

1 ENGROSSED SENATE
2 BILL NO. 1654

By: Pugh of the Senate

3 and

4 Duel of the House

5 An Act relating to physician assistants; enacting the
6 Physician Assistant (PA) Licensure Compact and
7 authorizing Governor to enter into compact with
8 certain jurisdictions; setting forth form of certain
9 compact; providing for codification; and providing an
effective date.

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 522.1 of Title 59, unless there
13 is created a duplication in numbering, reads as follows:

14 The Physician Assistant (PA) Licensure Compact is hereby enacted
15 into law and the Governor shall enter into a compact on behalf of
16 the State of Oklahoma with any jurisdiction legally joined therein,
17 in the form substantially as set forth in Section 2 of this act.

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 522.2 of Title 59, unless there
20 is created a duplication in numbering, reads as follows:

21 Section 1. Purpose.

22 In order to strengthen access to Medical Services, and in
23 recognition of the advances in the delivery of Medical Services, the
24 Participating States of the PA Licensure Compact have allied in

1 common purpose to develop a comprehensive process that complements
2 the existing authority of State Licensing Boards to license and
3 discipline PAs and seeks to enhance the portability of a License to
4 practice as a PA while safeguarding the safety of patients. This
5 Compact allows Medical Services to be provided by PAs, via the
6 mutual recognition of the Licensee's Qualifying License by other
7 Compact Participating States. This Compact also adopts the
8 prevailing standard for PA licensure and affirms that the practice
9 and delivery of Medical Services by the PA occurs where the patient
10 is located at the time of the patient encounter, and therefore
11 requires the PA to be under the jurisdiction of the State Licensing
12 Board where the patient is located. State Licensing Boards that
13 participate in this Compact retain the jurisdiction to impose
14 Adverse Action against a Compact Privilege in that State issued to a
15 PA through the procedures of this Compact. The PA Licensure Compact
16 will alleviate burdens for military families by allowing active duty
17 military personnel and their spouses to obtain a Compact Privilege
18 based on having an unrestricted License in good standing from a
19 Participating State.

20 Section 2. Definitions.

21 In this Compact:

22 A. "Adverse Action" means any administrative, civil, equitable,
23 or criminal action permitted by a State's laws which is imposed by a
24 Licensing Board or other authority against a PA License or License

1 application or Compact Privilege such as License denial, censure,
2 revocation, suspension, probation, monitoring of the Licensee, or
3 restriction on the Licensee's practice;

4 B. "Compact Privilege" means the authorization granted by a
5 Remote State to allow a Licensee from another Participating State to
6 practice as a PA to provide Medical Services and other licensed
7 activity to a patient located in the Remote State under the Remote
8 State's laws and regulations;

9 C. "Conviction" means a finding by a court that an individual
10 is guilty of a felony or misdemeanor offense through adjudication or
11 entry of a plea of guilt or no contest to the charge by the
12 offender;

13 D. "Criminal Background Check" means the submission of
14 fingerprints or other biometric-based information for a License
15 applicant for the purpose of obtaining that applicant's criminal
16 history record information, as defined in 28 C.F.R., Section
17 20.3(d), from the State's criminal history record repository as
18 defined in 28 C.F.R., Section 20.3(f);

19 E. "Data System" means the repository of information about
20 Licensees, including but not limited to License status and Adverse
21 Actions, which is created and administered under the terms of this
22 Compact;

23 F. "Executive Committee" means a group of directors and ex-
24 officio individuals elected or appointed pursuant to Section 7.F.2;

1 G. "Impaired Practitioner" means a PA whose practice is
2 adversely affected by health-related condition(s) that impact their
3 ability to practice;

4 H. "Investigative Information" means information, records, or
5 documents received or generated by a Licensing Board pursuant to an
6 investigation;

7 I. "Jurisprudence Requirement" means the assessment of an
8 individual's knowledge of the laws and Rules governing the practice
9 of a PA in a State;

10 J. "License" means current authorization by a State, other than
11 authorization pursuant to a Compact Privilege, for a PA to provide
12 Medical Services, which would be unlawful without current
13 authorization;

14 K. "Licensee" means an individual who holds a License from a
15 State to provide Medical Services as a PA;

16 L. "Licensing Board" means any State entity authorized to
17 license and otherwise regulate PAs;

18 M. "Medical Services" means health care services provided for
19 the diagnosis, prevention, treatment, cure or relief of a health
20 condition, injury, or disease, as defined by a State's laws and
21 regulations;

22 N. "Model Compact" means the model for the PA Licensure Compact
23 on file with The Council of State Governments or other entity as
24 designated by the Commission;

1 O. "Participating State" means a State that has enacted this
2 Compact;

3 P. "PA" means an individual who is licensed as a physician
4 assistant in a State. For purposes of this Compact, any other title
5 or status adopted by a State to replace the term "physician
6 assistant" shall be deemed synonymous with "physician assistant" and
7 shall confer the same rights and responsibilities to the Licensee
8 under the provisions of this Compact at the time of its enactment;

9 Q. "PA Licensure Compact Commission," "Compact Commission," or
10 "Commission" mean the national administrative body created pursuant
11 to Section 7.A of this Compact;

12 R. "Qualifying License" means an unrestricted License issued by
13 a Participating State to provide Medical Services as a PA;

14 S. "Remote State" means a Participating State where a Licensee
15 who is not licensed as a PA is exercising or seeking to exercise the
16 Compact Privilege;

