

HOUSE BILL No. 2219

By Committee on Health and Human Services

Requested by Representative Buehler on behalf of the Kansas Chamber of
Commerce

2-3

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

1 criminal action permitted by a state's laws that is imposed by a licensing
2 board or other authority against a PA license, application for licensure or
3 compact privilege such as license denial, censure, revocation, suspension,
4 probation, monitoring of the licensee or restriction on the licensee's
5 practice.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 by the commission.

2 (o) "PA" means an individual who is licensed as a physician assistant
 3 in a state. For purposes of this compact, any other title or status adopted by
 4 a state to replace the term "physician assistant" shall be deemed
 5 synonymous with "physician assistant" and shall confer the same rights
 6 and responsibilities to the licensee under the provisions of this compact at
 7 the time of its enactment.

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

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

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

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

17 (t) "Rule" means any rule or regulation adopted 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 investigation that
 21 includes notification and an opportunity for the PA to respond if required
 22 by state law, has reason to believe is not groundless and, if proven true,
 23 would indicate more than a minor infraction.

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

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27 SECTION 3—STATE PARTICIPATION IN THIS COMPACT

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

31 (1) License PAs;

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

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

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

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

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

1 (7) utilize passage of a recognized national examination such as the
2 NCCPA PANCE as a requirement for PA licensure; and

3 (8) grant the compact privilege to a holder of a qualifying license in a
4 participating state.

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

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8 SECTION 4—COMPACT PRIVILEGE
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11 (a) To exercise the compact privilege, a licensee shall:

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

15 (2) hold current NCCPA certification;

16 (3) have no felony or misdemeanor convictions;

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

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

21 (6) hold a qualifying license;

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

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

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

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

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

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

42 (b) The compact privilege shall be valid until the expiration or
43 revocation of the qualifying license unless terminated pursuant to an

1 adverse action. The licensee shall comply with the requirements of
2 subsection (a) to maintain the compact privilege in a remote state. If the
3 participating state takes adverse action against a qualifying license, the
4 licensee shall lose the compact privilege in any remote state in which the
5 licensee has a compact privilege until the licensee meets the following
6 conditions:

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

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

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

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

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17 SECTION 5—DESIGNATION OF THE STATE FROM WHICH THE
18 LICENSEE IS APPLYING FOR A COMPACT PRIVILEGE
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21 Upon a licensee's application for a compact privilege, the licensee shall
22 identify to the commission the participating state from which the licensee
23 is applying, in accordance with applicable rules adopted by the
24 commission and subject to the following requirements:

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

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

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36 SECTION 6—ADVERSE ACTIONS
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39 (a) A participating state in which a licensee is licensed shall have
40 exclusive power to impose adverse action against the qualifying license
41 issued by that participating state.

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

1 law, to:

2 (1) Take adverse action against a PA's compact privilege within that
3 state to remove a licensee's compact privilege or take other action
4 necessary under applicable law to protect the health and safety of its
5 citizens; and

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

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

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

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

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

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

37 (h) Joint investigations.

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

42 (2) Participating states shall share any investigative, litigation or
43 compliance materials in furtherance of any joint or individual investigation

1 initiated under this compact.

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

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

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12 SECTION 7—ESTABLISHMENT OF THE PA LICENSURE COMPACT
13 COMMISSION

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

22 (b) Membership, voting and meetings.

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

27 (2) A delegate shall be either:

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

30 (B) an administrator of a licensing board.

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

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

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

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

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

1 such other officers of the commission as provided in the commission's
2 bylaws;

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

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

9 (22) prepare and provide to the participating states an annual report;
10 and

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

14 (d) Meetings of the commission.

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

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

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

26 (A) Noncompliance of a participating state with its obligations under
27 this compact;

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

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

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

34 (E) the accusation of any individual of a crime or the formal censure
35 any individual;

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

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

40 (H) the disclosure of investigative records compiled for law
41 enforcement purposes;

42 (I) the disclosure of information related to any investigative reports
43 prepared by or on behalf of or for use of the commission or other

1 committee charged with the responsibility of investigation or
2 determination of compliance issues pursuant to this compact;

3 (J) legal advice; or

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

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

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

17 (e) Financing of the commission.

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

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

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

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

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

1 (4) The commission shall not incur obligations of any kind prior to
2 securing the funds adequate to meet such obligations, nor shall the
3 commission pledge the credit of any of the participating states, except by
4 and with the authority of the participating state.

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

12 (f) The executive committee.

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

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

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

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

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

24 (ii) The ex officio members shall be selected by their respective
25 organizations.

