



2026 South Dakota Legislature

House Bill 1146**HOUSE HEALTH AND HUMAN SERVICES ENGROSSED**

Introduced by: **Representative** Rehfeldt

1 **An Act to adopt the physician assistant licensure compact.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

4 PHYSICIAN ASSISTANT LICENSURE COMPACT

5 Section 1. Purpose

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

22 Section 2. Definitions

23 In this Compact:

24 A. "Adverse Action" means any administrative, civil, equitable, or criminal action
25 permitted by a State's laws which is imposed by a Licensing Board or other
26 authority against a PA License or License application or Compact Privilege such as

- 1 License denial, censure, revocation, suspension, probation, monitoring of the
2 Licensee, or restriction on the Licensee's practice.
- 3 B. "Compact Privilege" means the authorization granted by a Remote State to allow
4 a Licensee from another Participating State to practice as a PA to provide Medical
5 Services and other licensed activity to a patient located in the Remote State under
6 the Remote State's laws and regulations.
- 7 C. "Conviction" means a finding by a court that an individual is guilty of a felony or
8 misdemeanor offense through adjudication or entry of a plea of guilt or no contest
9 to the charge by the offender.
- 10 D. "Criminal Background Check" means the submission of fingerprints or other
11 biometric-based information for a License applicant for the purpose of obtaining
12 that applicant's criminal history record information, as defined in 28 C.F.R.
13 § 20.3(d), from the State's criminal history record repository as defined in 28
14 C.F.R. § 20.3(f).
- 15 E. "Data System" means the repository of information about Licensees, including but
16 not limited to License status and Adverse Actions, which is created and
17 administered under the terms of this Compact.
- 18 F. "Executive Committee" means a group of directors and ex-officio individuals
19 elected or appointed pursuant to Section 7.F.2.
- 20 G. "Impaired Practitioner" means a PA whose practice is adversely affected by health-
21 related condition(s) that impact the PA's ability to practice.
- 22 H. "Investigative Information" means information, records, or documents received or
23 generated by a Licensing Board pursuant to an investigation.
- 24 I. "Jurisprudence Requirement" means the assessment of an individual's knowledge
25 of the laws and Rules governing the practice of a PA in a State.
- 26 J. "License" means current authorization by a State, other than authorization
27 pursuant to a Compact Privilege, for a PA to provide Medical Services, which would
28 be unlawful without current authorization.
- 29 K. "Licensee" means an individual who holds a License from a State to provide Medical
30 Services as a PA.
- 31 L. "Licensing Board" means any State entity authorized to license and otherwise
32 regulate PAs.
- 33 M. "Medical Services" means health care services provided for the diagnosis,
34 prevention, treatment, cure, or relief of a health condition, injury, or disease, as
35 defined by a State's laws and regulations.

- 1 N. "Model Compact" means the model for the PA Licensure Compact on file with The
2 Council of State Governments or other entity as designated by the Commission.
- 3 O. "Participating State" means a State that has enacted this Compact.
- 4 P. "PA" means an individual who is licensed as a physician assistant in a State. For
5 purposes of this Compact, any other title or status adopted by a State to replace
6 the term "physician assistant" shall be deemed synonymous with "physician
7 assistant" and shall confer the same rights and responsibilities to the Licensee
8 under the provisions of this Compact at the time of its enactment.
- 9 Q. "PA Licensure Compact Commission" "Compact Commission," or "Commission"
10 mean the national administrative body created pursuant to Section 7.A of this
11 Compact.
- 12 R. "Qualifying License" means an unrestricted License issued by a Participating State
13 to provide Medical Services as a PA.
- 14 S. "Remote State" means a Participating State where a Licensee who is not licensed
15 as a PA is exercising or seeking to exercise the Compact Privilege.
- 16 T. "Rule" means a regulation promulgated by an entity that has the force and effect
17 of law.
- 18 U. "Significant Investigative Information" means Investigative Information that a
19 Licensing Board, after an inquiry or investigation that includes notification and an
20 opportunity for the PA to respond if required by State law, has reason to believe is
21 not groundless and, if proven true, would indicate more than a minor infraction.
- 22 V. "State" means any state, commonwealth, district, or territory of the United States.