17 T. "Rule" means a regulation promulgated by an entity that has
18 the force and effect of law;

19 U. "Significant Investigative Information" means Investigative
20 Information that a Licensing Board, after an inquiry or
21 investigation that includes notification and an opportunity for the
22 PA to respond if required by State law, has reason to believe is not
23 groundless and, if proven true, would indicate more than a minor
24 infraction; and

1 V. "State" means any state, commonwealth, district, or
2 territory of the United States.

3 Section 3. State Participation in this Compact.

4 A. To participate in this Compact, a Participating State shall:

- 5 1. License PAs;
- 6 2. Participate in the Compact Commission's Data System;
- 7 3. Have a mechanism in place for receiving and investigating
8 complaints against Licensees and License applicants;
- 9 4. Notify the Commission, in compliance with the terms of this
10 Compact and Commission Rules, of any Adverse Action against a
11 Licensee or License applicant and the existence of Significant
12 Investigative Information regarding a Licensee or License applicant;
- 13 5. Fully implement a Criminal Background Check requirement,
14 within a time frame established by Commission Rule, by its Licensing
15 Board receiving the results of a Criminal Background Check and
16 reporting to the Commission whether the License applicant has been
17 granted a License;
- 18 6. Comply with the Rules of the Compact Commission;
- 19 7. Utilize passage of a recognized national exam such as the
20 NCCPA PANCE as a requirement for PA licensure; and
- 21 8. Grant the Compact Privilege to a holder of a Qualifying
22 License in a Participating State.

23 B. Nothing in this Compact prohibits a Participating State from
24 charging a fee for granting the Compact Privilege.

1 Section 4. Compact Privilege.

2 A. To exercise the Compact Privilege, a Licensee must:

3 1. Have graduated from a PA program accredited by the

4 Accreditation Review Commission on Education for the Physician

5 Assistant, Inc. or other programs authorized by Commission Rule;

6 2. Hold current NCCPA certification;

7 3. Have no felony or misdemeanor Conviction;

8 4. Have never had a controlled substance license, permit, or
9 registration suspended or revoked by a State or by the United States
10 Drug Enforcement Administration;

11 5. Have a unique identifier as determined by Commission Rule;

12 6. Hold a Qualifying License;

13 7. Have had no revocation of a License or limitation or
14 restriction on any License currently held due to an adverse action;

15 8. If a Licensee has had a limitation or restriction on a
16 License or Compact Privilege due to an Adverse Action, two years
17 must have elapsed from the date on which the License or Compact
18 Privilege is no longer limited or restricted due to the Adverse
19 Action;

20 9. If a Compact Privilege has been revoked or is limited or
21 restricted in a Participating State for conduct that would not be a
22 basis for disciplinary action in a Participating State in which the
23 Licensee is practicing or applying to practice under a Compact
24 Privilege, that Participating State shall have the discretion not to

1 consider such action as an Adverse Action requiring the denial or
2 removal of a Compact Privilege in that State;

3 10. Notify the Compact Commission that the Licensee is seeking
4 the Compact Privilege in a Remote State;

5 11. Meet any Jurisprudence Requirement of a Remote State in
6 which the Licensee is seeking to practice under the Compact
7 Privilege and pay any fees applicable to satisfying the
8 Jurisprudence Requirement; and

9 12. Report to the Commission any Adverse Action taken by a non-
10 participating State within thirty (30) days after the action is
11 taken.

12 B. The Compact Privilege is valid until the expiration or
13 revocation of the Qualifying License unless terminated pursuant to
14 an Adverse Action. The Licensee must also comply with all of the
15 requirements of Subsection A above to maintain the Compact Privilege
16 in a Remote State. If the Participating State takes Adverse Action
17 against a Qualifying License, the Licensee shall lose the Compact
18 Privilege in any Remote State in which the Licensee has a Compact
19 Privilege until all of the following occur:

20 1. The License is no longer limited or restricted; and

21 2. Two (2) years have elapsed from the date on which the
22 License is no longer limited or restricted due to the Adverse
23 Action.

1 C. Once a restricted or limited License satisfies the
2 requirements of Subsection B.1 and 2, the Licensee must meet the
3 requirements of Subsection A to obtain a Compact Privilege in any
4 Remote State.

5 D. For each Remote State in which a PA seeks authority to
6 prescribe controlled substances, the PA shall satisfy all
7 requirements imposed by such State in granting or renewing such
8 authority.

9 Section 5. Designation of the State from Which Licensee is
10 Applying for a Compact Privilege.

11 Upon a Licensee's application for a Compact Privilege, the
12 Licensee shall identify to the Commission the Participating State
13 from which the Licensee is applying, in accordance with applicable
14 Rules adopted by the Commission, and subject to the following
15 requirements:

16 1. When applying for a Compact Privilege, the Licensee shall
17 provide the Commission with the address of the Licensee's primary
18 residence and thereafter shall immediately report to the Commission
19 any change in the address of the Licensee's primary residence; and

20 2. When applying for a Compact Privilege, the Licensee is
21 required to consent to accept service of process by mail at the
22 Licensee's primary residence on file with the Commission with
23 respect to any action brought against the Licensee by the Commission
24 or a Participating State, including a subpoena, with respect to any

1 action brought or investigation conducted by the Commission or a
2 Participating State.

3 Section 6. Adverse Actions.

4 A. A Participating State in which a Licensee is licensed shall
5 have exclusive power to impose Adverse Action against the Qualifying
6 License issued by that Participating State.