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

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

29 (5) The executive committee shall have the following duties and
30 responsibilities:

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

35 (B) ensure that compact administration services are appropriately
36 provided, whether

37 contractual or otherwise;

38 (C) prepare and recommend the budget;

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

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

42 (F) establish additional committees as necessary;

43 (G) exercise the powers and duties of the commission during the

1 interim between commission meetings, except for issuing proposed
2 rulemaking or adopting commission rules or bylaws or exercising any
3 other powers and duties exclusively reserved to the commission by the
4 commission's rules; and

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

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

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

17 (g) Qualified immunity, defense and indemnification.

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

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

41 (3) The commission shall indemnify and hold harmless any member,
42 officer, executive director, employee or representative of the commission
43 for the amount of any settlement or judgment obtained against that

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

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

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

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

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

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

27 SECTION 8—DATA SYSTEM

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

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

40 (1) Identifying information;

41 (2) licensure data;

42 (3) adverse actions against a license or compact privilege;

43 (4) any denial of application for licensure and the reason for such

1 denial, excluding the reporting of any criminal history record information
2 where such reporting is prohibited by law;

3 (5) the existence of significant investigative information; and

4 (6) other information that may facilitate the administration of this
5 compact, as determined by the rules of the commission.

6 (c) Significant investigative information pertaining to a licensee in
7 any participating state shall only be available to other participating states.

8 (d) The commission shall promptly notify all participating states of
9 any adverse action taken against a licensee or an individual applying for a
10 license that has been reported to such commission. Such adverse action
11 information shall be available to any other participating state.

12 (e) Participating states contributing information to the data system
13 may, in accordance with state or federal law, designate information that
14 shall not be shared with the public without the express permission of the
15 contributing state. Notwithstanding any such designation, such information
16 shall be reported to the commission through the data system.

17 (f) Any information submitted to the data system that is subsequently
18 expunged pursuant to federal law or the laws of the participating state
19 contributing the information shall be removed from the data system upon
20 reporting of such by the participating state to the commission.

21 (g) The records and information provided to a participating state
22 pursuant to this compact or through the data system, when certified by the
23 commission or an agent thereof, shall constitute the authenticated business
24 records of the commission and shall be entitled to any associated hearsay
25 exception in any relevant judicial, quasi-judicial or administrative
26 proceedings in a participating state.

27
28 SECTION 9—RULEMAKING
29
30

31 (a) The commission shall exercise its rulemaking powers pursuant to
32 the criteria set forth in this section and the rules adopted thereunder.
33 Commission rules shall become binding as of the date specified by the
34 commission for each rule.

35 (b) The commission shall adopt reasonable rules in order to
36 effectively and efficiently implement and administer this compact and
37 achieve its purposes. A commission rule shall be invalid and have no force
38 or effect only if a court of competent jurisdiction holds that the rule is
39 invalid because the commission exercised its rulemaking authority in a
40 manner that is beyond the scope of the purposes of this compact, the
41 powers granted hereunder or based upon another applicable standard of
42 review.

43 (c) The rules of the commission shall have the force of law in each

1 participating state, except that where the rules of the commission conflict
2 with the laws of the participating state that establish the medical services, a
3 PA may perform in the participating state, as held by a court of competent
4 jurisdiction, and the rules of the commission shall be ineffective in that
5 state to the extent of the conflict.

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

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

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

18 (1) On the commission's website or other publicly accessible
19 platform;

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

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

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

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

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

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

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

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

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

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

42 (2) Hearings shall be conducted in a manner that provides each
43 person who wishes to comment a fair and reasonable opportunity to

1 comment orally or in writing.

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

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

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

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

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

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

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

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

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

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

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

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

38 (4) protect public health and safety.

39 (m) The commission, or an authorized committee of the commission,
40 may direct revisions to a previously adopted commission rule for purposes
41 of correcting typographical errors, errors in format, errors in consistency
42 or grammatical errors. Public notice of any revisions shall be posted on the
43 commission's website. The revision shall be subject to challenge by any

1 person for a period of 30 days after posting. The revision may be
2 challenged only on grounds that the revision results in a material change to
3 a rule. A challenge shall be made as set forth in the notice of revisions and
4 delivered to the commission prior to the end of the notice period. If no
5 challenge is made, the revision shall take effect without further action. If
6 the revision is challenged, the revision shall not take effect without the
7 approval of the commission.

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

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11
12 SECTION 10—OVERSIGHT, DISPUTE RESOLUTION AND
13 ENFORCEMENT
14
15

16 (a) Oversight.