Section 3. State Participation in this Compact

- 24 A. To participate in this Compact, a Participating State shall:
- 25 1. License PAs.
 - 26 2. Participate in the Compact Commission's Data System.
 - 27 3. Have a mechanism in place for receiving and investigating complaints
28 against Licensees and License applicants.
 - 29 4. Notify the Commission, in compliance with the terms of this Compact and
30 Commission Rules, of any Adverse Action against a Licensee or License
31 applicant and the existence of Significant Investigative Information
32 regarding a Licensee or License applicant.
 - 33 5. Fully implement a Criminal Background Check requirement, within a time
34 frame established by Commission Rule, by its Licensing Board receiving the

1 results of a Criminal Background Check and reporting to the Commission
2 whether the License applicant has been granted a License.

3 6. Comply with the Rules of the Compact Commission.

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

6 8. Grant the Compact Privilege to a holder of a Qualifying License in a
7 Participating State.

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

10 Section 4. Compact Privilege

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

12 1. Have graduated from a PA program accredited by the Accreditation Review
13 Commission on Education for the Physician Assistant, Inc. or other
14 programs authorized by Commission Rule.

15 2. Hold current NCCPA certification.

16 3. Have no felony or misdemeanor conviction.

17 4. Have never had a controlled substance license, permit, or registration
18 suspended or revoked by a State or by the United States Drug Enforcement
19 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 any
23 License currently held due to an Adverse Action.

24 8. Notify the Compact Commission that the Licensee is seeking the Compact
25 Privilege in a Remote State.

26 9. Meet any Jurisprudence Requirement of a Remote State in which the
27 Licensee is seeking to practice under the Compact Privilege and pay any
28 fees applicable to satisfying the Jurisprudence Requirement.

29 10. Report to the Commission any Adverse Action taken by a non-participating
30 State within thirty days after the action is taken.

31 B. If a Licensee has had a limitation or restriction on a License or Compact Privilege
32 due to an Adverse Action, two years must have elapsed from the date on which
33 the License or Compact Privilege is no longer limited or restricted due to the
34 Adverse Action.

- 1 C. If a Compact Privilege has been revoked or is limited or restricted in a Participating
2 State for conduct that would not be a basis for disciplinary action in a Participating
3 State in which the Licensee is practicing or applying to practice under a Compact
4 Privilege, that Participating State shall have the discretion not to consider such
5 action as an Adverse Action requiring the denial or removal of a Compact Privilege
6 in that State.
- 7 D. The Compact Privilege is valid until the expiration or revocation of the Qualifying
8 License unless terminated pursuant to an Adverse Action. The Licensee must also
9 comply with all of the requirements of subsection A above to maintain the Compact
10 Privilege in a Remote State. If the Participating State takes Adverse Action against
11 a Qualifying License, the Licensee shall lose the Compact Privilege in any Remote
12 State in which the Licensee has a Compact Privilege until all of the following occur:
13 1. The License is no longer limited or restricted; and
14 2. Two years have elapsed from the date on which the License is no longer
15 limited or restricted due to the Adverse Action.
- 16 E. Once a restricted or limited License satisfies the requirements of subsection D.1
17 and 2, the Licensee must meet the requirements of subsections A, B, and C to
18 obtain a Compact Privilege in any Remote State.
- 19 F. For each Remote State in which a PA seeks authority to prescribe controlled
20 substances, the PA shall satisfy all requirements imposed by such State in granting
21 or renewing such authority.

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

- 24 A. Upon a Licensee's application for a Compact Privilege, the Licensee shall identify
25 to the Commission the Participating State from which the Licensee is applying, in
26 accordance with applicable Rules adopted by the Commission, and subject to the
27 following requirements:
- 28 1. When applying for a Compact Privilege, the Licensee shall provide the
29 Commission with the address of the Licensee's primary residence and
30 thereafter shall immediately report to the Commission any change in the
31 address of the Licensee's primary residence.
- 32 2. When applying for a Compact Privilege, the Licensee is required to consent
33 to accept service of process by mail at the Licensee's primary residence on
34 file with the Commission with respect to any action brought against the
35 Licensee by the Commission or a Participating State, including a subpoena,

1 with respect to any action brought or investigation conducted by the
2 Commission or a Participating State.