7 B. In addition to the other powers conferred by State law, a
8 Remote State shall have the authority, in accordance with existing
9 State due process law, to do all of the following:

10 1. Take Adverse Action against a PA's Compact Privilege within
11 that State to remove a Licensee's Compact Privilege or take other
12 action necessary under applicable law to protect the health and
13 safety of its citizens; and

14 2. Issue subpoenas for both hearings and investigations that
15 require the attendance and testimony of witnesses as well as the
16 production of evidence. Subpoenas issued by a Licensing Board in a
17 Participating State for the attendance and testimony of witnesses or
18 the production of evidence from another Participating State shall be
19 enforced in the latter State by any court of competent jurisdiction,
20 according to the practice and procedure of that court applicable to
21 subpoenas issued in proceedings pending before it. The issuing
22 authority shall pay any witness fees, travel expenses, mileage and
23 other fees required by the service statutes of the State in which
24 the witnesses or evidence are located.

1 3. Notwithstanding paragraph 2, subpoenas may not be issued by
2 a Participating State to gather evidence of conduct in another State
3 that is lawful in that other State for the purpose of taking Adverse
4 Action against a Licensee's Compact Privilege or application for a
5 Compact Privilege in that Participating State.

6 4. Nothing in this Compact authorizes a Participating State to
7 impose discipline against a PA's Compact Privilege or to deny an
8 application for a Compact Privilege in that Participating State for
9 the individual's otherwise lawful practice in another State.

10 C. For purposes of taking Adverse Action, the Participating
11 State which issued the Qualifying License shall give the same
12 priority and effect to reported conduct received from any other
13 Participating State as it would if the conduct had occurred within
14 the Participating State which issued the Qualifying License. In so
15 doing, that Participating State shall apply its own State laws to
16 determine appropriate action.

17 D. A Participating State, if otherwise permitted by State law,
18 may recover from the affected PA the costs of investigations and
19 disposition of cases resulting from any Adverse Action taken against
20 that PA.

21 E. A Participating State may take Adverse Action based on the
22 factual findings of a Remote State, provided that the Participating
23 State follows its own procedures for taking the Adverse Action.

24 F. Joint Investigations.

1 1. In addition to the authority granted to a Participating
2 State by its respective State PA laws and regulations or other
3 applicable State law, any Participating State may participate with
4 other Participating States in joint investigations of Licensees.

5 2. Participating States shall share any investigative,
6 litigation, or compliance materials in furtherance of any joint or
7 individual investigation initiated under this Compact.

8 G. If an Adverse Action is taken against a PA's Qualifying
9 License, the PA's Compact Privilege in all Remote States shall be
10 deactivated until two (2) years have elapsed after all restrictions
11 have been removed from the State License. All disciplinary orders
12 by the Participating State which issued the Qualifying License that
13 impose Adverse Action against a PA's License shall include a
14 Statement that the PA's Compact Privilege is deactivated in all
15 Participating States during the pendency of the order.

16 H. If any Participating State takes Adverse Action, it promptly
17 shall notify the administrator of the Data System.

18 Section 7. Establishment of the PA Licensure Compact
19 Commission.

20 A. The Participating States hereby create and establish a joint
21 government agency and national administrative body known as the PA
22 Licensure Compact Commission. The Commission is an instrumentality
23 of the Compact States acting jointly and not an instrumentality of
24

1 any one State. The Commission shall come into existence on or after
2 the effective date of the Compact as set forth in Section 11.A.

3 B. Membership, Voting, and Meetings.

4 1. Each Participating State shall have and be limited to one
5 (1) delegate selected by that Participating State's Licensing Board
6 or, if the State has more than one Licensing Board, selected
7 collectively by the Participating State's Licensing Boards.

8 2. The delegate shall be either:

9 a. a current PA, physician or public member of a
10 Licensing Board or PA Council/Committee, or

11 b. an administrator of a Licensing Board.

12 3. Any delegate may be removed or suspended from office as
13 provided by the laws of the State from which the delegate is
14 appointed.

15 4. The Participating State Licensing Board shall fill any
16 vacancy occurring in the Commission within sixty (60) days.

17 5. Each delegate shall be entitled to one (1) vote on all
18 matters voted on by the Commission and shall otherwise have an
19 opportunity to participate in the business and affairs of the
20 Commission. A delegate shall vote in person or by such other means
21 as provided in the bylaws. The bylaws may provide for delegates'
22 participation in meetings by telecommunications, video conference,
23 or other means of communication.

1 6. The Commission shall meet at least once during each calendar
2 year. Additional meetings shall be held as set forth in this
3 Compact and the bylaws.

4 7. The Commission shall establish by Rule a term of office for
5 delegates.