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

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

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

34 (b) Default, technical assistance and termination.

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

42 (2) If a state in default fails to cure the default, the defaulting state
43 may be terminated from this compact upon an affirmative vote of a

1 majority of the delegates of the participating states, and all rights,
2 privileges and benefits conferred by this compact upon such state may be
3 terminated on the effective date of termination. A cure of the default shall
4 not relieve the offending state of obligations or liabilities incurred during
5 the period of default.

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

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

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

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

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

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

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

36 (c) Dispute resolution.

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

40 (2) The commission shall adopt a rule providing for both mediation
41 and binding dispute resolution for disputes as appropriate.

42 (d) Enforcement.

43 (1) The commission, in the reasonable exercise of its discretion, shall

- 1 enforce the provisions of this compact and rules of the commission.
- 2 (2) If compliance is not secured after all means to secure compliance
- 3 have been exhausted, by majority vote, the commission may initiate legal
- 4 action in the United States district court for the District of Columbia or the
- 5 federal district where the commission has its principal offices against a
- 6 participating state in default to enforce compliance with the provisions of
- 7 this compact and the commission's promulgated rules and bylaws. The
- 8 relief sought may include both injunctive relief and damages. In the event
- 9 that judicial enforcement is necessary, the prevailing party shall be
- 10 awarded all costs of such litigation, including reasonable attorney fees.
- 11 (3) The remedies herein shall not be the exclusive remedies of the
- 12 commission. The commission may pursue any other remedies available
- 13 under federal or state law.
- 14 (e) Legal action against the commission.
- 15 (1) A participating state may initiate legal action against the
- 16 commission in the United States district court for the District of Columbia
- 17 or the federal district where the commission has its principal offices to
- 18 enforce compliance with the provisions of the compact and its rules. The
- 19 relief sought may include both injunctive relief and damages. In the event
- 20 that judicial enforcement is necessary, the prevailing party shall be
- 21 awarded all costs of such litigation, including reasonable attorney fees.
- 22 (2) No person other than a participating state shall enforce this
- 23 compact against the commission.

24

25 SECTION 11—DATE OF IMPLEMENTATION OF THE PA

26 LICENSURE COMPACT COMMISSION

27

28

- 29 (a) This compact shall come into effect on the date that this compact
- 30 statute is enacted into law in the seventh participating state.
- 31 (1) On or after the effective date of the compact, the commission
- 32 shall convene and review the enactment of each of the states that enacted
- 33 the compact prior to the commission convening, called charter-
- 34 participating states, to determine if the statute enacted by each such
- 35 charter-participating state is materially different than the model compact.
- 36 (A) A charter-participating state whose enactment is found to be
- 37 materially different from the model compact shall be entitled to the default
- 38 process set forth in section 10(b).
- 39 (B) If any participating state later withdraws from the compact or its
- 40 participation is terminated, the commission shall remain in existence and
- 41 the compact shall remain in effect even if the number of participating
- 42 states should be fewer than seven. Participating states enacting the
- 43 compact subsequent to the commission convening shall be subject to the

1 process set forth in section 7(c)(21) to determine if their enactments are
2 materially different from the model compact and whether they qualify for
3 participation in the compact.

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

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

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

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

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

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

33 (3) Upon the enactment of a statute withdrawing a state from this
34 compact, the state shall immediately provide notice of such withdrawal to
35 all licensees within that state. Such withdrawing state shall continue to
36 recognize all licenses granted pursuant to this compact for a minimum of
37 180 days after the date of such notice of withdrawal.

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

43 (e) This compact may be amended by the participating states. No

1 amendment to this compact shall become effective and binding upon any
2 participating state until it is enacted materially in the same manner into the
3 laws of all participating states as determined by the commission.
4

5 SECTION 12—CONSTRUCTION AND SEVERABILITY 6

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

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

21 (c) Notwithstanding the provisions of this subsection or subsection
22 (b), the commission may deny a state's participation in the compact or, in
23 accordance with the requirements of section 10(b), terminate a
24 participating state's participation in the compact, if it determines that a
25 constitutional requirement of a participating state is, or would be with
26 respect to a state seeking to participate in the compact, a material departure
27 from the compact. Otherwise, if this compact shall be held to be contrary
28 to the constitution of any participating state, the compact shall remain in
29 full force and effect as to the remaining participating states and in full
30 force and effect as to the participating state affected as to all severable
31 matters.
32

33 SECTION 13—BINDING EFFECT OF COMPACT 34 35

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

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

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

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