

**SENATE BILL No. 126**

By Committee on Public Health and Welfare

1-30

1 AN ACT concerning the healing arts; relating to physician assistants;  
2 enacting the physician assistant licensure compact to provide interstate  
3 practice privileges.  
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. This act shall be known and may be cited as the physician  
7 assistant licensure compact.

8 SECTION 1—PURPOSE  
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10 In order to strengthen access to medical services and in recognition of  
11 the advances in the delivery of medical services, the participating states of  
12 the PA licensure compact have allied in common purpose to develop a  
13 comprehensive process that complements the existing authority of state  
14 licensing boards to license and discipline PAs and seeks to enhance the  
15 portability of a license to practice as a PA while safeguarding the safety of  
16 patients. This compact allows medical services to be provided by PAs, via  
17 the mutual recognition of the licensee's qualifying license by other  
18 compact-participating states. This compact also adopts the prevailing  
19 standard for PA licensure and affirms that the practice and delivery of  
20 medical services by the PA occurs where the patient is located at the time  
21 of the patient encounter and, therefore, requires the PA to be under the  
22 jurisdiction of the state licensing board where the patient is located. State  
23 licensing boards that participate in this compact retain the jurisdiction to  
24 impose adverse action against a compact privilege in that state issued to a  
25 PA through the procedures of this compact. The PA licensure compact will  
26 alleviate burdens for military families by allowing active duty military  
27 personnel and their spouses to obtain a compact privilege based on having  
28 an unrestricted license in good standing from a participating state.

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30 SECTION 2—DEFINITIONS  
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33 As used in this compact:

34 (a) "Adverse action" means any administrative, civil, equitable or  
35 criminal action permitted by a state's laws that is imposed by a licensing  
36 board or other authority against a PA license, application for licensure or

1 compact privilege such as license denial, censure, revocation, suspension,  
2 probation, monitoring of the licensee or restriction on the licensee's  
3 practice.

4 (b) "Compact privilege" means the authorization granted by a remote  
5 state to allow a licensee from another participating state to practice as a PA  
6 to provide medical services and other licensed activity to a patient located  
7 in the remote state under the remote state's laws and regulations.

8 (c) "Conviction" means a finding by a court that an individual is  
9 guilty of a felony or misdemeanor offense through adjudication or entry of  
10 a guilty plea or no contest to the charge by the offender.

11 (d) "Criminal background check" means the submission of  
12 fingerprints or other biometric-based information for an applicant for  
13 licensure for the purpose of obtaining that applicant's criminal history  
14 record information, as defined in 28 C.F.R. § 20.3(d), from the state's  
15 criminal history record repository as defined in 28 C.F.R. § 20.3(f).

16 (e) "Data system" means the repository of information concerning  
17 licensees, including, but not limited to, license status and adverse actions,  
18 that is created and administered under the terms of this compact.

19 (f) "Executive committee" means a group of directors and ex officio  
20 individuals elected or appointed pursuant to section 7(f)(2).

21 (g) "Impaired practitioner" means a PA whose practice is adversely  
22 affected by a health-related condition that impacts such PA's ability to  
23 practice.

24 (h) "Investigative information" means information, records or  
25 documents received or generated by a licensing board pursuant to an  
26 investigation.

27 (i) "Jurisprudence requirement" means the assessment of an  
28 individual's knowledge of the laws and rules governing the practice of a  
29 PA in a state.

30 (j) "License" means current authorization by a state, other than  
31 authorization pursuant to a compact privilege, for a PA to provide medical  
32 services that would be unlawful without current authorization.

33 (k) "Licensee" means an individual who holds a license from a state  
34 to provide medical services as a PA.

35 (l) "Licensing board" means any state entity authorized to license and  
36 otherwise regulate PAs.

37 (m) "Medical services" means healthcare services provided for the  
38 diagnosis, prevention, treatment, cure or relief of a health condition, injury  
39 or disease, as defined by a state's laws and regulations.

40 (n) "Model compact" means the model for the PA licensure compact  
41 on file with the council of state governments or other entity as designated  
42 by the commission.

43 (o) "PA" means an individual who is licensed as a physician assistant

1 in a state. For purposes of this compact, any other title or status adopted by  
2 a state to replace the term "physician assistant" shall be deemed  
3 synonymous with "physician assistant" and shall confer the same rights  
4 and responsibilities to the licensee under the provisions of this compact at  
5 the time of its enactment.

6 (p) "PA licensure compact commission," "compact commission" or  
7 "commission" means the national administrative body created pursuant to  
8 section 7(a).

9 (q) "Participating state" means a state that has enacted this compact.

10 (r) "Qualifying license" means an unrestricted license issued by a  
11 participating state to provide medical services as a PA.

12 (s) "Remote state" means a participating state where a licensee who is  
13 not licensed as a PA is exercising or seeking to exercise the compact  
14 privilege.

15 (t) "Rule" means any rule or regulation promulgated by an entity that  
16 has the force and effect of law.

17 (u) "Significant investigative information" means investigative  
18 information that a licensing board, after an inquiry or investigation that  
19 includes notification and an opportunity for the PA to respond if required  
20 by state law, has reason to believe is not groundless and, if proven true,  
21 would indicate more than a minor infraction.

22 (v) "State" means any state, commonwealth, district or territory of the  
23 United States.