6 C. The Commission shall have the following powers and duties:

7 1. Establish a code of ethics for the Commission;

8 2. Establish the fiscal year of the Commission;

9 3. Establish fees;

10 4. Establish bylaws;

11 5. Maintain its financial records in accordance with the
12 bylaws;

13 6. Meet and take such actions as are consistent with the
14 provisions of this Compact and the bylaws;

15 7. Promulgate Rules to facilitate and coordinate implementation
16 and administration of this Compact. The Rules shall have the force
17 and effect of law and shall be binding in all Participating States;

18 8. Bring and prosecute legal proceedings or actions in the name
19 of the Commission, provided that the standing of any State Licensing
20 Board to sue or be sued under applicable law shall not be affected;

21 9. Purchase and maintain insurance and bonds;

22 10. Borrow, accept, or contract for services of personnel,
23 including, but not limited to, employees of a Participating State;
24

1 11. Hire employees and engage contractors, elect or appoint
2 officers, fix compensation, define duties, grant such individuals
3 appropriate authority to carry out the purposes of this Compact, and
4 establish the Commission's personnel policies and programs relating
5 to conflicts of interest, qualifications of personnel, and other
6 related personnel matters;

7 12. Accept any and all appropriate donations and grants of
8 money, equipment, supplies, materials and services, and receive,
9 utilize and dispose of the same; provided that at all times the
10 Commission shall avoid any appearance of impropriety or conflict of
11 interest;

12 13. Lease, purchase, accept appropriate gifts or donations of,
13 or otherwise own, hold, improve or use, any property, real, personal
14 or mixed; provided that at all times the Commission shall avoid any
15 appearance of impropriety;

16 14. Sell, convey, mortgage, pledge, lease, exchange, abandon,
17 or otherwise dispose of any property real, personal, or mixed;

18 15. Establish a budget and make expenditures;

19 16. Borrow money;

20 17. Appoint committees, including standing committees composed
21 of members, State regulators, State legislators or their
22 representatives, and consumer representatives, and such other
23 interested persons as may be designated in this Compact and the
24 bylaws;

1 18. Provide and receive information from, and cooperate with,
2 law enforcement agencies;

3 19. Elect a Chair, Vice Chair, Secretary and Treasurer and such
4 other officers of the Commission as provided in the Commission's
5 bylaws;

6 20. Reserve for itself, in addition to those reserved
7 exclusively to the Commission under the Compact, powers that the
8 Executive Committee may not exercise;

9 21. Approve or disapprove a State's participation in the
10 Compact based upon its determination as to whether the State's
11 Compact legislation departs in a material manner from the Model
12 Compact language;

13 22. Prepare and provide to the Participating States an annual
14 report; and

15 23. Perform such other functions as may be necessary or
16 appropriate to achieve the purposes of this Compact consistent with
17 the State regulation of PA licensure and practice.

18 D. Meetings of the Commission.

19 1. All meetings of the Commission that are not closed pursuant
20 to this subsection shall be open to the public. Notice of public
21 meetings shall be posted on the Commission's website at least thirty
22 (30) days prior to the public meeting.

23 2. Notwithstanding subsection D.1 of this section, the
24 Commission may convene a public meeting by providing at least

1 twenty-four (24) hours prior notice on the Commission's website, and
2 any other means as provided in the Commission's Rules, for any of
3 the reasons it may dispense with notice of proposed rulemaking under
4 Section 9.L.

5 3. The Commission may convene in a closed, non-public meeting
6 or non-public part of a public meeting to receive legal advice or to
7 discuss:

- 8 a. non-compliance of a Participating State with its
9 obligations under this Compact,
- 10 b. the employment, compensation, discipline or other
11 matters, practices or procedures related to specific
12 employees or other matters related to the Commission's
13 internal personnel practices and procedures,
- 14 c. current, threatened, or reasonably anticipated
15 litigation,
- 16 d. negotiation of contracts for the purchase, lease, or
17 sale of goods, services, or real estate,
- 18 e. accusing any person of a crime or formally censuring
19 any person,
- 20 f. disclosure of trade secrets or commercial or financial
21 information that is privileged or confidential,
- 22 g. disclosure of information of a personal nature where
23 disclosure would constitute a clearly unwarranted
24 invasion of personal privacy,

- h. disclosure of investigative records compiled for law enforcement purposes,
- i. disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to this Compact,
- j. legal advice, or
- k. matters specifically exempted from disclosure by federal or Participating States' statutes.

4. If a meeting, or portion of a meeting, is closed pursuant to this provision, the chair of the meeting or the chair's designee shall certify that the meeting or portion of the meeting may be closed and shall reference each relevant exempting provision.

5. 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, 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 by a majority vote of the Commission or order of a court of competent jurisdiction.

E. Financing of the Commission.

1 1. The Commission shall pay, or provide for the payment of, the
2 reasonable expenses of its establishment, organization, and ongoing
3 activities.

4 2. The Commission may accept any and all appropriate revenue
5 sources, donations, and grants of money, equipment, supplies,
6 materials, and services.

7 3. The Commission may levy on and collect an annual assessment
8 from each Participating State and may impose Compact Privilege fees
9 on Licensees of Participating States to whom a Compact Privilege is
10 granted to cover the cost of the operations and activities of the
11 Commission and its staff, which must be in a total amount sufficient
12 to cover its annual budget as approved by the Commission each year
13 for which revenue is not provided by other sources. The aggregate
14 annual assessment amount levied on Participating States shall be
15 allocated based upon a formula to be determined by Commission Rule.

16 a. A Compact Privilege expires when the Licensee's
17 Qualifying License in the Participating State from
18 which the Licensee applied for the Compact Privilege
19 expires.

20 b. If the Licensee terminates the Qualifying License
21 through which the Licensee applied for the Compact
22 Privilege before its scheduled expiration, and the
23 Licensee has a Qualifying License in another
24 Participating State, the Licensee shall inform the

Commission that it is changing to that Participating State the Participating State through which it applies for a Compact Privilege and pay to the Commission any Compact Privilege fee required by Commission Rule.

4. 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 of the Participating States, except by and with the authority of the Participating State.

