

STATE OF NEW YORK

8172

2023-2024 Regular Sessions

IN ASSEMBLY

October 27, 2023

Introduced by M. of A. MILLER -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to adopting the PA licensure compact

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The education law is amended by adding a new section 6546-a
2 to read as follows:

3 § 6546-a. PA licensure compact. The PA licensure compact is hereby
4 entered into and enacted into law with all jurisdictions legal joining
5 therein, in the form substantially as follows:

PA LICENSURE COMPACT

6
7 Section 1. Purpose. In order to strengthen access to medical services,
8 and in recognition of the advances in the delivery of medical services,
9 the participating states of the PA licensure compact have allied in
10 common purpose to develop a comprehensive process that complements the
11 existing authority of state licensing boards to license and discipline
12 PAs and seeks to enhance the portability of a License to practice as a
13 PA while safeguarding the safety of patients. This compact allows
14 medical services to be provided by PAs, via the mutual recognition of
15 the licensee's qualifying license by other compact participating states.
16 This compact also adopts the prevailing standard for PA licensure and
17 affirms that the practice and delivery of medical services by the PA
18 occurs where the patient is located at the time of the patient encount-
19 er, and therefore requires the PA to be under the jurisdiction of the
20 state licensing board where the patient is located. State licensing
21 boards that participate in this compact retain the jurisdiction to
22 impose adverse action against a compact privilege in that state issued
23 to a PA through the procedures of this compact. The PA licensure compact
24 will alleviate burdens for military families by allowing active duty
25 military personnel and their spouses to obtain a compact privilege based

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD11355-02-3

1 on having an unrestricted license in good standing from a participating
2 state.

3 Section 2. Definitions. In this compact:

4 A. "Adverse Action" means any administrative, civil, equitable, or
5 criminal action permitted by a state's laws which is imposed by a
6 licensing board or other authority against a PA license or license
7 application or compact privilege such as license denial, censure, revo-
8 cation, suspension, probation, monitoring of the licensee, or
9 restriction on the licensee's practice.

10 B. "Compact Privilege" means the authorization granted by a remote
11 state to allow a licensee from another participating state to practice
12 as a PA to provide medical services and other licensed activity to a
13 patient located in the remote state under the remote state's laws and
14 regulations.

15 C. "Conviction" means a finding by a court that an individual is guilt-
16 ty of a felony or misdemeanor offense through adjudication or entry of a
17 plea of guilt or no contest to the charge by the offender.

18 D. "Criminal Background Check" means the submission of fingerprints or
19 other biometric based information for a License applicant for the
20 purpose of obtaining that applicant's criminal history record informa-
21 tion, as defined in 28 C.F.R. § 20.3(d), from the state's criminal
22 history record repository as defined in 28 C.F.R. § 20.3(f).

23 E. "Data System" means the repository of information about licensees,
24 including but not limited to license status and adverse actions, which
25 is created and administered under the terms of this compact.

26 F. "Executive Committee" means a group of directors and ex-officio
27 individuals elected or appointed pursuant to section 7.F.2.

28 G. "Impaired Practitioner" means a PA whose practice is adversely
29 affected by a health related condition that impact their ability to
30 practice.

31 H. "Investigative Information" means information, records, or docu-
32 ments received or generated by a Licensing Board pursuant to an investi-
33 gation.

34 I. "Jurisprudence Requirement" means the assessment of an individual's
35 knowledge of the laws and Rules governing the practice of a PA in a
36 state.

37 J. "License" means current authorization by a state, other than
38 authorization pursuant to a compact privilege, for a PA to provide
39 medical services, which would be unlawful without current authorization.

40 K. "Licensee" means an individual who holds a License from a state to
41 provide medical services as a PA.

42 L. "Licensing Board" means any state entity authorized to license and
43 otherwise regulate PAs.

44 M. "Medical Services" means health care services provided for the
45 diagnosis, prevention, treatment, cure or relief of a health condition,
46 injury, or disease, as defined by a state's laws and regulations.

47 N. "Model Compact" means the model for the PA licensure compact on
48 file with the council of state governments or other entity as designated
49 by the commission.

50 O. "Participating State" means a state that has enacted this compact.

51 P. "PA" means an individual who is licensed as a physician assistant
52 in a state. For purposes of this compact, any other title or status
53 adopted by a state to replace the term "physician assistant" shall be
54 deemed synonymous with "physician assistant" and shall confer the same
55 rights and responsibilities to the licensee under the provisions of this
56 compact at the time of its enactment.

1 Q. "PA Licensure Compact Commission," "Compact Commission," or
2 "Commission" mean the national administrative body created pursuant to
3 section 7.A of this compact.

4 R. "Qualifying License" means an unrestricted license issued by a
5 participating state to provide medical services as a PA.

6 S. "Remote State" means a participating state where a Licensee who is
7 not licensed as a PA is exercising or seeking to exercise the compact
8 privilege.