### 24 SECTION 3—STATE PARTICIPATION IN THIS COMPACT

25 (a) To participate in this compact, a participating state shall:

26 (1) License PAs;

27 (2) participate in the compact commission's data system;

28 (3) have a mechanism in place for receiving and investigating  
29 complaints against licensees and applicants for licensure;

30 (4) notify the commission, in compliance with the terms of this  
31 compact and commission rules, of any adverse action against a licensee or  
32 applicant for licensure and the existence of significant investigative  
33 information regarding a licensee or applicant for licensure;

34 (5) fully implement a criminal background check requirement, within  
35 a time frame established by commission rule, examination the results of a  
36 criminal background check and reporting to the commission whether the  
37 applicant for licensure has been granted a license;

38 (6) comply with the rules of the compact commission;

39 (7) utilize passage of a recognized national examination such as the  
40 NCCPA PANCE as a requirement for PA licensure; and  
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1 (8) grant the compact privilege to a holder of a qualifying license in a  
2 participating state.

3 (b) Nothing in this compact shall be construed to prohibit a  
4 participating state from charging a fee for granting the compact privilege.

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6 SECTION 4—COMPACT PRIVILEGE

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9 (a) To exercise the compact privilege, a licensee shall:

10 (1) Have graduated from a PA program accredited by the  
11 accreditation review commission on education for the physician assistant,  
12 inc., or other programs authorized by commission rule;

13 (2) hold current NCCPA certification;

14 (3) have no felony or misdemeanor convictions;

15 (4) have never had a controlled substance license, permit or  
16 registration suspended or revoked by a state or by the United States drug  
17 enforcement administration;

18 (5) have a unique identifier as determined by commission rule;

19 (6) hold a qualifying license;

20 (7) have had no revocation of a license or limitation or restriction on  
21 any license currently held due to an adverse action;

22 (A) if a licensee has had a limitation or restriction on a license or  
23 compact privilege due to an adverse action, two years shall have elapsed  
24 from the date on which the license or compact privilege is no longer  
25 limited or restricted due to the adverse action;

26 (B) if a compact privilege has been revoked or is limited or restricted  
27 in a participating state for conduct that would not be a basis for  
28 disciplinary action in a participating state in which the licensee is  
29 practicing or applying to practice under a compact privilege, that  
30 participating state shall have the discretion not to consider such action as  
31 an adverse action requiring the denial or removal of a compact privilege in  
32 that state;

33 (8) notify the compact commission that the licensee is seeking the  
34 compact privilege in a remote state;

35 (9) meet any jurisprudence requirement of a remote state in which the  
36 licensee is seeking to practice under the compact privilege and pay any  
37 fees applicable to satisfying the jurisprudence requirement; and

38 (10) report to the commission any adverse action taken by a  
39 nonparticipating state within 30 days after such adverse action is taken.

40 (b) The compact privilege shall be valid until the expiration or  
41 revocation of the qualifying license unless terminated pursuant to an  
42 adverse action. The licensee shall comply with the requirements of  
43 subsection (a) to maintain the compact privilege in a remote state. If the

1 participating state takes adverse action against a qualifying license, the  
2 licensee shall lose the compact privilege in any remote state in which the  
3 licensee has a compact privilege until the licensee meets the following  
4 conditions:

5 (1) The license is no longer limited or restricted; and

6 (2) two years have elapsed from the date on which the license is no  
7 longer limited or restricted due to the adverse action.

8 (c) Once a restricted or limited license satisfies the requirements of  
9 subsection (b), the licensee shall meet the requirements of subsection (a) to  
10 obtain a compact privilege in any remote state.

11 (d) For each remote state in which a PA seeks authority to prescribe  
12 controlled substances, the PA shall satisfy all the requirements imposed by  
13 such state in granting or renewing such authority.

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15 SECTION 5—DESIGNATION OF THE STATE FROM WHICH THE  
16 LICENSEE IS APPLYING FOR A COMPACT PRIVILEGE

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19 Upon a licensee's application for a compact privilege, the licensee shall  
20 identify to the commission the participating state from which the licensee  
21 is applying, in accordance with applicable rules adopted by the  
22 commission and subject to the following requirements:

23 (a) When applying for a compact privilege, the licensee shall provide  
24 the commission with the address of the licensee's primary residence and,  
25 thereafter, shall immediately report to the commission any change in the  
26 address of the licensee's primary residence; and

27 (b) when applying for a compact privilege, the licensee is required to  
28 consent to accept service of process by mail at the licensee's primary  
29 residence on file with the commission with respect to any action brought  
30 against the licensee by the commission or a participating state, including a  
31 subpoena, with respect to any action brought or investigation conducted by  
32 the commission or a participating state.

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34 SECTION 6—ADVERSE ACTIONS

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37 (a) A participating state in which a licensee is licensed shall have  
38 exclusive power to impose adverse action against the qualifying license  
39 issued by that participating state.

40 (b) In addition to the other powers conferred by state law, a remote  
41 state shall have the authority, in accordance with existing state due process  
42 law, to:

43 (1) Take adverse action against a PA's compact privilege within that

1 state to remove a licensee's compact privilege or take other action  
2 necessary under applicable law to protect the health and safety of its  
3 citizens; and

4 (2) issue subpoenas for both hearings and investigations that require  
5 the attendance and testimony of witnesses as well as the production of  
6 evidence. Subpoenas issued by a licensing board in a participating state for  
7 the attendance and testimony of witnesses or the production of evidence  
8 from another participating state shall be enforced in the latter state by any  
9 court of competent jurisdiction, according to the practice and procedure of  
10 such court applicable to subpoenas issued in proceedings pending before  
11 it. The issuing authority shall pay any witness fees, travel expenses,  
12 mileage and other fees required by the service statutes of the state in which  
13 the witnesses or evidence is located.

14 (c) Notwithstanding subsection (b)(2), subpoenas shall not be issued  
15 by a participating state to gather evidence of conduct in another state that  
16 is lawful in such other state for the purpose of taking adverse action  
17 against a licensee's compact privilege or application for a compact  
18 privilege in the participating state.