5. 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.

F. The Executive Committee.

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact and Commission Rules.

2. The Executive Committee shall be composed of nine (9) members:

- a. seven voting members who are elected by the Commission from the current membership of the Commission,

- b. one ex-officio, nonvoting member from a recognized national PA professional association, and
- c. one ex-officio, nonvoting member from a recognized national PA certification organization.

3. The ex-officio members will be selected by their respective organizations.

4. The Commission may remove any member of the Executive Committee as provided in its bylaws.

5. The Executive Committee shall meet at least annually.

6. The Executive Committee shall have the following duties and responsibilities:

- a. recommend to the Commission changes to the Commission's Rules or bylaws, changes to this Compact legislation, fees to be paid by Compact Participating States such as annual dues, and any Commission Compact fee charged to Licensees for the Compact Privilege,
- b. ensure Compact administration services are appropriately provided, contractual or otherwise,
- c. prepare and recommend the budget,
- d. maintain financial records on behalf of the Commission,
- e. monitor Compact compliance of Participating States and provide compliance reports to the Commission,
- f. establish additional committees as necessary,

1 g. exercise the powers and duties of the Commission
2 during the interim between Commission meetings, except
3 for issuing proposed rulemaking or adopting Commission
4 Rules or bylaws, or exercising any other powers and
5 duties exclusively reserved to the Commission by the
6 Commission's Rules, and

7 h. perform other duties as provided in the Commission's
8 Rules or bylaws.

9 7. All meeting of the Executive Committee at which it votes or
10 plans to vote on matters in exercising the powers and duties of the
11 Commission shall be open to the public and public notice of such
12 meetings shall be given as public meetings of the Commission are
13 given.

14 8. The Executive Committee may convene in a closed, non-public
15 meeting for the same reasons that the Commission may convene in a
16 non-public meeting as set forth in Section 7.D.3 and shall announce
17 the closed meeting as the Commission is required to under Section
18 7.D.4 and keep minutes of the closed meeting as the Commission is
19 required to under Section 7.D.5.

20 G. Qualified Immunity, Defense, and Indemnification.

21 1. The members, officers, executive director, employees and
22 representatives of the Commission shall be immune from suit and
23 liability, both personally and in their official capacity, for any
24 claim for damage to or loss of property or personal injury or other

1 civil liability caused by or arising out of any actual or alleged
2 act, error, or omission that occurred, or that the person against
3 whom the claim is made had a reasonable basis for believing occurred
4 within the scope of Commission employment, duties or
5 responsibilities; provided that nothing in this paragraph shall be
6 construed to protect any such person from suit or liability for any
7 damage, loss, injury, or liability caused by the intentional or
8 willful or wanton misconduct of that person. The procurement of
9 insurance of any type by the Commission shall not in any way
10 compromise or limit the immunity granted hereunder.

11 2. The Commission shall defend any member, officer, executive
12 director, employee, and representative of the Commission in any
13 civil action seeking to impose liability arising out of any actual
14 or alleged act, error, or omission that occurred within the scope of
15 Commission employment, duties, or responsibilities, or as determined
16 by the commission that the person against whom the claim is made had
17 a reasonable basis for believing occurred within the scope of
18 Commission employment, duties, or responsibilities; provided that
19 nothing herein shall be construed to prohibit that person from
20 retaining their own counsel at their own expense; and provided
21 further, that the actual or alleged act, error, or omission did not
22 result from that person's intentional or willful or wanton
23 misconduct.

24

1 3. The Commission shall indemnify and hold harmless any member,
2 officer, executive director, employee, and representative of the
3 Commission for the amount of any settlement or judgment obtained
4 against that person arising out of any actual or alleged act, error,
5 or omission that occurred within the scope of Commission employment,
6 duties, or responsibilities, or that such person had a reasonable
7 basis for believing occurred within the scope of Commission
8 employment, duties, or responsibilities, provided that the actual or
9 alleged act, error, or omission did not result from the intentional
10 or willful or wanton misconduct of that person.

11 4. Venue is proper and judicial proceedings by or against the
12 Commission shall be brought solely and exclusively in a court of
13 competent jurisdiction where the principal office of the Commission
14 is located. The Commission may waive venue and jurisdictional
15 defenses in any proceedings as authorized by Commission Rules.

16 5. Nothing herein shall be construed as a limitation on the
17 liability of any Licensee for professional malpractice or
18 misconduct, which shall be governed solely by any other applicable
19 State laws.

20 6. Nothing herein shall be construed to designate the venue or
21 jurisdiction to bring actions for alleged acts of malpractice,
22 professional misconduct, negligence, or other such civil action
23 pertaining to the practice of a PA. All such matters shall be
24 determined exclusively by State law other than this Compact.

1 7. Nothing in this Compact shall be interpreted to waive or
2 otherwise abrogate a Participating State's state action immunity or
3 state action affirmative defense with respect to antitrust claims
4 under the Sherman Act, Clayton Act, or any other State or federal
5 antitrust or anticompetitive law or regulation.

6 8. Nothing in this Compact shall be construed to be a waiver of
7 sovereign immunity by the Participating States or by the Commission.

8 Section 8. Data System.

9 A. The Commission shall provide for the development,
10 maintenance, operation, and utilization of a coordinated data and
11 reporting system containing licensure, Adverse Action, and the
12 reporting of the existence of Significant Investigative Information
13 on all licensed PAs and applicants denied a License in Participating
14 States.