9 T. "Rule" means a regulation promulgated by an entity that has the
10 force and effect of law.

11 U. "Significant Investigative Information" means Investigative Infor-
12 mation that a Licensing Board, after an inquiry or investigation that
13 includes notification and an opportunity for the PA to respond if
14 required by state law, has reason to believe is not groundless and, if
15 proven true, would indicate more than a minor infraction.

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

18 Section 3. State participation in this compact.

19 A. To participate in this compact, a participating state shall:

20 1. License PAs.

21 2. Participate in the compact commission's data system.

22 3. Have a mechanism in place for receiving and investigating
23 complaints against licensees and license applicants.

24 4. Notify the commission, in compliance with the terms of this compact
25 and commission rules, of any adverse action against a licensee or
26 license applicant and the existence of significant investigative infor-
27 mation regarding a licensee or license applicant.

28 5. Fully implement a criminal background check requirement, within a
29 time frame established by commission rule, by its licensing board
30 receiving the results of a criminal background check and reporting to
31 the commission whether the license applicant has been granted a license.

32 6. Comply with the rules of the compact commission.

33 7. Utilize passage of a recognized national exam such as the NCCPA
34 PANCE as a requirement for PA licensure.

35 8. Grant the compact privilege to a holder of a qualifying license in
36 a participating state.

37 B. Nothing in this compact prohibits a participating state from charg-
38 ing a fee for granting the compact privilege.

39 Section 4. Compact privilege.

40 A. To exercise the compact privilege, a licensee must:

41 1. Have graduated from a PA program accredited by the accreditation
42 review commission on education for the physician assistant, inc. or
43 other programs authorized by commission rule.

44 2. Hold current NCCPA certification.

45 3. Have no felony or misdemeanor conviction.

46 4. Have never had a controlled substance license, permit, or registra-
47 tion suspended or revoked by a state or by the United States Drug
48 Enforcement Administration.

49 5. Have a unique identifier as determined by commission rule.

50 6. Hold a qualifying license.

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

53 8. If a licensee has had a limitation or restriction on a license or
54 compact privilege due to an adverse action, two years must have elapsed
55 from the date on which the license or compact privilege is no longer
56 limited or restricted due to the adverse action.

1 9. If a compact privilege has been revoked or is limited or restricted
2 in a participating state for conduct that would not be a basis for
3 disciplinary action in a participating state in which the licensee is
4 practicing or applying to practice under a compact privilege, that
5 participating state shall have the discretion not to consider such
6 action as an adverse action requiring the denial or removal of a compact
7 privilege in that state.

8 10. Notify the compact commission that the licensee is seeking the
9 compact privilege in a remote state.

10 11. Meet any jurisprudence requirement of a remote state in which the
11 licensee is seeking to practice under the compact privilege and pay any
12 fees applicable to satisfying the jurisprudence requirement.

13 12. Report to the commission any adverse action taken by a non-parti-
14 cipating state within thirty (30) days after the action is taken.

15 B. The compact privilege is valid until the expiration or revocation
16 of the qualifying license unless terminated pursuant to an adverse
17 action. The licensee must also comply with all of the requirements of
18 subsection A above to maintain the compact privilege in a remote state.
19 If the participating state takes adverse action against a qualifying
20 license, the licensee shall lose the compact privilege in any remote
21 state in which the licensee has a compact privilege until all of the
22 following occur:

23 1. The license is no longer limited or restricted; and

24 2. Two (2) years have elapsed from the date on which the license is no
25 longer limited or restricted due to the adverse action.

26 C. Once a restricted or limited License satisfies the requirements of
27 subsection B.1 and 2, the licensee must meet the requirements of
28 subsection A to obtain a compact privilege in any remote state.

29 D. For each remote state in which a PA seeks authority to prescribe
30 controlled substances, the PA shall satisfy all requirements imposed by
31 such state in granting or renewing such authority.

32 Section 5. Designation of the state from which licensee is applying
33 for a compact privilege.

34 A. Upon a licensee's application for a compact privilege, the licensee
35 shall identify to the commission the participating state from which the
36 licensee is applying, in accordance with applicable rules adopted by the
37 commission, and subject to the following requirements:

38 1. When applying for a compact privilege, the licensee shall provide
39 the commission with the address of the licensee's primary residence and
40 thereafter shall immediately report to the commission any change in the
41 address of the licensee's primary residence.

42 2. When applying for a compact privilege, the licensee is required to
43 consent to accept service of process by mail at the licensee's primary
44 residence on file with the commission with respect to any action brought
45 against the licensee by the commission or a participating state, includ-
46 ing a subpoena, with respect to any action brought or investigation
47 conducted by the commission or a participating state.

48 Section 6. Adverse actions.

49 A. A participating state in which a licensee is licensed shall have
50 exclusive power to impose adverse action against the qualifying license
51 issued by that participating state.