19 (d) Nothing in this compact shall be deemed to authorize a  
20 participating state to impose discipline against a PA's compact privilege or  
21 to deny an application for a compact privilege in that participating state for  
22 the individual's otherwise lawful practice in another state.

23 (e) For purposes of taking adverse action, the participating state that  
24 issued the qualifying license shall give the same priority and effect to  
25 reported conduct received from any other participating state as it would if  
26 the conduct had occurred within the participating state that issued the  
27 qualifying license. The participating state shall apply its own state laws to  
28 determine appropriate action.

29 (f) A participating state, if otherwise permitted by state law, may  
30 recover from the affected PA the costs of investigations and disposition of  
31 cases resulting from any adverse action taken against that PA.

32 (g) A participating state may take adverse action based on the factual  
33 findings of a remote state if the participating state follows its own  
34 procedures for taking the adverse action.

35 (h) Joint investigations.

36 (1) In addition to the authority granted to a participating state by such  
37 state's PA laws and regulations or other applicable state law, any  
38 participating state may participate with other participating states in joint  
39 investigations of licensees.

40 (2) Participating states shall share any investigative, litigation or  
41 compliance materials in furtherance of any joint or individual investigation  
42 initiated under this compact.

43 (i) If an adverse action is taken against a PA's qualifying license, the

1 PA's compact privilege in all remote states shall be deactivated until two  
2 years have elapsed after all restrictions have been removed from the state  
3 license. All disciplinary orders by the participating state that issued the  
4 qualifying license that impose adverse action against a PA's license shall  
5 include a statement that the PA's compact privilege is deactivated in all  
6 participating states during the pendency of the order.

7 (j) If any participating state takes adverse action, it promptly shall  
8 notify the administrator of the data system.

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10 SECTION 7—ESTABLISHMENT OF THE PA LICENSURE  
11 COMPACT COMMISSION

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14 (a) The participating states hereby create and establish a joint  
15 government agency and national administrative body known as the PA  
16 licensure compact commission. The commission is an instrumentality of  
17 the compact states acting jointly and not an instrumentality of any one  
18 state. The commission shall come into existence on or after the effective  
19 date of the compact as set forth in section 11(a).

20 (b) Membership, voting and meetings.

21 (1) Each participating state shall have and be limited to one delegate  
22 selected by such participating state's licensing board or, if such  
23 participating state has more than one licensing board, selected collectively  
24 by the participating state's licensing boards.

25 (2) A delegate shall be either:

26 (A) A current PA, physician or public member of a licensing board or  
27 PA council or committee; or

28 (B) an administrator of a licensing board.

29 (3) Any delegate may be removed or suspended from office as  
30 provided by the laws of the state from which the delegate is appointed.

31 (4) The participating state licensing board shall fill any vacancy  
32 occurring in the commission within 60 days.

33 (5) Each delegate shall be entitled to one vote on all matters voted on  
34 by the commission and shall otherwise have an opportunity to participate  
35 in the commission's business and affairs. A delegate shall vote in person or  
36 by such other means as provided in the bylaws. The bylaws may provide  
37 for delegates' participation in meetings by telecommunications, video  
38 conference or other means of communication.

39 (6) The commission shall meet at least once during each calendar  
40 year. Additional meetings shall be held as set forth in this compact and the  
41 bylaws.

42 (7) The commission shall establish by rule a term of office for  
43 delegates.

- 1 (c) The commission shall have the following powers and duties:
- 2 (1) Establish a code of ethics for the commission;
- 3 (2) establish the fiscal year of the commission;
- 4 (3) establish fees;
- 5 (4) establish bylaws;
- 6 (5) maintain its financial records in accordance with the bylaws;
- 7 (6) meet and take such actions as are consistent with the provisions of
- 8 this compact and the bylaws;
- 9 (7) promulgate rules to facilitate and coordinate implementation and
- 10 administration of this compact, and such rules shall have the force and
- 11 effect of law and shall be binding in all participating states;
- 12 (8) bring and prosecute legal proceedings or actions in the name of
- 13 the commission, except that the standing of any state licensing board to
- 14 sue or be sued under applicable law shall not be affected;
- 15 (9) purchase and maintain insurance and bonds;
- 16 (10) borrow, accept or contract for services of personnel, including,
- 17 but not limited to, employees of a participating state;
- 18 (11) hire employees and engage contractors, elect or appoint officers,
- 19 fix compensation, define duties, grant such individuals appropriate
- 20 authority to carry out the purposes of this compact and establish the
- 21 commission's personnel policies and programs relating to conflicts of
- 22 interest, qualifications of personnel and other related personnel matters;
- 23 (12) accept any and all appropriate donations and grants of money,
- 24 equipment, supplies, materials and services and receive, utilize and
- 25 dispose of the same. At all times the commission shall avoid any
- 26 appearance of impropriety or conflict of interest;
- 27 (13) lease, purchase, accept appropriate gifts or donations of or
- 28 otherwise own, hold, improve or use any property real, personal or mixed.
- 29 In performing these actions, the commission shall avoid the appearance of
- 30 impropriety at all times;
- 31 (14) sell, convey, mortgage, pledge, lease, exchange, abandon or
- 32 otherwise dispose of any property real, personal or mixed;
- 33 (15) establish a budget and make expenditures;
- 34 (16) borrow money;
- 35 (17) appoint committees, including standing committees composed of
- 36 members, state regulators, state legislators or their representatives,
- 37 consumer representatives and such other interested persons as may be
- 38 designated in this compact and the bylaws;
- 39 (18) provide and receive information from, and cooperate with, law
- 40 enforcement agencies;
- 41 (19) elect a chairperson, vice chairperson, secretary and treasurer and
- 42 such other officers of the commission as provided in the commission's
- 43 bylaws;



1 (20) reserve for itself, in addition to those reserved exclusively to the  
2 commission under the compact, powers that the executive committee shall  
3 not exercise;

4 (21) approve or disapprove a state's participation in the compact  
5 based upon its determination as to whether the state's compact legislation  
6 materially departs from the model compact language;

7 (22) prepare and provide to the participating states an annual report;  
8 and

9 (23) perform such other functions as may be necessary or appropriate  
10 to achieve the purposes of this compact, consistent with the state  
11 regulation of PA licensure and practice.