15 B. Notwithstanding any other State law to the contrary, a
16 Participating State shall submit a uniform data set to the Data
17 System on all PAs to whom this Compact is applicable (utilizing a
18 unique identifier) as required by the Rules of the Commission,
19 including:

- 20 1. Identifying information;
 - 21 2. Licensure data;
 - 22 3. Adverse Actions against a License or Compact Privilege;
- 23
24

1 4. Any denial of application for licensure, and the reason(s)
2 for such denial (excluding the reporting of any Criminal history
3 record information where prohibited by law);

4 5. The existence of Significant Investigative Information; and

5 6. Other information that may facilitate the administration of
6 this Compact, as determined by the Rules of the Commission.

7 C. Significant Investigative Information pertaining to a
8 Licensee in any Participating State shall only be available to other
9 Participating States.

10 D. The Commission shall promptly notify all Participating
11 States of any Adverse Action taken against a Licensee or an
12 individual applying for a License that has been reported to it.
13 This Adverse Action information shall be available to any other
14 Participating State.

15 E. Participating States contributing information to the Data
16 System may, in accordance with State or federal law, designate
17 information that may not be shared with the public without the
18 express permission of the contributing State. Notwithstanding any
19 such designation, such information shall be reported to the
20 Commission through the Data System.

21 F. Any information submitted to the Data System that is
22 subsequently expunged pursuant to federal law or the laws of the
23 Participating State contributing the information shall be removed
24

1 from the Data System upon reporting of such by the Participating
2 State to the Commission.

3 G. The records and information provided to a Participating
4 State pursuant to this Compact or through the Data System, when
5 certified by the Commission or an agent thereof, shall constitute
6 the authenticated business records of the Commission, and shall be
7 entitled to any associated hearsay exception in any relevant
8 judicial, quasi-judicial or administrative proceedings in a
9 Participating State.

10 Section 9. Rulemaking.

11 A. The Commission shall exercise its Rulemaking powers pursuant
12 to the criteria set forth in this Section and the Rules adopted
13 thereunder. Commission Rules shall become binding as of the date
14 specified by the Commission for each Rule.

15 B. The Commission shall promulgate reasonable Rules in order to
16 effectively and efficiently implement and administer this Compact
17 and achieve its purposes. A Commission Rule shall be invalid and
18 have not force or effect only if a court of competent jurisdiction
19 holds that the Rule is invalid because the Commission exercised its
20 rulemaking authority in a manner that is beyond the scope of the
21 purposes of this Compact, or the powers granted hereunder, or based
22 upon another applicable standard of review.

23 C. The Rules of the Commission shall have the force of law in
24 each Participating State, provided however that where the Rules of

1 the Commission conflict with the laws of the Participating State
2 that establish the medical services a PA may perform in the
3 Participating State, as held by a court of competent jurisdiction,
4 the Rules of the Commission shall be ineffective in that State to
5 the extent of the conflict.

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

12 E. Commission Rules shall be adopted at a regular or special
13 meeting of the Commission.

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

18 1. On the website of the Commission or other publicly
19 accessible platform;

20 2. To persons who have requested notice of the Commission's
21 notices of proposed rulemaking; and

22 3. In such other way(s) as the Commission may by Rule specify.

23 G. The Notice of Proposed Rulemaking shall include:
24

1 1. The time, date, and location of the public hearing on the
2 proposed Rule and the proposed time, date and location of the
3 meeting in which the proposed Rule will be considered and voted
4 upon;

5 2. The text of the proposed Rule and the reason for the
6 proposed Rule;

7 3. A request for comments on the proposed Rule from any
8 interested person and the date by which written comments must be
9 received; and

10 4. The manner in which interested persons may submit notice to
11 the Commission of their intention to attend the public hearing or
12 provide any written comments.

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

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

19 1. All persons wishing to be heard at the hearing shall as
20 directed in the Notice of Proposed Rulemaking, not less than five
21 (5) business days before the scheduled date of the hearing, notify
22 the Commission of their desire to appear and testify at the hearing.
23
24

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

4 3. All hearings shall be recorded. A copy of the recording and
5 the written comments, data, facts, opinions, and arguments received
6 in response to the proposed rulemaking shall be made available to a
7 person upon request.

8 4. Nothing in this section shall be construed as requiring a
9 separate hearing on each proposed Rule. Proposed Rules may be
10 grouped for the convenience of the Commission at hearings required
11 by this section.

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

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

18 1. If adopted, the Rule shall be posted on the Commission's
19 website.

20 2. The Commission may adopt changes to the proposed Rule
21 provided the changes do not enlarge the original purpose of the
22 proposed Rule.

23 3. The Commission shall provide on its website an explanation
24 of the reasons for substantive changes made to the proposed Rule as

1 well as reasons for substantive changes not made that were
2 recommended by commenters.

3 4. The Commission shall determine a reasonable effective date
4 for the Rule. Except for an emergency as provided in subsection L,
5 the effective date of the Rule shall be no sooner than thirty (30)
6 days after the Commission issued the notice that it adopted the
7 Rule.

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

17 1. Meet an imminent threat to public health, safety, or
18 welfare;

19 2. Prevent a loss of Commission or Participating State funds;

20 3. Meet a deadline for the promulgation of a Commission Rule
21 that is established by federal law or Rule; or

22 4. Protect public health and safety.

