reports to the commission;

(vii) Establishing additional committees as necessary;

(viii) Exercising 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

(ix) Other duties as provided in the rules or bylaws of the commission.

(b) The executive board shall be composed of up to seven members:

(i) The chair, vice chair, secretary, and treasurer of the commission, and any other members of the commission who serve on the executive board, shall be voting members of the executive board; and

(ii) Other than the chair, vice chair, secretary, and treasurer, the commission may elect up to three voting members from the current membership of the commission.

(c) The commission may remove any member of the executive board as provided in the commission's bylaws.

(d) The executive board shall meet at least annually.

(i) An executive board meeting at which it takes or intends to take formal action on a matter shall be open to the public, except that the executive board may meet in a closed, nonpublic session of a public meeting when dealing with any of the matters covered under subsection (4) (d) of this section.

(ii) The executive board shall give five business days' notice of its public meetings, posted on its website and as it may otherwise determine to provide notice to persons with an interest in the public matters the executive board intends to address at those meetings.

(e) The executive board may hold an emergency meeting when acting for the commission to:

(i) Meet an imminent threat to public health, safety, or welfare;

(ii) Prevent a loss of commission or participating state funds;

or

(iii) Protect public health and safety.

(7) (a) The members, officers, executive director, employees, and representatives of the commission shall be 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; provided that nothing in this subsection (7)(a) shall 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 shall not in any way compromise or limit the immunity granted hereunder.

(b) The commission shall defend any member, officer, executive director, employee, and 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; provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(c) Notwithstanding (a) of this subsection, should any member, officer, executive director, employee, or representative of the commission be held liable for the amount of any settlement or judgment arising out of any actual or alleged act, error, or omission that occurred within the scope of that individual's employment, duties, or responsibilities for the commission, or that the person to whom that individual is liable had a reasonable basis for believing occurred within the scope of the individual's employment, duties, or responsibilities for the commission, the commission shall indemnify and hold harmless such individual, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of the individual.

(d) Nothing herein shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

(e) Nothing in this compact shall be interpreted to waive or otherwise abrogate a participating state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman act, Clayton act, or any other state or federal antitrust or anticompetitive law or regulation.

(f) Nothing in this compact shall be construed to be a waiver of sovereign immunity by the participating states or by the commission.
[2023 c 297 s 7.]