12 (d) Meetings of the commission.

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

17 (2) Notwithstanding subsection (d)(1), the commission may convene  
18 a public meeting by providing at least 24 hours' prior notice on the  
19 commission's website and any other means as provided in the  
20 commission's rules for any of the reasons it may dispense, with notice of  
21 proposed rulemaking under section 9(1).

22 (3) The commission may convene in a closed, nonpublic meeting or  
23 nonpublic part of a public meeting to receive legal advice or to discuss:

24 (A) Noncompliance of a participating state with its obligations under  
25 this compact;

26 (B) the employment, compensation, discipline or other matters,  
27 practices or procedures related to specific employees or other matters  
28 related to the commission's internal personnel practices and procedures;

29 (C) any current, threatened or reasonably anticipated litigation;

30 (D) the negotiation of contracts for the purchase, lease or sale of  
31 goods, services or real estate;

32 (E) the accusation of any individual of a crime or the formal censure  
33 any individual;

34 (F) the disclosure of trade secrets or commercial or financial  
35 information that is privileged or confidential;

36 (G) the disclosure of information of a personal nature, if disclosure  
37 would constitute a clearly unwarranted invasion of personal privacy;

38 (H) the disclosure of investigative records compiled for law  
39 enforcement purposes;

40 (I) the disclosure of information related to any investigative reports  
41 prepared by or on behalf of or for use of the commission or other  
42 committee charged with the responsibility of investigation or  
43 determination of compliance issues pursuant to this compact;

1 (J) legal advice; or

2 (K) any matters specifically exempted from disclosure by federal or a  
3 participating state's statutes.

4 (4) If a meeting, or portion of a meeting, is closed pursuant to  
5 subsection (d)(3), the chairperson of the meeting or the chairperson's  
6 designee shall certify that the meeting or portion of the meeting may be  
7 closed and shall reference each relevant exempting provision.

8 (5) The commission shall keep minutes that fully and clearly describe  
9 all matters discussed in a meeting and shall provide a full and accurate  
10 summary of actions taken, including a description of the views expressed.  
11 All documents considered in connection with an action shall be identified  
12 in such minutes. All minutes and documents of a closed meeting shall  
13 remain under seal, subject to release by a majority vote of the commission  
14 or order of a court of competent jurisdiction.

15 (e) Financing of the commission.

16 (1) The commission shall pay, or provide for the payment of, the  
17 reasonable expenses of its establishment, organization and ongoing  
18 activities.

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

22 (3) The commission may levy on and collect an annual assessment  
23 from each participating state and may impose compact privilege fees on  
24 licensees of participating states to which a compact privilege is granted to  
25 cover the cost of the operations and activities of the commission and its  
26 staff. Such assessment shall be in a total amount sufficient to cover the  
27 commission's annual budget as approved by the commission each year for  
28 which revenue is not provided by other sources. The aggregate annual  
29 assessment amount levied on participating states shall be allocated based  
30 upon a formula to be determined by commission rule. Compact privileges  
31 and such contract privilege's associated fees shall be governed as follows:

32 (A) A compact privilege expires when the licensee's qualifying  
33 license in the participating state from which the licensee applied for the  
34 compact privilege expires; and

35 (B) if the licensee terminates the qualifying license through which the  
36 licensee applied for the compact privilege before its scheduled expiration  
37 and the licensee has a qualifying license in another participating state, the  
38 licensee shall inform the commission that it is changing to that  
39 participating state through which it applies for a compact privilege to that  
40 participating state and pay to the commission any compact privilege fee  
41 required by commission rule.

42 (4) The commission shall not incur obligations of any kind prior to  
43 securing the funds adequate to meet such obligations, nor shall the

1 commission pledge the credit of any of the participating states, except by  
2 and with the authority of the participating state.

3 (5) The commission shall keep accurate accounts of all receipts and  
4 disbursements. The receipts and disbursements of the commission shall be  
5 subject to the financial review and accounting procedures established  
6 under its bylaws. All receipts and disbursements of funds handled by the  
7 commission shall be subject to an annual financial review by a certified or  
8 licensed public accountant, and the report of the financial review shall be  
9 included in and become part of the annual report of the commission.

10 (f) The executive committee.

11 (1) The executive committee shall have to power to act on behalf of  
12 the commission according to the terms of this compact and commission  
13 rules.

14 (2) The executive committee shall be composed of nine members  
15 described as follows:

16 (A) Seven voting members who are elected by the commission from  
17 the current membership of the commission;

18 (B)(i)(a) one ex officio, nonvoting member from a recognized  
19 national PA professional association; and

20 (b) one ex officio, nonvoting member from a recognized national PA  
21 certification organization.

22 (ii) The ex officio members shall be selected by their respective  
23 organizations.

24 (3) The commission may remove any member of the executive  
25 committee as provided in its bylaws.

26 (4) The executive committee shall meet at least annually.