52 B. In addition to the other powers conferred by state law, a remote
53 state shall have the authority, in accordance with existing state due
54 process law, to do all of the following:

55 1. Take adverse action against a PA's compact privilege within that
56 state to remove a licensee's compact privilege or take other action

1 necessary under applicable law to protect the health and safety of its
2 citizens.

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

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

19 4. Nothing in this compact authorizes a participating state to impose
20 discipline against a PA's compact privilege or to deny an application
21 for a compact privilege in that participating state for the individual's
22 otherwise lawful practice in another state.

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

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

32 E. A participating state may take adverse action based on the factual
33 findings of a remote state, provided that the participating state
34 follows its own procedures for taking the adverse action.

35 F. Joint investigations:

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

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

43 G. If an adverse action is taken against a PA's qualifying license,
44 the PA's compact privilege in all remote states shall be deactivated
45 until two (2) years have elapsed after all restrictions have been
46 removed from the state license. All disciplinary orders by the partic-
47 ipating state which issued the qualifying license that impose adverse
48 action against a PA's license shall include a statement that the PA's
49 compact privilege is deactivated in all participating states during the
50 pendency of the order.

51 H. If any participating state takes adverse action, it promptly shall
52 notify the administrator of the data system.

53 Section 7. Establishment of the PA licensure compact commission.

54 A. The participating states hereby create and establish a joint
55 government agency and national administrative body known as the PA
56 licensure compact commission. The commission is an instrumentality of

1 the compact states acting jointly and not an instrumentality of any one
2 state. The commission shall come into existence on or after the effec-
3 tive date of the compact as set forth in section 11.A.

4 B. Membership, voting, and meetings:

5 1. Each participating state shall have and be limited to one (1) dele-
6 gate selected by that participating state's licensing board or, if the
7 state has more than one licensing board, selected collectively by the
8 participating state's licensing boards.

9 2. The delegate shall be either:

10 a. A current PA, physician or public member of a licensing board or PA
11 council/committee; or

12 b. An administrator of a licensing board.

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

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

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

23 6. The commission shall meet at least once during each calendar year.
24 Additional meetings shall be held as set forth in this compact and the
25 bylaws.

26 7. The commission shall establish by rule a term of office for deleg-
27 ates.

28 C. The commission shall have the following powers and duties:

29 1. Establish a code of ethics for the commission;

30 2. Establish the fiscal year of the commission;

31 3. Establish fees;

32 4. Establish bylaws;

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

34 6. Meet and take such actions as are consistent with the provisions of
35 this compact and the bylaws;

36 7. Promulgate rules to facilitate and coordinate implementation and
37 administration of this compact. The rules shall have the force and
38 effect of law and shall be binding in all participating states;

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

42 9. Purchase and maintain insurance and bonds;

43 10. Borrow, accept, or contract for services of personnel, including,
44 but not limited to, employees of a participating state;

45 11. Hire employees and engage contractors, elect or appoint officers,
46 fix compensation, define duties, grant such individuals appropriate
47 authority to carry out the purposes of this compact, and establish the
48 commission's personnel policies and programs relating to conflicts of
49 interest, qualifications of personnel, and other related personnel
50 matters;

51 12. Accept any and all appropriate donations and grants of money,
52 equipment, supplies, materials and services, and receive, utilize and
53 dispose of the same; provided that at all times the commission shall
54 avoid any appearance of impropriety or conflict of interest;

55 13. Lease, purchase, accept appropriate gifts or donations of, or
56 otherwise own, hold, improve or use, any property, real, personal or

1 mixed; provided that at all times the commission shall avoid any appear-
2 ance of impropriety;

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

5 15. Establish a budget and make expenditures;

6 16. Borrow money;

7 17. Appoint committees, including standing committees composed of
8 members, state regulators, state legislators or their representatives,
9 and consumer representatives, and such other interested persons as may
10 be designated in this compact and the bylaws;

11 18. Provide and receive information from, and cooperate with, law
12 enforcement agencies;

13 19. Elect a chair, vice chair, secretary and treasurer and such other
14 officers of the commission as provided in the commission's bylaws.

15 20. Reserve for itself, in addition to those reserved exclusively to
16 the commission under the compact, powers that the executive committee
17 may not exercise;

18 21. Approve or disapprove a state's participation in the compact based
19 upon its determination as to whether the state's compact legislation
20 departs in a material manner from the model compact language;

21 22. Prepare and provide to the participating states an annual report;
22 and

23 23. Perform such other functions as may be necessary or appropriate to
24 achieve the purposes of this compact consistent with the state regu-
25 lation of PA licensure and practice.

