MODEL INTERSTATE COMPACT
FOR EMERGENCY MEDICAL SERVICES PERSONNEL LICENSURE
FOR STATE ADOPTION
PROJECT PROPOSAL

BACKGROUND:

States established their authority to license emergency medical services (EMS) personnel beginning in the early 1970s. The federal government made certain resources available, such as standard curricula for training EMS personnel and grants for system development, ambulances, and patient care equipment in the interest of establishing and standardizing EMS systems throughout the country. The largest federal grant programs were repealed in 1981. A variety of federal partners continue to provide resources in the form of special focus area grants and conducting projects of national utility and significance, but no federal agency has regulatory authority over the licensure of EMS personnel or any other broad components of daily EMS operations.

EMS personnel include emergency medical technicians (EMTs) and paramedics, and in most states two or more additional levels exist which vary based on clinical sophistication. Licensure of EMS personnel is necessary for the same reasons as it is required for nurses and physicians. The medications, devices, and medical interventions performed by EMS personnel are far beyond the scope of "first aid" and cannot safely be performed by a lay person, nor can they be properly regulated by an employer. State licensure also protects the public in the event an EMS provider is incompetent or engages in acts that endanger a patient or the public at large through license action or sanctions against the EMS provider. As is the case with drivers licenses, states are in a position of suspending or revoking the license when violations or skill compromise exceed a certain threshold.

The EMS license issued by a state is based on a determination of the individual's fitness to practice, i.e., that the individual has met or exceeds the minimum requirements associated with the license established by that state's laws and regulations. These requirements vary by state, but often include successful completion of a state approved or nationally accredited course of instruction, obtaining a passing score on a national certification examination, passing a criminal history background check, being credentialed by a licensed ambulance service or other EMS agency, and having a medical director who is responsible for verifying the competency of the EMS provider on a periodic basis.

Although some states continue to use the term "certification" for the instrument issued to EMS personnel that enables them to practice, it has all of the characteristics of a license, therefore the term license in this document is meant to be inclusive of that which all states issue regardless of terminology in any particular state or territorial law. Some, but not all, states have language in

their EMS laws and/or rules addressing legal recognition of individuals who hold a current license issued by a neighboring state in the event the patient originates in the neighboring state but must be transported to a hospital in that state, or when the EMS agency in the neighboring state is requested by that state on a mutual aid basis, and all states are parties to the Emergency Management Assistance Compact (EMAC). The limitation of EMAC and its clauses exempting personnel licensed in other states from requirements for state licensure in the requesting state are that it can only become effective upon a gubernatorial disaster declaration.

Much has changed since the 1970s in the EMS industry. Local EMS agencies have specialized and evolved with regional and even multistate areas of response; helicopter EMS agencies have proliferated across the country, where serving two or more states from the same base is not uncommon; national corporations who employ personnel in numerous states in EMS agencies under contract to local governments have evolved; federal agencies began dispatching contractors from one state to another to function as EMS personnel at wildland fires, and federal agencies have employed personnel as EMTs and paramedics collateral to their core duties in the National Park Service, the US Forest Service, the Department of Interior, the US Park Police, and the Department of Homeland Security. In what may be thousands of cases a year in the US, the federal employees' deployment is likely to be short term and short notice, and rarely involve a gubernatorial declaration of disaster. This increased level of interstate movement and cooperation has placed a renewed emphasis on how EMS personnel are licensed to ensure that EMS personnel are not in violation of that state's laws related to practicing medicine or EMS in a state in which they are not technically licensed.

Unless federal employees are operating on property that enjoys exclusive federal jurisdiction as established in the Code of Federal Regulations, it is the position of the National Association of State EMS Officials (NASEMSO) that it is the right and duty of the states to enforce licensure of EMS personnel. States may also, in effect, exercise a right of first refusal by passing a law exempting certain personnel from state licensure, as has commonly been done in state medical practice acts for physicians working for the Veterans Administration hospital system if they hold a valid unrestricted license in another state. Finally, although it has only occurred on an extremely limited basis, states may enter into a one-on-one interstate agreement with a state sharing a contiguous boundary.