27 (5) The executive committee shall have the following duties and  
28 responsibilities:

29 (A) Recommend to the commission changes to the commission's  
30 rules or bylaws, changes to this compact legislation, fees to be paid by  
31 compact-participating states such as annual dues and any commission  
32 compact fee charged to licensees for the compact privilege;

33 (B) ensure that compact administration services are appropriately  
34 provided, whether

35 contractual or otherwise;

36 (C) prepare and recommend the budget;

37 (D) maintain financial records on behalf of the commission;

38 (E) monitor compact compliance of participating states and provide  
39 compliance reports to the commission;

40 (F) establish additional committees as necessary;

41 (G) exercise the powers and duties of the commission during the  
42 interim between commission meetings, except for issuing proposed  
43 rulemaking or adopting commission rules or bylaws or exercising any

1 other powers and duties exclusively reserved to the commission by the  
2 commission's rules; and

3 (H) perform other duties as provided in the commission's rules or  
4 bylaws.

5 (6) All meetings of the executive committee at which it votes or plans  
6 to vote on matters in exercising the powers and duties of the commission  
7 shall be open to the public and public notice of such meetings shall be  
8 given as public meetings of the commission are given.

9 (7) The executive committee may convene in a closed, nonpublic  
10 meeting for the same reasons that the commission may convene in a  
11 nonpublic meeting as set forth in section 7(d)(3), and shall announce the  
12 closed meeting as the commission is required to do under section 7(d)(4)  
13 and keep minutes of the closed meeting as the commission is required to  
14 do under section 7(d)(5).

15 (g) Qualified immunity, defense and indemnification.

16 (1) The members, officers, executive director, employees and  
17 representatives of the commission shall be immune from suit and liability,  
18 both personally and in their official capacity, for any claim for damage to  
19 or loss of property or personal injury or other civil liability caused by or  
20 arising out of any actual or alleged act, error or omission that occurred or  
21 that the individual against whom the claim is made had a reasonable basis  
22 for believing occurred within the scope of commission employment, duties  
23 or responsibilities. Nothing in this paragraph shall be construed to protect  
24 any such individual from suit or liability for any damage, loss, injury or  
25 liability caused by the intentional or willful or wanton misconduct of such  
26 individual. The procurement of insurance of any type by the commission  
27 shall not in any way compromise or limit the immunity granted hereunder.

28 (2) The commission shall defend any member, officer, executive  
29 director, employee, and representative of the commission in any civil  
30 action seeking to impose liability arising out of any actual or alleged act,  
31 error or omission that occurred within the scope of commission  
32 employment, duties or responsibilities or as determined by the commission  
33 that the individual against whom the claim is made had a reasonable basis  
34 for believing occurred within the scope of commission employment, duties  
35 or responsibilities. Nothing herein shall be construed to prohibit such  
36 individual from retaining such individual's own counsel at the individual's  
37 own expense or that the actual or alleged act, error or omission did not  
38 result from the individual's intentional, willful or wanton misconduct.

39 (3) The commission shall indemnify and hold harmless any member,  
40 officer, executive director, employee or representative of the commission  
41 for the amount of any settlement or judgment obtained against that  
42 individual arising out of any actual or alleged act, error or omission that  
43 occurred within the scope of commission employment, duties or

1 responsibilities or that such individual had a reasonable basis for believing  
2 occurred within the scope of commission employment, duties or  
3 responsibilities, if the actual or alleged act, error or omission did not result  
4 from the intentional or willful or wanton misconduct of that individual.

5 (4) Venue is proper and judicial proceedings by or against the  
6 commission shall be brought solely and exclusively in a court of  
7 competent jurisdiction where the principal office of the commission is  
8 located. The commission may waive venue and jurisdictional defenses in  
9 any proceedings as authorized by commission rules.

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

13 (6) Nothing herein shall be construed to designate the venue or  
14 jurisdiction to bring actions for alleged acts of malpractice, professional  
15 misconduct, negligence or other such civil action pertaining to the practice  
16 of a PA. All such matters shall be determined exclusively by state law  
17 other than this compact.

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

23 (8) Nothing in this compact shall be construed to be a waiver of  
24 sovereign immunity by the participating states or by the commission.

## 25 SECTION 8—DATA SYSTEM

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29 (a) The commission shall provide for the development, maintenance,  
30 operation and utilization of a coordinated data and reporting system  
31 containing licensure, adverse action and the reporting of the existence of  
32 significant investigative information on all licensed PAs and applicants  
33 that are denied a license in participating states.

34 (b) Notwithstanding any other state law to the contrary, a  
35 participating state shall submit a uniform data set to the data system on all  
36 PAs to whom this compact is applicable, utilizing a unique identifier, as  
37 required by the rules of the commission, including:

- 38 (1) Identifying information;
- 39 (2) licensure data;
- 40 (3) adverse actions against a license or compact privilege;
- 41 (4) any denial of application for licensure and the reason for such  
42 denial, excluding the reporting of any criminal history record information  
43 where such reporting is prohibited by law;

- 1 (5) the existence of significant investigative information; and  
2 (6) other information that may facilitate the administration of this  
3 compact, as determined by the rules of the commission.
- 4 (c) Significant investigative information pertaining to a licensee in  
5 any participating state shall only be available to other participating states.
- 6 (d) The commission shall promptly notify all participating states of  
7 any adverse action taken against a licensee or an individual applying for a  
8 license that has been reported to such commission. Such adverse action  
9 information shall be available to any other participating state.
- 10 (e) Participating states contributing information to the data system  
11 may, in accordance with state or federal law, designate information that  
12 shall not be shared with the public without the express permission of the  
13 contributing state. Notwithstanding any such designation, such information  
14 shall be reported to the commission through the data system.
- 15 (f) Any information submitted to the data system that is subsequently  
16 expunged pursuant to federal law or the laws of the participating state  
17 contributing the information shall be removed from the data system upon  
18 reporting of such by the participating state to the commission.
- 19 (g) The records and information provided to a participating state  
20 pursuant to this compact or through the data system, when certified by the  
21 commission or an agent thereof, shall constitute the authenticated business  
22 records of the commission and shall be entitled to any associated hearsay  
23 exception in any relevant judicial, quasi-judicial or administrative  
24 proceedings in a participating state.