26 D. Meetings of the commission:

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

31 2. Notwithstanding subsection D.1, the commission may convene a public
32 meeting by providing at least twenty-four (24) hours prior notice on the
33 commission's website, and any other means as provided in the commis-
34 sion's rules, for any of the reasons it may dispense with notice of
35 proposed rulemaking under section 9.L.

36 3. The commission may convene in a closed, non-public meeting or
37 nonpublic part of a public meeting to receive legal advice or to
38 discuss:

39 a. Non-compliance of a participating state with its obligations under
40 this compact;

41 b. The employment, compensation, discipline or other matters, prac-
42 tices or procedures related to specific employees or other matters
43 related to the commission's internal personnel practices and procedures;

44 c. Current, threatened, or reasonably anticipated litigation;

45 d. Negotiation of contracts for the purchase, lease, or sale of goods,
46 services, or real estate;

47 e. Accusing any person of a crime or formally censuring any person;

48 f. Disclosure of trade secrets or commercial or financial information
49 that is privileged or confidential;

50 g. Disclosure of information of a personal nature where disclosure
51 would constitute a clearly unwarranted invasion of personal privacy;

52 h. Disclosure of investigative records compiled for law enforcement
53 purposes;

54 i. Disclosure of information related to any investigative reports
55 prepared by or on behalf of or for use of the commission or other

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

j. Legal advice; or

k. Matters specifically exempted from disclosure by federal or participating states' statutes.

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

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

E. Financing of the commission:

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

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

3. The commission may levy on and collect an annual assessment from each participating state and may impose compact privilege fees on licensees of participating states to whom a compact privilege is granted to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved by the commission each year for which revenue is not provided by other sources. The aggregate annual assessment amount levied on participating states shall be allocated based upon a formula to be determined by commission rule.

a. A compact privilege expires when the licensee's qualifying license in the participating state from which the licensee applied for the compact privilege expires.

b. If the licensee terminates the qualifying license through which the licensee applied for the compact privilege before its scheduled expiration, and the licensee has a qualifying license in another participating state, the licensee shall inform the commission that it is changing to that participating state the participating state through which it applies for a compact privilege and pay to the commission any compact privilege fee required by commission rule.

4. The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the participating states, except by and with the authority of the participating state.

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

F. The executive committee:

1 1. The executive committee shall have the power to act on behalf of
2 the commission according to the terms of this compact and commission
3 rules.

4 2. The executive committee shall be composed of nine (9) members:

5 a. Seven voting members who are elected by the commission from the
6 current membership of the commission;

7 b. One ex-officio, nonvoting member from a recognized national PA
8 professional association; and

9 c. One ex-officio, nonvoting member from a recognized national PA
10 certification organization.

11 3. The ex-officio members will be selected by their respective organ-
12 izations.

13 4. The commission may remove any member of the executive committee as
14 provided in its bylaws.

15 5. The executive committee shall meet at least annually.

16 6. The executive committee shall have the following duties and respon-
17 sibilities:

18 a. Recommend to the commission changes to the commission's rules or
19 bylaws, changes to this compact legislation, fees to be paid by compact
20 participating states such as annual dues, and any commission compact fee
21 charged to licensees for the compact privilege;

22 b. Ensure compact administration services are appropriately provided,
23 contractual or otherwise;

24 c. Prepare and recommend the budget;

25 d. Maintain financial records on behalf of the commission;

26 e. Monitor compact compliance of participating states and provide
27 compliance reports to the commission;

28 f. Establish additional committees as necessary;

29 g. Exercise the powers and duties of the commission during the interim
30 between commission meetings, except for issuing proposed rulemaking or
31 adopting commission rules or bylaws, or exercising any other powers and
32 duties exclusively reserved to the commission by the commission's rules;
33 and

34 h. Perform other duties as provided in the commission's rules or
35 bylaws.

36 7. All meeting of the executive committee at which it votes or plans
37 to vote on matters in exercising the powers and duties of the commission
38 shall be open to the public and public notice of such meetings shall be
39 given as public meetings of the commission are given.

40 8. The executive committee may convene in a closed, non-public meeting
41 for the same reasons that the commission may convene in a non-public
42 meeting as set forth in section 7.D.3 and shall announce the closed
43 meeting as the commission is required to under section 7.D.4 and keep
44 minutes of the closed meeting as the commission is required to under
45 section 7.D.5.

46 G. Qualified immunity, defense, and indemnification:

47 1. The members, officers, executive director, employees and represen-
48 tatives of the commission shall be immune from suit and liability, both
49 personally and in their official capacity, for any claim for damage to
50 or loss of property or personal injury or other civil liability caused
51 by or arising out of any actual or alleged act, error, or omission that
52 occurred, or that the person against whom the claim is made had a
53 reasonable basis for believing occurred within the scope of commission
54 employment, duties or responsibilities; provided that nothing in this
55 paragraph shall be construed to protect any such person from suit or
56 liability for any damage, loss, injury, or liability caused by the

1 intentional or willful or wanton misconduct of that person. The procure-
2 ment of insurance of any type by the commission shall not in any way
3 compromise or limit the immunity granted hereunder.