3 Section 6. Adverse Actions

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

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

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

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

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

28 4. Nothing in this Compact authorizes a Participating State to impose discipline
29 against a PA's Compact Privilege or to deny an application for a Compact
30 Privilege in that Participating State for the individual's otherwise lawful
31 practice in another State.

32 C. For purposes of taking Adverse Action, the Participating State which issued the
33 Qualifying License shall give the same priority and effect to reported conduct
34 received from any other Participating State as it would if the conduct had occurred

1 within the Participating State which issued the Qualifying License. In so doing, that
2 Participating State shall apply its own State laws to determine appropriate action.

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

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

9 F. Joint Investigations

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

14 2. Participating States shall share any investigative, litigation, or compliance
15 materials in furtherance of any joint or individual investigation initiated
16 under this Compact.

17 G. If an Adverse Action is taken against a PA's Qualifying License, the PA's Compact
18 Privilege in all Remote States shall be deactivated until two years have elapsed
19 after all restrictions have been removed from the State License. All disciplinary
20 orders by the Participating State which issued the Qualifying License that impose
21 Adverse Action against a PA's License shall include a Statement that the PA's
22 Compact Privilege is deactivated in all Participating States during the pendency of
23 the order.

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

26 Section 7. Establishment of the PA Licensure Compact Commission

27 A. The Participating States hereby create and establish a joint government agency
28 and national administrative body known as the PA Licensure Compact Commission.
29 The Commission is an instrumentality of the Compact States acting jointly and not
30 an instrumentality of any one State. The Commission shall come into existence on
31 or after the effective date of the Compact as set forth in Section 11.A.

32 B. Membership, Voting, and Meetings

33 1. Each Participating State shall have and be limited to one delegate selected
34 by that Participating State's Licensing Board or, if the State has more than

- 1 one Licensing Board, selected collectively by the Participating State's
2 Licensing Boards.
- 3 2. The delegate shall be either:
- 4 a. A current PA, physician, or public member of a Licensing Board or
5 PA Council/Committee; or
- 6 b. An administrator of a Licensing Board.
- 7 3. Any delegate may be removed or suspended from office as provided by the
8 laws of the State from which the delegate is appointed.
- 9 4. The Participating State Licensing Board shall fill any vacancy occurring in
10 the Commission within sixty days.
- 11 5. Each delegate shall be entitled to one vote on all matters voted on by the
12 Commission and shall otherwise have an opportunity to participate in the
13 business and affairs of the Commission. A delegate shall vote in person or
14 by such other means as provided in the bylaws. The bylaws may provide
15 for delegates' participation in meetings by telecommunications, video
16 conference, or other means of communication.
- 17 6. The Commission shall meet at least once during each calendar year.
18 Additional meetings shall be held as set forth in this Compact and the
19 bylaws.
- 20 7. The Commission shall establish by Rule a term of office for delegates.
- 21 C. The Commission shall have the following powers and duties:
- 22 1. Establish a code of ethics for the Commission;
- 23 2. Establish the fiscal year of the Commission;
- 24 3. Establish fees;
- 25 4. Establish bylaws;
- 26 5. Maintain its financial records in accordance with the bylaws;
- 27 6. Meet and take such actions as are consistent with the provisions of this
28 Compact and the bylaws;
- 29 7. Promulgate Rules to facilitate and coordinate implementation and
30 administration of this Compact. The Rules shall have the force and effect of
31 law and shall be binding in all Participating States;
- 32 8. Bring and prosecute legal proceedings or actions in the name of the
33 Commission, provided that the standing of any State Licensing Board to sue
34 or be sued under applicable law shall not be affected;
- 35 9. Purchase and maintain insurance and bonds;

10. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Participating State;
11. Hire employees and engage contractors, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
12. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and receive, utilize and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;
13. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;
14. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
15. Establish a budget and make expenditures;
16. Borrow money;
17. Appoint committees, including standing committees composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;
18. Provide and receive information from, and cooperate with, law enforcement agencies;
19. Elect a Chair, Vice Chair, Secretary, and Treasurer and such other officers of the Commission as provided in the Commission's bylaws;
20. Reserve for itself, in addition to those reserved exclusively to the Commission under the Compact, powers that the Executive Committee may not exercise;
21. Approve or disapprove a State's participation in the Compact based upon its determination as to whether the State's Compact legislation departs in a material manner from the Model Compact language;
22. Prepare and provide to the Participating States an annual report; and

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

4 D. Meetings of the Commission

5 1. All meetings of the Commission that are not closed pursuant to this
6 subsection shall be open to the public. Notice of public meetings shall be
7 posted on the Commission's website at least thirty days prior to the public
8 meeting.

9 2. Notwithstanding subsection D.1 of this section, the Commission may
10 convene a public meeting by providing at least twenty-four hours prior
11 notice on the Commission's website, and any other means as provided in
12 the Commission's Rules, for any of the reasons it may dispense with notice
13 of proposed rulemaking under Section 9.L.

14 3. The Commission may convene in a closed, non-public meeting or nonpublic
15 part of a public meeting to receive legal advice or to discuss:

16 a. Non-compliance of a Participating State with its obligations under
17 this Compact;

18 b. The employment, compensation, discipline, or other matters,
19 practices, or procedures related to specific employees, or other
20 matters related to the Commission's internal personnel practices and
21 procedures;

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

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

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

26 f. Disclosure of trade secrets or commercial or financial information
27 that is privileged or confidential;

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

30 h. Disclosure of investigative records compiled for law enforcement
31 purposes;

32 i. Disclosure of information related to any investigative reports
33 prepared by or on behalf of or for use of the Commission or other
34 committee charged with responsibility of investigation or
35 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 the Licensee is changing that Participating State to be the Participating State through which the Licensee applies for a Compact Privilege and pay to the Commission any Compact Privilege fee required by Commission Rule.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Participating States, except by and with the authority of the Participating State.

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

F. The Executive Committee

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

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

a. Seven voting members who are elected by the Commission from the current membership of the Commission;

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

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

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

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

5. The Executive Committee shall meet at least annually.

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

a. Recommend to the Commission changes to the Commission's Rules or bylaws, changes to this Compact legislation, fees to be paid by Compact Participating States such as annual dues, and any

- 1 Commission Compact fee charged to Licensees for the Compact
2 Privilege;
- 3 b. Ensure Compact administration services are appropriately provided,
4 contractual or otherwise;
- 5 c. Prepare and recommend the budget;
- 6 d. Maintain financial records on behalf of the Commission;
- 7 e. Monitor Compact compliance of Participating States and provide
8 compliance reports to the Commission;
- 9 f. Establish additional committees as necessary;
- 10 g. Exercise the powers and duties of the Commission during the interim
11 between Commission meetings, except for issuing proposed
12 rulemaking or adopting Commission Rules or bylaws, or exercising
13 any other powers and duties exclusively reserved to the Commission
14 by the Commission's Rules; and
- 15 h. Perform other duties as provided in the Commission's Rules or
16 bylaws.
- 17 7. All meetings of the Executive Committee at which it votes or plans to vote
18 on matters in exercising the powers and duties of the Commission shall be
19 open to the public, and public notice of such meetings shall be given as
20 public meetings of the Commission are given.
- 21 8. The Executive Committee may convene in a closed, non-public meeting for
22 the same reasons that the Commission may convene in a non-public
23 meeting as set forth in Section 7.D.3 and shall announce the closed meeting
24 as the Commission is required to under Section 7.D.4 and keep minutes of
25 the closed meeting as the Commission is required to under Section 7.D.5.
- 26 G. Qualified Immunity, Defense, and Indemnification
- 27 1. The members, officers, executive director, employees, and representatives
28 of the Commission shall be immune from suit and liability, both personally
29 and in their official capacities, for any claim for damage to or loss of property
30 or personal injury or other civil liability caused by or arising out of any actual
31 or alleged act, error, or omission that occurred, or that the person against
32 whom the claim is made had a reasonable basis for believing occurred within
33 the scope of Commission employment, duties or responsibilities; provided
34 that nothing in this paragraph shall be construed to protect any such person
35 from suit or liability for any damage, loss, injury, or liability caused by the