23 M. The Commission or an authorized committee of the Commission
24 may direct revisions to a previously adopted Commission Rule for

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

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

14 Section 10. Oversight, Dispute Resolution, and Enforcement.

15 A. Oversight.

16 1. The executive and judicial branches of State government in
17 each Participating State shall enforce this Compact and take all
18 actions necessary and appropriate to implement the Compact.

19 2. Venue is proper and judicial proceedings by or against the
20 Commission shall be brought solely and exclusively in a court of
21 competent jurisdiction where the principal office of the Commission
22 is located. The Commission may waive venue and jurisdictional
23 defenses to the extent it adopts or consents to participate in
24 alternative dispute resolution proceedings. Nothing herein shall

1 affect or limit the selection or propriety of venue in any action
2 against a licensee for professional malpractice, misconduct or any
3 such similar matter.

4 3. The Commission shall be entitled to receive service of
5 process in any proceeding regarding the enforcement or
6 interpretation of the Compact or the Commission's Rules and shall
7 have standing to intervene in such a proceeding for all purposes.
8 Failure to provide the Commission with service of process shall
9 render a judgment or order in such proceeding void as to the
10 Commission, this Compact, or Commission Rules.

11 B. Default, Technical Assistance, and Termination.

12 1. If the Commission determines that a Participating State has
13 defaulted in the performance of its obligations or responsibilities
14 under this Compact or the Commission Rules, the Commission shall
15 provide written notice to the defaulting State and other
16 Participating States. The notice shall describe the default, the
17 proposed means of curing the default and any other action that the
18 Commission may take and shall offer remedial training and specific
19 technical assistance regarding the default.

20 2. If a State in default fails to cure the default, the
21 defaulting State may be terminated from this Compact upon an
22 affirmative vote of a majority of the delegates of the Participating
23 States, and all rights, privileges and benefits conferred by this
24 Compact upon such State may be terminated on the effective date of

1 termination. A cure of the default does not relieve the offending
2 State of obligations or liabilities incurred during the period of
3 default.

4 3. Termination of participation in this Compact shall be
5 imposed only after all other means of securing compliance have been
6 exhausted. Notice of intent to suspend or terminate shall be given
7 by the Commission to the governor, the majority and minority leaders
8 of the defaulting State's legislature, and to the Licensing Board(s)
9 of each of the Participating States.

10 4. A State that has been terminated is responsible for all
11 assessments, obligations, and liabilities incurred through the
12 effective date of termination, including obligations that extend
13 beyond the effective date of termination.

14 5. The Commission shall not bear any costs related to a State
15 that is found to be in default or that has been terminated from this
16 Compact, unless agreed upon in writing between the Commission and
17 the defaulting State.

18 6. The defaulting State may appeal its termination from the
19 Compact by the Commission by petitioning the U.S. District Court for
20 the District of Columbia or the federal district where the
21 Commission has its principal offices. The prevailing member shall
22 be awarded all costs of such litigation, including reasonable
23 attorney's fees.

1 7. Upon the termination of a State's participation in the
2 Compact, the State shall immediately provide notice to all Licensees
3 within that State of such termination.

4 a. Licensees who have been granted a Compact Privilege in
5 that State shall retain the Compact Privilege for one
6 hundred eighty (180) days following the effective date
7 of such termination.

8 b. Licensees who are licensed in that State who have been
9 granted a Compact Privilege in a Participating State
10 shall retain the Compact Privilege for one hundred
11 eighty (180) days unless the Licensee also has a
12 Qualifying License in a Participating State or obtains
13 a Qualifying License in a Participating State before
14 the one hundred eighty (180)-day period ends, in which
15 case the Compact Privilege shall continue.

16 C. Dispute Resolution.

17 1. Upon request by a Participating State, the Commission shall
18 attempt to resolve disputes related to this Compact that arise among
19 Participating States and between participating and non-Participating
20 States.

21 2. The Commission shall promulgate a Rule providing for both
22 mediation and binding dispute resolution for disputes as
23 appropriate.

24 D. Enforcement.

1 1. The Commission, in the reasonable exercise of its
2 discretion, shall enforce the provisions of this Compact and Rules
3 of the Commission.

4 2. If compliance is not secured after all means to secure
5 compliance have been exhausted, by majority vote, the Commission may
6 initiate legal action in the United States District Court for the
7 District of Columbia or the federal district where the Commission
8 has its principal offices, against a Participating State in default
9 to enforce compliance with the provisions of this Compact and the
10 Commission's promulgated Rules and bylaws. The relief sought may
11 include both injunctive relief and damages. In the event judicial
12 enforcement is necessary, the prevailing party shall be awarded all
13 costs of such litigation, including reasonable attorney's fees.

14 3. The remedies herein shall not be the exclusive remedies of
15 the Commission. The Commission may pursue any other remedies
16 available under federal or State law.

17 E. Legal Action Against the Commission.

18 1. A Participating State may initiate legal action against the
19 Commission in the U.S. District Court for the District of Columbia
20 or the federal district where the Commission has its principal
21 offices to enforce compliance with the provisions of the Compact and
22 its Rules. The relief sought may include both injunctive relief and
23 damages. In the event judicial enforcement is necessary, the
24

1 prevailing party shall be awarded all costs of such litigation,
2 including reasonable attorney's fees.

3 2. No person other than a Participating State shall enforce
4 this Compact against the Commission.

5 Section 11. Date of Implementation of the PA Licensure Compact
6 Commission.

7 A. This Compact shall come into effect on the date on which
8 this Compact statute is enacted into law in the seventh
9 Participating State.