4 2. The commission shall defend any member, officer, executive direc-
5 tor, employee, and representative of the commission in any civil action
6 seeking to impose liability arising out of any actual or alleged act,
7 error, or omission that occurred within the scope of commission employ-
8 ment, duties, or responsibilities, or as determined by the commission
9 that the person against whom the claim is made had a reasonable basis
10 for believing occurred within the scope of commission employment,
11 duties, or responsibilities; provided that nothing herein shall be
12 construed to prohibit that person from retaining their own counsel at
13 their own expense; and provided further, that the actual or alleged act,
14 error, or omission did not result from that person's intentional or
15 willful or wanton misconduct.

16 3. The commission shall indemnify and hold harmless any member, offi-
17 cer, executive director, employee, and representative of the commission
18 for the amount of any settlement or judgment obtained against that
19 person arising out of any actual or alleged act, error, or omission that
20 occurred within the scope of commission employment, duties, or responsi-
21 bilities, or that such person had a reasonable basis for believing
22 occurred within the scope of commission employment, duties, or responsi-
23 bilities, provided that the actual or alleged act, error, or omission
24 did not result from the intentional or willful or wanton misconduct of
25 that person.

26 4. Venue is proper and judicial proceedings by or against the commis-
27 sion shall be brought solely and exclusively in a court of competent
28 jurisdiction where the principal office of the commission is located.
29 The commission may waive venue and jurisdictional defenses in any
30 proceedings as authorized by commission rules.

31 5. Nothing herein shall be construed as a limitation on the liability
32 of any Licensee for professional malpractice or misconduct, which shall
33 be governed solely by any other applicable state laws.

34 6. Nothing herein shall be construed to designate the venue or juris-
35 isdiction to bring actions for alleged acts of malpractice, professional
36 misconduct, negligence, or other such civil action pertaining to the
37 practice of a PA. All such matters shall be determined exclusively by
38 state law other than this compact.

39 7. Nothing in this compact shall be interpreted to waive or otherwise
40 abrogate a participating state's state action immunity or state action
41 affirmative defense with respect to antitrust claims under the Sherman
42 Act, Clayton Act, or any other state or federal antitrust or anticompet-
43 itive law or regulation.

44 8. Nothing in this compact shall be construed to be a waiver of sover-
45 eign immunity by the participating states or by the commission.

46 Section 8. Data system.

47 A. The commission shall provide for the development, maintenance,
48 operation, and utilization of a coordinated data and reporting system
49 containing licensure, adverse action, and the reporting of the existence
50 of significant investigative information on all licensed PAs and appli-
51 cants denied a license in participating states.

52 B. Notwithstanding any other state law to the contrary, a participat-
53 ing state shall submit a uniform data set to the data system on all PAs
54 to whom this compact is applicable (utilizing a unique identifier) as
55 required by the rules of the commission, including:

56 1. Identifying information;

1 2. Licensure data;
2 3. Adverse actions against a license or compact privilege;
3 4. Any denial of application for licensure, and the reason(s) for such
4 denial (excluding the reporting of any criminal history record informa-
5 tion where prohibited by law);
6 5. The existence of significant investigative information; and
7 6. Other information that may facilitate the administration of this
8 compact, as determined by the rules of the commission.

9 C. Significant investigative information pertaining to a licensee in
10 any participating state shall only be available to other participating
11 states.

12 D. The commission shall promptly notify all participating states of
13 any adverse action taken against a licensee or an individual applying
14 for a license that has been reported to it. This adverse action informa-
15 tion shall be available to any other participating state.

16 E. Participating states contributing information to the data system
17 may, in accordance with state or federal law, designate information that
18 may not be shared with the public without the express permission of the
19 contributing state. Notwithstanding any such designation, such informa-
20 tion shall be reported to the commission through the data system.

21 F. Any information submitted to the data system that is subsequently
22 expunged pursuant to federal law or the laws of the participating state
23 contributing the information shall be removed from the data system upon
24 reporting of such by the participating state to the commission.

25 G. The records and information provided to a participating state
26 pursuant to this compact or through the data system, when certified by
27 the commission or an agent thereof, shall constitute the authenticated
28 business records of the commission, and shall be entitled to any associ-
29 ated hearsay exception in any relevant judicial, quasi-judicial or
30 administrative proceedings in a participating state.

31 Section 9. Rulemaking.

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

36 B. The commission shall promulgate reasonable rules in order to effec-
37 tively and efficiently implement and administer this compact and achieve
38 its purposes. A commission rule shall be invalid and have not force or
39 effect only if a court of competent jurisdiction holds that the rule is
40 invalid because the commission exercised its rulemaking authority in a
41 manner that is beyond the scope of the purposes of this compact, or the
42 powers granted hereunder, or based upon another applicable standard of
43 review.