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

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

24 4. Venue is proper and judicial proceedings by or against the Commission shall
25 be brought solely and exclusively in a court of competent jurisdiction where
26 the principal office of the Commission is located. The Commission may
27 waive venue and jurisdictional defenses in any proceedings as authorized
28 by Commission Rules.

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

32 6. Nothing herein shall be construed to designate the venue or jurisdiction to
33 bring actions for alleged acts of malpractice, professional misconduct,
34 negligence, or other such civil action pertaining to the practice of a PA. All

1 such matters shall be determined exclusively by State law other than this
2 Compact.

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

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

10 Section 8. Data System

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

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

19 1. Identifying information;

20 2. Licensure data;

21 3. Adverse Actions against a License or Compact Privilege;

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

25 5. The existence of Significant Investigative Information; and

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

28 C. Significant Investigative Information pertaining to a Licensee in any Participating
29 State shall only be available to other Participating States.

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

34 E. Participating States contributing information to the Data System may, in
35 accordance with State or federal law, designate information that may not be shared

1 with the public without the express permission of the contributing State.
2 Notwithstanding any such designation, such information shall be reported to the
3 Commission through the Data System.

4 F. Any information submitted to the Data System that is subsequently expunged
5 pursuant to federal law or the laws of the Participating State contributing the
6 information shall be removed from the Data System upon reporting of such by the
7 Participating State to the Commission.

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

14 Section 9. Rulemaking

15 A. The Commission shall exercise its Rulemaking powers pursuant to the criteria set
16 forth in this section and the Rules adopted thereunder. Commission Rules shall
17 become binding as of the date specified by the Commission for each Rule.

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

25 C. The Rules of the Commission shall have the force of law in each Participating State,
26 provided however that where the Rules of the Commission conflict with the laws of
27 the Participating State that establish the medical services a PA may perform in the
28 Participating State, as held by a court of competent jurisdiction, the Rules of the
29 Commission shall be ineffective in that State to the extent of the conflict.

30 D. If a majority of the legislatures of the Participating States rejects a Commission
31 Rule, by enactment of a statute or resolution in the same manner used to adopt
32 this Compact within four years of the date of adoption of the Rule, then such Rule
33 shall have no further force and effect in any Participating State or to any State
34 applying to participate in the Compact.

- 1 E. Commission Rules shall be adopted at a regular or special meeting of the
2 Commission.
- 3 F. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and
4 at least thirty days in advance of the meeting at which the Rule will be considered
5 and voted upon, the Commission shall file a Notice of Proposed Rulemaking:
6 1. On the website of the Commission or other publicly accessible platform; and
7 2. To persons who have requested notice of the Commission's notices of
8 proposed rulemaking; and
9 3. In such other way(s) as the Commission may by Rule specify.
- 10 G. The Notice of Proposed Rulemaking shall include:
11 1. The time, date, and location of the public hearing on the proposed Rule and
12 the proposed time, date, and location of the meeting in which the proposed
13 Rule will be considered and voted upon;
14 2. The text of the proposed Rule and the reason for the proposed Rule;
15 3. A request for comments on the proposed Rule from any interested person
16 and the date by which written comments must be received; and
17 4. The manner in which interested persons may submit notice to the
18 Commission of their intention to attend the public hearing or provide any
19 written comments.
- 20 H. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit
21 written data, facts, opinions, and arguments, which shall be made available to the
22 public.
- 23 I. If the hearing is to be held via electronic means, the Commission shall publish the
24 mechanism for access to the electronic hearing.
25 1. All persons wishing to be heard at the hearing shall as directed in the Notice
26 of Proposed Rulemaking, not less than five business days before the
27 scheduled date of the hearing, notify the Commission of their desire to
28 appear and testify at the hearing.
29 2. Hearings shall be conducted in a manner providing each person who wishes
30 to comment a fair and reasonable opportunity to comment orally or in
31 writing.
32 3. All hearings shall be recorded. A copy of the recording and the written
33 comments, data, facts, opinions, and arguments received in response to the
34 proposed rulemaking shall be made available to a person upon request.