25  
26 SECTION 9—RULEMAKING  
27  
28

- 29 (a) The commission shall exercise its rulemaking powers pursuant to  
30 the criteria set forth in this section and the rules adopted thereunder.  
31 Commission rules shall become binding as of the date specified by the  
32 commission for each rule.
- 33 (b) The commission shall promulgate reasonable rules in order to  
34 effectively and efficiently implement and administer this compact and  
35 achieve its purposes. A commission rule shall be invalid and have no force  
36 or effect only if a court of competent jurisdiction holds that the rule is  
37 invalid because the commission exercised its rulemaking authority in a  
38 manner that is beyond the scope of the purposes of this compact, the  
39 powers granted hereunder or based upon another applicable standard of  
40 review.
- 41 (c) The rules of the commission shall have the force of law in each  
42 participating state, except that where the rules of the commission conflict  
43 with the laws of the participating state that establish the medical services, a

1 PA may perform in the participating state, as held by a court of competent  
2 jurisdiction, and the rules of the commission shall be ineffective in that  
3 state to the extent of the conflict.

4 (d) If a majority of the legislatures of the participating states rejects a  
5 commission rule, by enactment of a statute or resolution in the same  
6 manner used to adopt this compact within four years of the date of  
7 adoption of the rule, then such rule shall have no further force and effect in  
8 any participating state or to any state applying to participate in the  
9 compact.

10 (e) Commission rules shall be adopted at a regular or special meeting  
11 of the commission.

12 (f) Prior to promulgation and adoption of a final rule by the  
13 commission and at least 30 days in advance of the meeting at which the  
14 rule will be considered and voted upon, the commission shall file a notice  
15 of proposed rulemaking:

16 (1) On the commission's website or other publicly accessible  
17 platform;

18 (2) to persons who have requested notice of the commission's notices  
19 of proposed rulemaking; and

20 (3) in such other ways as the commission may specify by rule.

21 (g) The notice of proposed rulemaking shall include:

22 (1) The time, date and location of the public hearing on the proposed  
23 rule and the proposed time, date and location of the meeting in which the  
24 proposed rule will be considered and voted upon;

25 (2) the text of and the reason for the proposed rule;

26 (3) a request for comments on the proposed rule from any interested  
27 person and the date by which written comments must be received; and

28 (4) the manner in which interested persons may submit notice to the  
29 commission of their intention to attend the public hearing or provide any  
30 written comments.

31 (h) Prior to adoption of a proposed rule, the commission shall allow  
32 persons to submit written data, facts, opinions and arguments, which shall  
33 be made available to the public.

34 (i) If the hearing is to be held via electronic means, the commission  
35 shall publish the mechanism for access to the electronic hearing.

36 (1) All persons wishing to be heard at the hearing shall, as directed in  
37 the notice of proposed rulemaking published not less than five business  
38 days before the scheduled date of the hearing, notify the commission of  
39 their desire to appear and testify at the hearing.

40 (2) Hearings shall be conducted in a manner that provides each  
41 person who wishes to comment a fair and reasonable opportunity to  
42 comment orally or in writing.

43 (3) All hearings shall be recorded. A copy of the recording and the

1 written comments, data, facts, opinions and arguments received in  
2 response to the proposed rulemaking shall be made available to a person  
3 upon request.

4 (4) Nothing in this section shall be construed as requiring a separate  
5 hearing on each proposed rule. Proposed rules may be grouped for the  
6 convenience of the commission at hearings required by this section.

7 (j) Following the public hearing, the commission shall consider all  
8 written and oral comments timely received.

9 (k) The commission shall, by majority vote of all delegates, take final  
10 action on the proposed rule and shall determine the effective date of the  
11 rule, if adopted, based on the rulemaking record and the full text of the  
12 rule.

13 (1) If adopted, the rule shall be posted on the commission's website.

14 (2) The commission may adopt changes to the proposed rule if the  
15 changes do not expand the original purpose of the proposed rule.

16 (3) The commission shall provide an explanation on its website of the  
17 reasons for any substantive changes made to the proposed rule as well as  
18 reasons for any substantive changes not made that were recommended by  
19 commenters.

20 (4) The commission shall determine a reasonable effective date for  
21 the rule. Except for an emergency as provided in subsection (l), the  
22 effective date of the rule shall be not sooner than 30 days after the  
23 commission issued the notice that it adopted the rule.

24 (l) Upon the determination that an emergency exists, the commission  
25 may consider and adopt an emergency rule with 24 hours' prior notice,  
26 without the opportunity for comment or hearing, except that the usual  
27 rulemaking procedures provided in this compact and in this section shall  
28 be retroactively applied to the rule as soon as reasonably possible but in no  
29 event later than 90 days after the effective date of the rule. For the  
30 purposes of this provision, an emergency rule is one that shall be adopted  
31 immediately by the commission in order to:

32 (1) Address an imminent threat to public health, safety or welfare;

33 (2) prevent a loss of commission or participating state funds;

34 (3) meet a deadline for the promulgation of a commission rule that is  
35 established by federal law or rule; or

36 (4) protect public health and safety.