44 C. The rules of the commission shall have the force of law in each
45 participating state, provided however that where the rules of the
46 commission conflict with the laws of the participating state that estab-
47 lish the medical services a PA may perform in the participating state,
48 as held by a court of competent jurisdiction, the rules of the commis-
49 sion shall be ineffective in that state to the extent of the conflict.

50 D. If a majority of the legislatures of the participating states
51 rejects a commission rule, by enactment of a statute or resolution in
52 the same manner used to adopt this compact within four (4) years of the
53 date of adoption of the rule, then such rule shall have no further force
54 and effect in any participating state or to any state applying to
55 participate in the compact.

1 E. Commission rules shall be adopted at a regular or special meeting
2 of the commission.

3 F. Prior to promulgation and adoption of a final rule or rules by the
4 commission, and at least thirty (30) days in advance of the meeting at
5 which the rule will be considered and voted upon, the commission shall
6 file a notice of proposed rulemaking:

7 1. On the website of the commission or other publicly accessible plat-
8 form; and

9 2. To persons who have requested notice of the commission's notices of
10 proposed rulemaking, and

11 3. In such other way(s) as the commission may by rule specify.

12 G. The notice of proposed rulemaking shall include:

13 1. The time, date, and location of the public hearing on the proposed
14 rule and the proposed time, date and location of the meeting in which
15 the proposed rule will be considered and voted upon;

16 2. The text of the proposed rule and the reason for the proposed rule;

17 3. A request for comments on the proposed rule from any interested
18 person and the date by which written comments must be received; and

19 4. The manner in which interested persons may submit notice to the
20 commission of their intention to attend the public hearing or provide
21 any written comments.

22 H. Prior to adoption of a proposed rule, the commission shall allow
23 persons to submit written data, facts, opinions, and arguments, which
24 shall be made available to the public.

25 I. If the hearing is to be held via electronic means, the commission
26 shall publish the mechanism for access to the electronic hearing.

27 1. All persons wishing to be heard at the hearing shall as directed in
28 the notice of proposed rulemaking, not less than five (5) business days
29 before the scheduled date of the hearing, notify the commission of their
30 desire to appear and testify at the hearing.

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

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

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

41 J. Following the public hearing the commission shall consider all
42 written and oral comments timely received.

43 K. The commission shall, by majority vote of all delegates, take final
44 action on the proposed rule and shall determine the effective date of
45 the rule, if adopted, based on the rulemaking record and the full text
46 of the rule.

47 1. If adopted, the rule shall be posted on the commission's website.

48 2. The commission may adopt changes to the proposed rule provided the
49 changes do not enlarge the original purpose of the proposed rule.

50 3. The commission shall provide on its website an explanation of the
51 reasons for substantive changes made to the proposed rule as well as
52 reasons for substantive changes not made that were recommended by
53 commenters.

54 4. The commission shall determine a reasonable effective date for the
55 rule. Except for an emergency as provided in subsection L, the effective

1 date of the rule shall be no sooner than thirty (30) days after the
2 commission issued the notice that it adopted the rule.

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

- 11 1. Meet an imminent threat to public health, safety, or welfare;
- 12 2. Prevent a loss of commission or participating state funds;
- 13 3. Meet a deadline for the promulgation of a commission rule that is
14 established by federal law or rule; or
- 15 4. Protect public health and safety.

16 M. The commission or an authorized committee of the commission may
17 direct revisions to a previously adopted commission rule for purposes of
18 correcting typographical errors, errors in format, errors in consisten-
19 cy, or grammatical errors. Public notice of any revisions shall be post-
20 ed on the website of the commission. The revision shall be subject to
21 challenge by any person for a period of thirty (30) days after posting.
22 The revision may be challenged only on grounds that the revision results
23 in a material change to a rule. A challenge shall be made as set forth
24 in the notice of revisions and delivered to the commission prior to the
25 end of the notice period. If no challenge is made, the revision will
26 take effect without further action. If the revision is challenged, the
27 revision may not take effect without the approval of the commission.

28 N. No participating state's rulemaking requirements shall apply under
29 this compact.

30 Section 10. Oversight, dispute resolution, and enforcement.

31 A. Oversight:

32 1. The executive and judicial branches of state government in each
33 participating state shall enforce this compact and take all actions
34 necessary and appropriate to implement the compact.

35 2. Venue is proper and judicial proceedings by or against the commis-
36 sion shall be brought solely and exclusively in a court of competent
37 jurisdiction where the principal office of the commission is located.
38 The commission may waive venue and jurisdictional defenses to the extent
39 it adopts or consents to participate in alternative dispute resolution
40 proceedings. Nothing herein shall affect or limit the selection or
41 propriety of venue in any action against a licensee for professional
42 malpractice, misconduct or any such similar matter.