Neither of these mechanisms provides a universal means of assuring a legal, accountable and geographically consistent method of avoiding an unintended violation of state law when an otherwise properly authorized individual practices medicine without a license in a state to which he or she has been officially deployed. The assignment or deployment of federal employees with primary or collateral duties as EMS personnel poses a unique challenge and liability to the states, the federal government, and the federal employees themselves when those personnel do not hold a license issued by the state in which they are practicing.

The same blind spot exists in many states for EMS personnel who are responding from an adjacent state as a result of being requested locally. For incidents that do not result in a governor's disaster declaration, these personnel may or may not be functioning under statutorily established legal recognition. In some areas, the EMS personnel have been required to hold licenses in both states; in others the EMS personnel are unaware that their performance of clinical care duties in the neighboring states is technically a violation of that state's laws. Very few states have a specific exemption in their state EMS law or rules for personnel providing patient care as part of day-to-day (i.e., non-disaster) situations.

Awareness has been raised among state EMS officials in recent years about federal and other EMS personnel deploying to a state and practicing without being licensed by that state. Risk and reactions vary; while the federal and neighboring state EMS personnel and the role they play is needed and valued, especially in frontier and austere locations, this is frequently a violation of the states' EMS laws. This could be determined to be practicing medicine without a license, which is a felony in most states. While no state has expressed a desire to initiate legal action against these personnel, the very real risk exists of discovery during legal proceedings or in the event of local interagency conflict.

PURPOSE:

The states' EMS offices have the exclusive authority to license EMS personnel to practice in their respective states, and in turn, the National Association of State EMS Officials (NASEMSO) is the only nationally representative organization of the state EMS offices.

The National Association of State EMS Officials is proposing a system of self-regulation by the states through the use of interstate compacts whereby national policy can be put into place but remain flexible enough to change as change continues to occur in the EMS industry, preserving state sovereignty and collective control. NASEMSO has proposed to demonstrate, at a national level, that systematic development and design of an interstate compact model will facilitate a robust and capable method of offering rapid, and in specified cases, immediate legal recognition to individuals properly licensed in their states of origin under controlled circumstances. This effort will initiate an eighteen (18) month process to develop a model interstate compact for states' legislative use to solve the problem associated with day-to-day emergency deployment of EMS personnel across state boundaries. In short, this project is intended to parallel that which has made it possible for interstate recognition of nursing licenses and state drivers' licenses by other states on short term and/or condition-limited bases. In each example member states agree to honor licenses so long as the license is issued in another member state in a manner consistent with the compact terms.

Compacts are a proven method for states to exercise their sovereignty on a collective basis to resolve complex regulatory issues that traverse geographical boundaries and negate the need for federal pre-emption. Compacts allow the member states to self-regulate the existing system for

licensing EMS personnel as an enforceable, sustainable, and durable tool capable of ensuring permanent change without federal intervention. With over 200 interstate compacts in existence today and each state belonging to an average of 25 compacts there is considerable legal and historical precedence for the development and use of interstate compacts. While the terms of the compact language itself are contractual in nature upon promulgation as law, subordinate rules and processes associated with the day-to-day use of the compact are collaboratively negotiated by the states and administered by a national organization, allowing for flexibility and change to accommodate contemporary demands and process efficiency.

The purpose of this effort is to formalize NASEMSO's proposal for an twenty (20) month project to develop a detailed model interstate compact for the states' use and adoption. The model is intended to help state EMS systems ensure they have the legal basis to provide rapid or immediate legal recognition for EMS personnel properly licensed in their state of origin who enter another state on a short term deployment on an emergency or anticipated emergency basis. Considerable work would need to occur after the completion of the first two phases which comprise the scope of this project; the deliverable as a result of this project however would be a substantial step forward yielding a model ready for immediate legislative action by states.

This project anticipates support in the form of process guidance, and legal and technical assistance from the Council of State Governments (CSG) through its National Center for Interstate Compacts (NCIC). This effort shall be coordinated closely with the National Governors Association, the National Council of State Legislatures, the Federal Interagency Committee on EMS (FICEMS), the National EMS Advisory Council (NEMSAC), all federal agencies that employ EMS personnel or who have an interest in the capacity and performance of EMS systems, and other interagency initiatives including but not limited to the National EMS Information System (NEMSIS) and the EMS Workforce Injury and Illness Surveillance Program (EMS-WIISP).

