

§18539. Rulemaking

1. Powers. The commission shall exercise its rule-making powers pursuant to the criteria set forth in this section and the rules adopted under this section. Rules and amendments become binding as of the date specified in each rule or amendment.

[PL 2023, c. 670, §1 (NEW).]

2. Promulgation. The commission shall promulgate reasonable rules in order to effectively and efficiently implement and administer this compact and achieve its purpose. A commission rule is invalid and has no force or effect only if a court of competent jurisdiction holds that the rule is invalid because the commission exercised its rule-making authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted under the compact, or based upon another applicable standard of review.

[PL 2023, c. 670, §1 (NEW).]

3. Rule conflict with law. The rules of the commission have the force of law in each participating state, except that where the rules of the commission conflict with the laws of the participating state that establish the medical services a physician assistant may perform in the participating state, as held by a court of competent jurisdiction, the rules of the commission are ineffective in that state to the extent of the conflict.

[PL 2023, c. 670, §1 (NEW).]

4. Rule rejection. If a majority of the legislatures of the participating states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within 4 years of the date of adoption of the rule, that rule has no further force and effect in any participating state or in any state applying to participate in the compact.

[PL 2023, c. 670, §1 (NEW).]

5. Rule adoption procedure. Rules or amendments to the rules must be adopted at a regular or special meeting of the commission.

[PL 2023, c. 670, §1 (NEW).]

6. Notice. Prior to promulgation and adoption of a final rule or rules by the commission, and at least 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:

A. On the publicly accessible website of the commission or other publicly accessible platform; [PL 2023, c. 670, §1 (NEW).]

B. To persons who have requested notice of the commission's notices of proposed rulemaking; and [PL 2023, c. 670, §1 (NEW).]

C. In such other ways as the commission may specify by rule. [PL 2023, c. 670, §1 (NEW).]
[PL 2023, c. 670, §1 (NEW).]

7. Notice requirements. The notice of proposed rulemaking must include:

A. The proposed time, date and location of the public hearing on the proposed rule and the proposed time, date and location of the meeting at which the rule will be considered and voted upon; [PL 2023, c. 670, §1 (NEW).]

B. The text of the proposed rule and the reason for the proposed rule; [PL 2023, c. 670, §1 (NEW).]

C. A request for comments on the proposed rule from any interested person and the date by which written comments must be received; and [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

[PL 2023, c. 670, §1 (NEW).]

8. Public comment. Prior to adoption of a proposed rule, the commission shall allow interested persons to submit written data, facts, opinions and arguments, which must be made available to the public.

[PL 2023, c. 670, §1 (NEW).]

9. Hearing by electronic means; notice. If a hearing under this section is held via electronic means, the commission shall publish the mechanism for access to the hearing.

A. All persons wishing to be heard at the hearing must notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than 5 business days before the scheduled date of the hearing. [PL 2023, c. 670, §1 (NEW).]

B. Hearings must be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. [PL 2023, c. 670, §1 (NEW).]

C. All hearings must be recorded. A copy of the recording and the written data, facts, opinions and arguments received in response to the proposed rulemaking must be made available on request. [PL 2023, c. 670, §1 (NEW).]

D. Nothing in this section may be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section. [PL 2023, c. 670, §1 (NEW).]

[PL 2023, c. 670, §1 (NEW).]

10. Consideration. Following a public hearing under this section, the commission shall consider all written and oral comments timely received.

[PL 2023, c. 670, §1 (NEW).]

11. Final action. The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if adopted, based on the rule-making record and the full text of the rule.

A. If adopted, the rule must be posted on the commission's publicly accessible website. [PL 2023, c. 670, §1 (NEW).]

B. The commission may adopt changes to the proposed rule as long as the changes do not broaden the original purpose of the proposed rule. [PL 2023, c. 670, §1 (NEW).]

C. The commission shall provide on its publicly accessible 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 persons who submitted comments described in subsection 10. [PL 2023, c. 670, §1 (NEW).]

D. The commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in subsection 12, the effective date of the rule may not be earlier than 30 days after the commission issues the notice that it has adopted the rule. [PL 2023, c. 670, §1 (NEW).]

[PL 2023, c. 670, §1 (NEW).]

12. Emergency rulemaking. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with 24 hours' notice, without the opportunity for comment or hearing, as long as the usual rule-making procedures provided in the compact and in this section are retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this subsection, "emergency rule" means a rule that must be adopted immediately in order to:

- A. Meet an imminent threat to public health, safety or welfare; [PL 2023, c. 670, §1 (NEW).]
- B. Prevent a loss of commission or participating state funds; [PL 2023, c. 670, §1 (NEW).]
- C. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or [PL 2023, c. 670, §1 (NEW).]
- D. Protect public health and safety. [PL 2023, c. 670, §1 (NEW).]
[PL 2023, c. 670, §1 (NEW).]

13. Rule revisions. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions must be posted on the publicly accessible website of the commission. The revision is subject to challenge by any person for a period of 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 must 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 takes effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.
[PL 2023, c. 670, §1 (NEW).]

14. Application of participating state requirements. Notwithstanding any provision of law to the contrary, a participating state's rule-making requirements do not apply under this compact.
[PL 2023, c. 670, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 670, §1 (NEW).

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