43 3. The commission shall be entitled to receive service of process in
44 any proceeding regarding the enforcement or interpretation of the
45 compact or the commission's rules and shall have standing to intervene
46 in such a proceeding for all purposes. Failure to provide the commission
47 with service of process shall render a judgment or order in such
48 proceeding void as to the commission, this compact, or commission rules.

49 B. Default, technical assistance, and termination:

50 1. If the commission determines that a participating state has
51 defaulted in the performance of its obligations or responsibilities
52 under this compact or the commission rules, the commission shall provide
53 written notice to the defaulting state and other participating states.
54 The notice shall describe the default, the proposed means of curing the
55 default and any other action that the commission may take and shall

1 offer remedial training and specific technical assistance regarding the
2 default.

3 2. If a state in default fails to cure the default, the defaulting
4 state may be terminated from this compact upon an affirmative vote of a
5 majority of the delegates of the participating states, and all rights,
6 privileges and benefits conferred by this compact upon such state may be
7 terminated on the effective date of termination. A cure of the default
8 does not relieve the offending state of obligations or liabilities
9 incurred during the period of default.

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

16 4. A state that has been terminated is responsible for all assess-
17 ments, obligations, and liabilities incurred through the effective date
18 of termination, including obligations that extend beyond the effective
19 date of termination.

20 5. The commission shall not bear any costs related to a state that is
21 found to be in default or that has been terminated from this compact,
22 unless agreed upon in writing between the commission and the defaulting
23 state.

24 6. The defaulting state may appeal its termination from the compact by
25 the commission by petitioning the United States District Court for the
26 District of Columbia or the federal district where the commission has
27 its principal offices. The prevailing member shall be awarded all costs
28 of such litigation, including reasonable attorney's fees.

29 7. Upon the termination of a state's participation in the compact, the
30 state shall immediately provide notice to all licensees within that
31 state of such termination:

32 a. Licensees who have been granted a compact privilege in that state
33 shall retain the compact privilege for one hundred eighty (180) days
34 following the effective date of such termination.

35 b. Licensees who are licensed in that state who have been granted a
36 compact privilege in a participating state shall retain the compact
37 privilege for one hundred eighty (180) days unless the licensee also has
38 a qualifying license in a participating state or obtains a qualifying
39 license in a participating state before the one hundred eighty (180)-day
40 period ends, in which case the compact privilege shall continue.

41 C. Dispute resolution:

42 1. Upon request by a participating state, the commission shall attempt
43 to resolve disputes related to this compact that arise among participat-
44 ing states and between participating and non-participating states.

45 2. The commission shall promulgate a Rule providing for both mediation
46 and binding dispute resolution for disputes as appropriate.

47 D. Enforcement:

48 1. The commission, in the reasonable exercise of its discretion, shall
49 enforce the provisions of this compact and rules of the commission.

50 2. If compliance is not secured after all means to secure compliance
51 have been exhausted, by majority vote, the commission may initiate legal
52 action in the United States District Court for the District of Columbia
53 or the federal district where the commission has its principal offices,
54 against a participating state in default to enforce compliance with the
55 provisions of this compact and the commission's promulgated rules and
56 bylaws. The relief sought may include both injunctive relief and

1 damages. In the event judicial enforcement is necessary, the prevailing
2 party shall be awarded all costs of such litigation, including reason-
3 able attorney's fees.

4 3. The remedies herein shall not be the exclusive remedies of the
5 commission. The commission may pursue any other remedies available under
6 federal or state law.

7 E. Legal action against the commission:

8 1. A participating state may initiate legal action against the commis-
9 sion in the United States District Court for the District of Columbia or
10 the federal district where the commission has its principal offices to
11 enforce compliance with the provisions of the compact and its rules. The
12 relief sought may include both injunctive relief and damages. In the
13 event judicial enforcement is necessary, the prevailing party shall be
14 awarded all costs of such litigation, including reasonable attorney's
15 fees.

16 2. No person other than a participating state shall enforce this
17 compact against the commission.

18 Section 11. Date of implementation of the PA licensure compact commis-
19 sion.

20 A. This compact shall come into effect on the date on which this
21 compact statute is enacted into law in the seventh participating state.

22 1. On or after the effective date of the compact, the commission shall
23 convene and review the enactment of each of the states that enacted the
24 compact prior to the commission convening ("charter participating
25 states") to determine if the statute enacted by each such charter
26 participating state is materially different than the model compact.

27 a. A charter participating state whose enactment is found to be mate-
28 rially different from the model compact shall be entitled to the default
29 process set forth in section 10.B.

30 b. If any participating state later withdraws from the compact or its
31 participation is terminated, the commission shall remain in existence
32 and the compact shall remain in effect even if the number of participat-
33 ing states should be less than seven. Participating states enacting the
34 compact subsequent to the commission convening shall be subject to the
35 process set forth in section 7.C.21 to determine if their enactments are
36 materially different from the model compact and whether they qualify for
37 participation in the compact.