SCOPE OF WORK:

This project proposes to bring together national and state leaders and experts in EMS systems and as well as interstate compacts to assist in development of consensus based and legally sound compact language. The outcome is a model compact for states to adopt allowing universal, rapid, and in select circumstances immediate recognition of state issued EMS personnel licenses by compact states under specified conditions.

With a long history helping to broker multi-state cooperation, including the development and use of interstate compacts, The Council of State Governments, through The National Center for Interstate Compacts is willing to assist NASEMSO and other state based organizations develop this model interstate compact and provide technical assistance during outreach and implementation phases.

Founded in 1933, The Council of State Governments primary mission is to serve as our nation's only organization serving all three branches of state government. CSG is a region-based forum that fosters the exchange of insights and ideas to help state officials shape public policy. This offers unparalleled regional, national and international opportunities to network, develop leaders, collaborate and create problem-solving partnerships.

CSG's National Center for Interstate Compacts – the only organization of its kind – serves as an information clearinghouse, a provider of training and technical assistance, and a primary facilitator in assisting states in the review, revision and creation of new interstate compacts. In the last 10 years, CSG's National Center for Interstate Compacts has managed and/or advised the drafting, development and/or successful implementation of a number of interstate compacts, including:

- Surplus Lines Insurance Multistate Compliance Compact *(2010-2011)*
- Prescription Monitoring Program Compact *(2009-2011)*
- National Racing Compact *(2008-2011)*
- Great Lakes – St. Lawrence River Basin Water Resources Compact *(2007)*
- Interstate Compact on Educational Opportunity for Military Children *(2006-2009)*
- Interstate Compact for the Placement of Children *(2004-2007)*
- Interstate Compact for Juveniles *(2000-2008)*
- Interstate Compact for Adult Offender Supervision *(1999-2003)*

In accordance with guidance from the CSG NCIC, this process will occur in four phases. This proposal seeks funding for the first two phases only. Brief descriptions of Phases III & IV are included to illustrate tasks associated with education and implementation.

Phase I – National Advisory Panel (6 months)

This National Advisory Panel will be formed and tasked with examining the current landscape of challenges facing state licensure of EMS personnel and to present a set of solution-oriented recommendations for inclusion in a new model interstate compact. The advisory body will include representatives from state EMS offices, federal partners, the EMS industry, and related national EMS organizations. The advisory panel, comprised of approximately 24 individuals who are issue and stakeholder experts from around the country, will meet twice for two-day meetings during the first four months of the project to discuss and review the issue in depth and develop a set of formal recommendations to guide the development of a model interstate compact. The consensus-based guidance is intended to address high-level provisions that should be included in the model interstate compact. The threshold for the required number of states to join the compact before it becomes effective will be determined by the Advisory Panel.

NASEMSO will serve as the project management organization, securing the technical, policy and legal services of the Council of State Governments through a subcontract. NASEMSO will identify and select national advisory panel members in close consultation with the federal funding partners and other national leadership organizations. The National Center for Interstate Compacts will identify and assign the appropriate staff to attend national advisory panel meetings and provide technical and legal input during the process, as well as provide an overview of compacts to the national advisory panel. NASEMSO will schedule and secure all meeting venues, sleeping room blocks, meals, and provide reimbursement for panel members and NCIC staff travel. NASEMSO will assure that an expert facilitator guides the national advisory panel to success and that meeting proceedings are thoroughly documented.

Phase II – Drafting and Compact Development / Educational Materials (12 months)

The Drafting Team is charged with taking the theory-based National Advisory Panel recommendations and making them operational via draft legislation. The expert Drafting team will meet four times during a seven (7) month period to develop a draft model interstate compact based on the recommendations of the advisory group and their own expertise. This 11 person team is comprised of five state EMS officials with regulatory expertise in the area of personnel licensure and at least two representatives of the interests of EMS personnel; the balance of the drafting team will include a federal and/or state policymaker, legislative bill drafters and other experts. The group will be supported by CSG's interstate compact experts and tasked with developing model compact language. The CSG NCIC will provide the technical assistance to assure appropriate representation for the latter half of the team.