37 (m) The commission, or an authorized committee of the commission,  
38 may direct revisions to a previously adopted commission rule for purposes  
39 of correcting typographical errors, errors in format, errors in consistency  
40 or grammatical errors. Public notice of any revisions shall be posted on the  
41 commission's website. The revision shall be subject to challenge by any  
42 person for a period of 30 days after posting. The revision may be  
43 challenged only on grounds that the revision results in a material change to



1 a rule. A challenge shall be made as set forth in the notice of revisions and  
2 delivered to the commission prior to the end of the notice period. If no  
3 challenge is made, the revision shall take effect without further action. If  
4 the revision is challenged, the revision shall not take effect without the  
5 approval of the commission.

6 (n) No participating state's rulemaking requirements shall apply under  
7 this compact.  
8  
9

10 SECTION 10—OVERSIGHT, DISPUTE RESOLUTION AND  
11 ENFORCEMENT  
12  
13

14 (a) Oversight.

15 (1) The executive and judicial branches of state government in each  
16 participating state shall enforce this compact and take all actions necessary  
17 and appropriate to implement the compact.

18 (2) Venue is proper and judicial proceedings by or against the  
19 commission shall be brought solely and exclusively in a court of  
20 competent jurisdiction where the principal office of the commission is  
21 located. The commission may waive venue and jurisdictional defenses to  
22 the extent that it adopts or consents to participate in alternative dispute  
23 resolution proceedings. Nothing herein shall affect or limit the selection or  
24 propriety of venue in any action against a licensee for professional  
25 malpractice, misconduct or any such similar matter.

26 (3) The commission shall be entitled to receive service of process in  
27 any proceeding regarding the enforcement or interpretation of the compact  
28 or the commission's rules and shall have standing to intervene in such a  
29 proceeding for all purposes. Failure to provide the commission with  
30 service of process shall render a judgment or order in such proceeding  
31 void as to the commission, this compact or commission rules.

32 (b) Default, technical assistance and termination.

33 (1) If the commission determines that a participating state has  
34 defaulted in the performance of its obligations or responsibilities under  
35 this compact or the commission rules, the commission shall provide  
36 written notice to the defaulting state and other participating states. The  
37 notice shall describe the default, the proposed means of curing the default  
38 and any other action that the commission may take and shall offer remedial  
39 training and specific technical assistance regarding the default.

40 (2) If a state in default fails to cure the default, the defaulting state  
41 may be terminated from this compact upon an affirmative vote of a  
42 majority of the delegates of the participating states, and all rights,  
43 privileges and benefits conferred by this compact upon such state may be

1 terminated on the effective date of termination. A cure of the default shall  
2 not relieve the offending state of obligations or liabilities incurred during  
3 the period of default.

4 (3) Termination of participation in this compact shall be imposed only  
5 after all other means of securing compliance have been exhausted. Notice  
6 of intent to suspend or terminate shall be given by the commission to the  
7 governor, the majority and minority leaders of the defaulting state's  
8 legislature and to the licensing board of each of the participating states.

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

13 (5) The commission shall not bear any costs related to a state that is  
14 found to be in default or that has been terminated from this compact,  
15 unless agreed upon in writing between the commission and the defaulting  
16 state.

17 (6) The defaulting state may appeal its termination from the compact  
18 by the commission by petitioning the United States district court for the  
19 District of Columbia or the federal district where the commission has its  
20 principal offices. The prevailing member shall be awarded all costs of such  
21 litigation, including reasonable attorney fees.

22 (7) Upon the termination of a state's participation in the compact, the  
23 state shall immediately provide notice to all licensees within that state of  
24 such termination:

25 (A) Licensees who have been granted a compact privilege in that  
26 state shall retain the compact privilege for 180 days following the effective  
27 date of such termination; and

28 (B) licensees who are licensed in that state who have been granted a  
29 compact privilege in a participating state shall retain the compact privilege  
30 for 180 days unless the licensee also has a qualifying license in a  
31 participating state or obtains a qualifying license in a participating state  
32 before the 180-day period ends, in which case, the compact privilege shall  
33 continue.

34 (c) Dispute resolution.

35 (1) Upon request by a participating state, the commission shall  
36 attempt to resolve disputes related to this compact that arise among  
37 participating states and between participating and nonparticipating states.

38 (2) The commission shall promulgate a rule providing for both  
39 mediation and binding dispute resolution for disputes as appropriate.

40 (d) Enforcement.

41 (1) The commission, in the reasonable exercise of its discretion, shall  
42 enforce the provisions of this compact and rules of the commission.

43 (2) If compliance is not secured after all means to secure compliance

1 have been exhausted, by majority vote, the commission may initiate legal  
2 action in the United States district court for the District of Columbia or the  
3 federal district where the commission has its principal offices against a  
4 participating state in default to enforce compliance with the provisions of  
5 this compact and the commission's promulgated rules and bylaws. The  
6 relief sought may include both injunctive relief and damages. In the event  
7 that judicial enforcement is necessary, the prevailing party shall be  
8 awarded all costs of such litigation, including reasonable attorney fees.

9 (3) The remedies herein shall not be the exclusive remedies of the  
10 commission. The commission may pursue any other remedies available  
11 under federal or state law.

12 (e) Legal action against the commission.

13 (1) A participating state may initiate legal action against the  
14 commission in the United States district court for the District of Columbia  
15 or the federal district where the commission has its principal offices to  
16 enforce compliance with the provisions of the compact and its rules. The  
17 relief sought may include both injunctive relief and damages. In the event  
18 that judicial enforcement is necessary, the prevailing party shall be  
19 awarded all costs of such litigation, including reasonable attorney fees.