10 1. On or after the effective date of the Compact, the
11 Commission shall convene and review the enactment of each of the
12 States that enacted the Compact prior to the Commission convening
13 ("Charter Participating States") to determine if the statute enacted
14 by each such Charter Participating State is materially different
15 than the Model Compact.

16 a. A Charter Participating State whose enactment is found
17 to be materially different from the Model Compact
18 shall be entitled to the default process set forth in
19 Section 10.B.

20 b. If any Participating State later withdraws from the
21 Compact or its participation is terminated, the
22 Commission shall remain in existence and the Compact
23 shall remain in effect even if the number of
24 Participating States should be less than seven.

1 Participating States enacting the Compact subsequent
2 to the Commission convening shall be subject to the
3 process set forth in Section 7.C.21 to determine if
4 their enactments are materially different from the
5 Model Compact and whether they qualify for
6 participation in the Compact.

7 2. Participating States enacting the Compact subsequent to the
8 seven initial Charter Participating States shall be subject to the
9 process set forth in Section 7.C.21 to determine if their enactments
10 are materially different from the Model Compact and whether they
11 qualify for participation in the Compact.

12 3. All actions taken for the benefit of the Commission or in
13 furtherance of the purposes of the administration of the Compact
14 prior to the effective date of the Compact or the Commission coming
15 into existence shall be considered to be actions of the Commission
16 unless specifically repudiated by the Commission.

17 B. Any State that joins this Compact shall be subject to the
18 Commission's Rules and bylaws as they exist on the date on which
19 this Compact becomes law in that State. Any Rule that has been
20 previously adopted by the Commission shall have the full force and
21 effect of law on the day this Compact becomes law in that State.

22 C. Any Participating State may withdraw from this Compact by
23 enacting a statute repealing the same.

1 1. A Participating State's withdrawal shall not take effect
2 until one hundred eighty (180) days after enactment of the repealing
3 statute. During this one hundred eighty (180) day-period, all
4 Compact Privileges that were in effect in the withdrawing State and
5 were granted to Licensees licensed in the withdrawing State shall
6 remain in effect. If any Licensee licensed in the withdrawing State
7 is also licensed in another Participating State or obtains a license
8 in another Participating State within the one hundred eighty (180)
9 days, the Licensee's Compact Privileges in other Participating
10 States shall not be affected by the passage of the one hundred
11 eighty (180) days.

12 2. Withdrawal shall not affect the continuing requirement of
13 the State Licensing Board(s) of the withdrawing State to comply with
14 the investigative, and Adverse Action reporting requirements of this
15 Compact prior to the effective date of withdrawal.

16 3. Upon the enactment of a statute withdrawing a State from
17 this Compact, the State shall immediately provide notice of such
18 withdrawal to all Licensees within that State. Such withdrawing
19 State shall continue to recognize all licenses granted pursuant to
20 this Compact for a minimum of one hundred eighty (180) days after
21 the date of such notice of withdrawal.

22 D. Nothing contained in this Compact shall be construed to
23 invalidate or prevent any PA licensure agreement or other
24 cooperative arrangement between Participating States and between a

1 Participating State and non-Participating State that does not
2 conflict with the provisions of this Compact.

3 E. This Compact may be amended by the Participating States. No
4 amendment to this Compact shall become effective and binding upon
5 any Participating State until it is enacted materially in the same
6 manner into the laws of all Participating States as determined by
7 the Commission.

8 Section 12. Construction and Severability.

9 A. This Compact and the Commission's rulemaking authority shall
10 be liberally construed so as to effectuate the purposes, and the
11 implementation and administration of the Compact. Provisions of the
12 Compact expressly authorizing or requiring the promulgation of Rules
13 shall not be construed to limit the Commission's rulemaking
14 authority solely for those purposes.

15 B. The provisions of this Compact shall be severable and if any
16 phrase, clause, sentence or provision of this Compact is held by a
17 court of competent jurisdiction to be contrary to the constitution
18 of any Participating State, a State seeking participation in the
19 Compact, or of the United States, or the applicability thereof to
20 any government, agency, person or circumstance is held to be
21 unconstitutional by a court of competent jurisdiction, the validity
22 of the remainder of this Compact and the applicability thereof to
23 any other government, agency, person or circumstance shall not be
24 affected thereby.

1 C. Notwithstanding subsection B or this section, the Commission
2 may deny a State's participation in the Compact or, in accordance
3 with the requirements of Section 10.B, terminate a Participating
4 State's participation in the Compact, if it determines that a
5 constitutional requirement of a Participating State is, or would be
6 with respect to a State seeking to participate in the Compact, a
7 material departure from the Compact. Otherwise, if this Compact
8 shall be held to be contrary to the constitution of any
9 Participating State, the Compact shall remain in full force and
10 effect as to the remaining Participating States and in full force
11 and effect as to the Participating State affected as to all
12 severable matters.

13 Section 13. Binding Effect of Compact.

14 A. Nothing herein prevents the enforcement of any other law of
15 a Participating State that is not inconsistent with this Compact.

16 B. Any laws in a Participating State in conflict with this
17 Compact are superseded to the extent of the conflict.

18 C. All agreements between the Commission and the Participating
19 States are binding in accordance with their terms.

20 SECTION 3. This act shall become effective November 1, 2024.

21
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1 Passed the Senate the 5th day of March, 2024.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2024.

7
8 _____
9 Presiding Officer of the House
10 of Representatives