NASEMSO will identify and select the EMS members of the drafting team in close consultation with other national leadership organizations and the National Advisory Panel. The National Center for Interstate Compacts will identify and assign the appropriate staff to attend drafting team meetings and provide technical and legal input during the process, as well as provide an overview of compacts to the national advisory panel. NASEMSO will schedule and secure all meeting venues, sleeping room blocks, meals, and provide reimbursement for drafting team members and NCIC staff travel. NASEMSO will assure that an expert facilitator guides the drafting team to success and that meeting proceedings are thoroughly documented.

When the draft is complete, it will be circulated to all state EMS offices and federal partners for review and comment. After reconciliation of state and federal comments, the final draft will be distributed widely to all EMS stakeholder organizations (including over 30 national associations) for comment. All comments on the agreement will be considered, and if applicable and reasonable, included in the model interstate compact. The final draft compact is then circulated back to the National Advisory Panel for review to ensure that the original recommendations have been included or adapted. Additional cooperative agreement project applications or project work order proposals will be developed to facilitate in-state technical assistance and education visits following the initial 18 month project period by NCIC staff, and the selection and formation of a

national administration body after further input from federal partners, CSG NCIC and EMS stakeholders.

Following the drafting period, it is imperative that a comprehensive strategy for state consideration of the new compact be developed and adhered to. This strategy is supported by the creation of educational materials, websites and both national and state-by-state briefings as well as technical assistance. It has been CSG's experience that the failure to undertake both the development of a comprehensive strategy and supporting educational materials will likely result in slow adoption by states.

The following two phases are not activities covered under the scope of approval, but are included here to illustrate the subsequent education and implementation steps necessary for long term success.

Phase III -- Education and Enactment (30 months, three full legislative sessions)

Once the compact has been developed, and a strategy and supporting materials created, an institutional mechanism will support the states as they consider and adopt the agreement. In most instances, this requires a mixture of remote and on-site technical assistance in the form of cooperation with state agencies and/or testimony to legislative committees. One can typically expect to provide on-site assistance to at least half the states considering the compact in a given legislative cycle.

Phase IV – Transition to Commission Administration

Following adoption by the required number of states a level of technical assistance, training and staff support to full operation, or transition, is typically required. This may include convening various planning committees in advance of the first "national commission" meeting, i.e. the first business session of the new compacting states. Following the inaugural meeting, one can expect a heavy workload as the new group gets off the ground and new member states come on board. Such activities may include: committee meetings, additional technical assistance to non-member states and specific training for member states and officials.

KEY ACTIVITIES

Detailed below is an example work plan based on CSG's extensive work on interstate compacts for more than a decade and NASEMSO's expertise in managing projects of this scope. Generally speaking this model has proven successful due to its deliberative and inclusive process, ensuring that all interested stakeholders have an opportunity for input, review, and comment. It should be noted that the development of an interstate compact is a multi-year process. Estimates for the time necessary to complete phases I and II of the project are included below. The following items represent expected results under this Project Order:

Item #	**Activities**	**Due Date (post award)**
1	Kick-off meeting at federal funding agency Headquarters	1 Month
2	Select National Advisory Panel Members	1 Month
3	Revised Work Plan	2 Months
4	Select Expert Drafting Team	2 Months
5	Conduct first Advisory Body meeting	3 Months
6	Quarterly Progress Reports	3 Months, then quarterly
7	Conduct second Advisory Panel meeting	5 Months
8	Conduct first Expert Drafting Team meeting	6 Months
9	Conduct second Expert Drafting Team meeting	9 Months
10	Conduct third Expert Drafting Team meeting	12 Months
11	Conduct fourth Expert Drafting Team meeting	15 Months
12	Conduct Advisory Panel review of draft	16 Months
13	Distribute draft model interstate compact for licensure of EMS personnel to states and federal partners	16 Months
14	Distribute final draft model interstate compact for licensure of EMS personnel to national stakeholder organizations	17 Months
15	Develop final model interstate compact for licensure of EMS personnel and distribute to states	18 Months
16	Final Report of Key Activity Progress	20 Months