20 (2) No person other than a participating state shall enforce this  
21 compact against the commission.

22  
23 SECTION 11—DATE OF IMPLEMENTATION OF THE PA  
24 LICENSURE COMPACT COMMISSION  
25  
26

27 (a) This compact shall come into effect on the date that this compact  
28 statute is enacted into law in the seventh participating state.

29 (1) On or after the effective date of the compact, the commission  
30 shall convene and review the enactment of each of the states that enacted  
31 the compact prior to the commission convening, called charter-  
32 participating states, to determine if the statute enacted by each such  
33 charter-participating state is materially different than the model compact.

34 (A) A charter-participating state whose enactment is found to be  
35 materially different from the model compact shall be entitled to the default  
36 process set forth in section 10(b).

37 (B) If any participating state later withdraws from the compact or its  
38 participation is terminated, the commission shall remain in existence and  
39 the compact shall remain in effect even if the number of participating  
40 states should be fewer than seven. Participating states enacting the  
41 compact subsequent to the commission convening shall be subject to the  
42 process set forth in section 7(c)(21) to determine if their enactments are  
43 materially different from the model compact and whether they qualify for

1 participation in the compact.

2 (2) Participating states enacting the compact subsequent to the seven  
3 initial charter-participating states shall be subject to the process set forth in  
4 section 7(c)(21) to determine if their enactments are materially different  
5 from the model compact and whether they qualify for participation in the  
6 compact.

7 (3) All actions taken for the benefit of the commission or in  
8 furtherance of the purposes of the administration of the compact prior to  
9 the effective date of the compact or the commission coming into existence  
10 shall be considered to be actions of the commission unless specifically  
11 repudiated by the commission.

12 (b) Any state that joins this compact shall be subject to the  
13 commission's rules and bylaws as they exist on the date that this compact  
14 becomes law in that state. Any rule that has been previously adopted by  
15 the commission shall have the full force and effect of law on the day that  
16 this compact becomes law in that state.

17 (c) Any participating state may withdraw from this compact by  
18 enacting a statute repealing the same.

19 (1) A participating state's withdrawal shall not take effect until 180  
20 days after enactment of the repealing statute. During the 180-day period,  
21 all compact privileges that were in effect in the withdrawing state and were  
22 granted to licensees licensed in the withdrawing state shall remain in  
23 effect. If any licensee licensed in the withdrawing state is also licensed in  
24 another participating state or obtains a license in another participating state  
25 within the 180 days, the licensee's compact privileges in other participating  
26 states shall not be affected by the passage of the 180 days.

27 (2) Withdrawal shall not affect the continuing requirement of the state  
28 licensing board of the withdrawing state to comply with the investigative  
29 and adverse action reporting requirements of this compact prior to the  
30 effective date of withdrawal.

31 (3) Upon the enactment of a statute withdrawing a state from this  
32 compact, the state shall immediately provide notice of such withdrawal to  
33 all licensees within that state. Such withdrawing state shall continue to  
34 recognize all licenses granted pursuant to this compact for a minimum of  
35 180 days after the date of such notice of withdrawal.

36 (d) Nothing contained in this compact shall be construed to invalidate  
37 or prevent any PA licensure agreement or other cooperative arrangement  
38 between participating states and between a participating state and  
39 nonparticipating state that does not conflict with the provisions of this  
40 compact.

41 (e) This compact may be amended by the participating states. No  
42 amendment to this compact shall become effective and binding upon any  
43 participating state until it is enacted materially in the same manner into the

1 laws of all participating states as determined by the commission.  
2

3 SECTION 12—CONSTRUCTION AND SEVERABILITY  
4

5 (a) This compact and the commission's rulemaking authority shall be  
6 liberally construed so as to effectuate the purposes and the implementation  
7 and administration of the compact. Provisions of the compact expressly  
8 authorizing or requiring the promulgation of rules shall not be construed to  
9 limit the commission's rulemaking authority solely for those purposes.

10 (b) The provisions of this compact shall be severable, and if any  
11 phrase, clause, sentence or provision of this compact is held by a court of  
12 competent jurisdiction to be contrary to the constitution of any  
13 participating state, a state seeking participation in the compact or of the  
14 United States, or the applicability thereof to any government, agency,  
15 person or circumstance is held to be unconstitutional by a court of  
16 competent jurisdiction, the validity of the remainder of this compact and  
17 the applicability thereof to any other government, agency, person or  
18 circumstance shall not be affected thereby.

19 (c) Notwithstanding the provisions of this subsection or subsection  
20 (b), the commission may deny a state's participation in the compact or, in  
21 accordance with the requirements of section 10(b), terminate a  
22 participating state's participation in the compact, if it determines that a  
23 constitutional requirement of a participating state is, or would be with  
24 respect to a state seeking to participate in the compact, a material departure  
25 from the compact. Otherwise, if this compact shall be held to be contrary  
26 to the constitution of any participating state, the compact shall remain in  
27 full force and effect as to the remaining participating states and in full  
28 force and effect as to the participating state affected as to all severable  
29 matters.  
30

31 SECTION 13—BINDING EFFECT OF COMPACT  
32  
33

34 (a) Nothing herein prevents the enforcement of any other law of a  
35 participating state that is not inconsistent with this compact.

36 (b) Any laws in a participating state in conflict with this compact are  
37 superseded to the extent of the conflict.

38 (c) All agreements between the commission and the participating  
39 states are binding in accordance with their terms.

40 Sec. 2. This act shall take effect and be in force from and after its  
41 publication in the statute book.