38 2. Participating states enacting the compact subsequent to the seven
39 initial charter participating states shall be subject to the process set
40 forth in section 7.C.21 to determine if their enactments are materially
41 different from the model compact and whether they qualify for partic-
42 ipation in the compact.

43 3. All actions taken for the benefit of the commission or in further-
44 ance of the purposes of the administration of the compact prior to the
45 effective date of the compact or the commission coming into existence
46 shall be considered to be actions of the commission unless specifically
47 repudiated by the commission.

48 B. Any state that joins this compact shall be subject to the commis-
49 sion's rules and bylaws as they exist on the date on which this compact
50 becomes law in that state. Any rule that has been previously adopted by
51 the commission shall have the full force and effect of law on the day
52 this compact becomes law in that state.

53 C. Any participating state may withdraw from this compact by enacting
54 a statute repealing the same.

55 1. A participating state's withdrawal shall not take effect until one
56 hundred eighty (180) days after enactment of the repealing statute.

1 during this one hundred eighty (180)-day period, all compact privileges
2 that were in effect in the withdrawing state and were granted to licen-
3 sees licensed in the withdrawing state shall remain in effect. If any
4 licensee licensed in the withdrawing state is also licensed in another
5 participating state or obtains a license in another participating state
6 within the one hundred eighty (180) days, the licensee's compact privi-
7 leges in other participating states shall not be affected by the passage
8 of the one hundred eighty (180) days.

9 2. Withdrawal shall not affect the continuing requirement of the state
10 licensing board(s) of the withdrawing state to comply with the investi-
11 gative, and adverse action reporting requirements of this compact prior
12 to the effective date of withdrawal.

13 3. Upon the enactment of a statute withdrawing a state from this
14 compact, the state shall immediately provide notice of such withdrawal
15 to all licensees within that state. Such withdrawing state shall contin-
16 ue to recognize all licenses granted pursuant to this compact for a
17 minimum of one hundred eighty (180) days after the date of such notice
18 of withdrawal.

19 D. Nothing contained in this compact shall be construed to invalidate
20 or prevent any PA licensure agreement or other cooperative arrangement
21 between participating states and between a participating state and non-
22 participating state that does not conflict with the provisions of this
23 compact.

24 E. This compact may be amended by the participating states. No amend-
25 ment to this compact shall become effective and binding upon any partic-
26 ipating state until it is enacted materially in the same manner into the
27 laws of all participating states as determined by the commission.

28 Section 12. Construction and severability.

29 A. This compact and the commission's rulemaking authority shall be
30 liberally construed so as to effectuate the purposes, and the implemen-
31 tation and administration of the compact. Provisions of the compact
32 expressly authorizing or requiring the promulgation of rules shall not
33 be construed to limit the commission's rulemaking authority solely for
34 those purposes.

35 B. The provisions of this compact shall be severable and if any
36 phrase, clause, sentence or provision of this compact is held by a court
37 of competent jurisdiction to be contrary to the constitution of any
38 participating state, a state seeking participation in the compact, or of
39 the United States, or the applicability thereof to any government, agen-
40 cy, person or circumstance is held to be unconstitutional by a court of
41 competent jurisdiction, the validity of the remainder of this compact
42 and the applicability thereof to any other government, agency, person or
43 circumstance shall not be affected thereby.

44 C. Notwithstanding subsection B or this section, the commission may
45 deny a state's participation in the compact or, in accordance with the
46 requirements of section 10.B, terminate a participating state's partic-
47 ipation in the compact, if it determines that a constitutional require-
48 ment of a participating state is, or would be with respect to a state
49 seeking to participate in the compact, a material departure from the
50 compact. Otherwise, if this compact shall be held to be contrary to the
51 constitution of any participating state, the compact shall remain in
52 full force and effect as to the remaining participating states and in
53 full force and effect as to the participating state affected as to all
54 severable matters.

55 Section 13. Binding effect of compact.

1 A. Nothing herein prevents the enforcement of any other law of a
2 participating state that is not inconsistent with this compact.

3 B. Any laws in a participating state in conflict with this compact are
4 superseded to the extent of the conflict.

5 C. All agreements between the commission and the participating states
6 are binding in accordance with their terms.

7 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
8 sion, section or part of this act shall be adjudged by any court of
9 competent jurisdiction to be invalid, such judgment shall not affect,
10 impair, or invalidate the remainder thereof, but shall be confined in
11 its operation to the clause, sentence, paragraph, subdivision, section
12 or part thereof directly involved in the controversy in which such judg-
13 ment shall have been rendered. It is hereby declared to be the intent of
14 the legislature that this act would have been enacted even if such
15 invalid provisions had not been included herein.

16 § 3. This act shall take effect immediately.