- 1 4. Nothing in this section shall be construed as requiring a separate hearing
2 on each proposed Rule. Proposed Rules may be grouped for the convenience
3 of the Commission at hearings required by this section.
- 4 J. Following the public hearing, the Commission shall consider all written and oral
5 comments timely received.
- 6 K. The Commission shall, by majority vote of all delegates, take final action on the
7 proposed Rule and shall determine the effective date of the Rule, if adopted, based
8 on the Rulemaking record and the full text of the Rule.
- 9 1. If adopted, the Rule shall be posted on the Commission's website.
- 10 2. The Commission may adopt changes to the proposed Rule provided the
11 changes do not enlarge the original purpose of the proposed Rule.
- 12 3. The Commission shall provide on its website an explanation of the reasons
13 for substantive changes made to the proposed Rule as well as reasons for
14 substantive changes not made that were recommended by commenters.
- 15 4. The Commission shall determine a reasonable effective date for the Rule.
16 Except for an emergency as provided in subsection L, the effective date of
17 the Rule shall be no sooner than thirty days after the Commission issued
18 the notice that it adopted the Rule.
- 19 L. Upon determination that an emergency exists, the Commission may consider and
20 adopt an emergency Rule with twenty-four hours prior notice, without the
21 opportunity for comment or hearing, provided that the usual rulemaking
22 procedures provided in this Compact and in this section shall be retroactively
23 applied to the Rule as soon as reasonably possible, in no event later than ninety
24 days after the effective date of the Rule. For the purposes of this provision, an
25 emergency Rule is one that must be adopted immediately by the Commission in
26 order to:
- 27 1. Meet an imminent threat to public health, safety, or welfare;
28 2. Prevent a loss of Commission or Participating State funds;
29 3. Meet a deadline for the promulgation of a Commission Rule that is
30 established by federal law or Rule; or
- 31 4. Protect public health and safety.
- 32 M. The Commission or an authorized committee of the Commission may direct
33 revisions to a previously adopted Commission Rule for purposes of correcting
34 typographical errors, errors in format, errors in consistency, or grammatical errors.
35 Public notice of any revisions shall be posted on the website of the Commission.

The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made as set forth in the notice of revisions and delivered to the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

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

Section 10. Oversight, Dispute Resolution, and Enforcement

A. Oversight

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

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

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

B. Default, Technical Assistance, and Termination

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

- 1 2. If a State in default fails to cure the default, the defaulting State may be
2 terminated from this Compact upon an affirmative vote of a majority of the
3 delegates of the Participating States, and all rights, privileges and benefits
4 conferred by this Compact upon such State may be terminated on the
5 effective date of termination. A cure of the default does not relieve the
6 offending State of obligations or liabilities incurred during the period of
7 default.
- 8 3. Termination of participation in this Compact shall be imposed only after all
9 other means of securing compliance have been exhausted. Notice of intent
10 to suspend or terminate shall be given by the Commission to the governor,
11 the majority and minority leaders of the defaulting State's legislature, and
12 to the Licensing Board(s) of each of the Participating States.
- 13 4. A State that has been terminated is responsible for all assessments,
14 obligations, and liabilities incurred through the effective date of termination,
15 including obligations that extend beyond the effective date of termination.
- 16 5. The Commission shall not bear any costs related to a State that is found to
17 be in default or that has been terminated from this Compact, unless agreed
18 upon in writing between the Commission and the defaulting State.
- 19 6. The defaulting State may appeal its termination from the Compact by the
20 Commission by petitioning the United States District Court for the District
21 of Columbia or the federal district where the Commission has its principal
22 offices. The prevailing member shall be awarded all costs of such litigation,
23 including reasonable attorney's fees.
- 24 7. Upon the termination of a State's participation in the Compact, the State
25 shall immediately provide notice to all Licensees within that State of such
26 termination.
- 27 a. Licensees who have been granted a Compact Privilege in that State
28 shall retain the Compact Privilege for one hundred eighty days
29 following the effective date of such termination.
- 30 b. Licensees who are licensed in that State and who have been granted
31 a Compact Privilege in a Participating State shall retain the Compact
32 Privilege for one hundred eighty days, unless the Licensee also has
33 a Qualifying License in a Participating State or obtains a Qualifying
34 License in a Participating State before the one hundred eighty-day
35 period ends, in which case the Compact Privilege shall continue.

1 C. Dispute Resolution

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

5 2. The Commission shall promulgate a Rule providing for both mediation and
6 binding dispute resolution for disputes as appropriate.

7 D. Enforcement

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

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

19 3. The remedies herein shall not be the exclusive remedies of the Commission.
20 The Commission may pursue any other remedies available under federal or
21 State law.

22 E. Legal Action Against the Commission

23 1. A Participating State may initiate legal action against the Commission in the
24 United States District Court for the District of Columbia or the federal district
25 where the Commission has its principal offices to enforce compliance with
26 the provisions of the Compact and its Rules. The relief sought may include
27 both injunctive relief and damages. In the event judicial enforcement is
28 necessary, the prevailing party shall be awarded all costs of such litigation,
29 including reasonable attorney's fees.

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

32 Section 11. Date of Implementation of the PA Licensure Compact Commission

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

1. On or after the effective date of the Compact, the Commission shall convene and review the enactment of each of the States that enacted the Compact prior to the Commission convening ("Charter Participating States") to determine if the statute enacted by each such Charter Participating State is materially different than the Model Compact.
 - a. A Charter Participating State whose enactment is found to be materially different from the Model Compact shall be entitled to the default process set forth in Section 10.B.
 - b. If any Participating State later withdraws from the Compact or its participation is terminated, the Commission shall remain in existence and the Compact shall remain in effect even if the number of Participating States should be less than seven. Participating States enacting the Compact subsequent to the Commission convening shall be subject to the process set forth in Section 7.C.21 to determine if their enactments are materially different from the Model Compact and whether they qualify for participation in the Compact.
 2. Participating States enacting the Compact subsequent to the seven initial Charter Participating States shall be subject to the process set forth in Section 7.C.21 to determine if their enactments are materially different from the Model Compact and whether they qualify for participation in the Compact.
 3. All actions taken for the benefit of the Commission or in furtherance of the purposes of the administration of the Compact prior to the effective date of the Compact or the Commission coming into existence shall be considered to be actions of the Commission unless specifically repudiated by the Commission.
- B. Any State that joins this Compact shall be subject to the Commission's Rules and bylaws as they exist on the date on which this Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day this Compact becomes law in that State.
- C. Any Participating State may withdraw from this Compact by enacting a statute repealing the same.
1. A Participating State's withdrawal shall not take effect until one hundred eighty days after enactment of the repealing statute. During this one hundred eighty day-period, all Compact Privileges that were in effect in the

withdrawing State and were granted to Licensees licensed in the withdrawing State shall remain in effect. If any Licensee licensed in the withdrawing State is also licensed in another Participating State or obtains a license in another Participating State within the one hundred eighty days, the Licensee's Compact Privileges in other Participating States shall not be affected by the passage of the one hundred eighty days.

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

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

D. Nothing contained in this Compact shall be construed to invalidate or prevent any PA licensure agreement or other cooperative arrangement between Participating States and between a Participating State and non-Participating State that does not conflict with the provisions of this Compact.

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

Section 12. Construction and Severability

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

B. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any Participating State, a State seeking participation in the Compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Compact and

1 the applicability thereof to any other government, agency, person, or circumstance
2 shall not be affected thereby.

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

12 Section 13. Binding Effect of Compact

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

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

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