

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 823

Introduced by Blood, 3.

Read first time January 03, 2024

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to public health; to amend section 38-2001,
2 Revised Statutes Cumulative Supplement, 2022, and section 38-131,
3 Revised Statutes Supplement, 2023; to adopt the Physician Assistant
4 (PA) Licensure Compact; to change provisions relating to criminal
5 background checks under the Uniform Credentialing Act; to require
6 criminal background checks under the Medicine and Surgery Practice
7 Act as prescribed; to harmonize provisions; to provide an operative
8 date; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. This section shall be known and may be cited as the
2 Physician Assistant (PA) Licensure Compact. The State of Nebraska adopts
3 the Physician Assistant (PA) Licensure Compact in the form substantially
4 as follows:

5 SECTION 1. PURPOSE

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

26 SECTION 2. DEFINITIONS

27 In this Compact:

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

1 revocation, suspension, probation, monitoring of the Licensee, or
2 restriction on the Licensee's practice.

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

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

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

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

20 F. "Executive Committee" means a group of directors and ex officio
21 individuals elected or appointed pursuant to Section 7.F.2.

22 G. "Impaired Practitioner" means a PA whose practice is adversely
23 affected by a health-related condition that impacts the practitioner's
24 ability to practice.

25 H. "Investigative Information" means information, records, or
26 documents received or generated by a Licensing Board pursuant to an
27 investigation.

28 I. "Jurisprudence Requirement" means the assessment of an
29 individual's knowledge of the laws and Rules governing the practice of a
30 PA in a State.

31 J. "License" means current authorization by a State, other than

1 authorization pursuant to a Compact Privilege, for a PA to provide
2 Medical Services, which would be unlawful without current authorization.

3 K. "Licensee" means an individual who holds a License from a State
4 to provide Medical Services as a PA.

5 L. "Licensing Board" means any State entity authorized to license
6 and otherwise regulate PAs.

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

10 N. "Model Compact" means the model for the PA Licensure Compact on
11 file with The Council of State Governments or other entity as designated
12 by the Commission.

13 O. "Participating State" means a State that has enacted this
14 Compact.

15 P. "PA" means an individual who is licensed as a physician assistant
16 in a State. For purposes of this Compact, any other title or status
17 adopted by a State to replace the term "physician assistant" shall be
18 deemed synonymous with "physician assistant" and shall confer the same
19 rights and responsibilities to the Licensee under the provisions of this
20 Compact at the time of its enactment.

21 Q. "PA Licensure Compact Commission," "Compact Commission," or
22 "Commission" mean the national administrative body created pursuant to
23 Section 7.A of this Compact.

24 R. "Qualifying License" means an unrestricted License issued by a
25 Participating State to provide Medical Services as a PA.

26 S. "Remote State" means a Participating State where a Licensee who
27 is not licensed as a PA is exercising or seeking to exercise the Compact
28 Privilege.

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

31 U. "Significant Investigative Information" means Investigative

1 Information that a Licensing Board, after an inquiry or investigation
2 that includes notification and an opportunity for the PA to respond if
3 required by State law, has reason to believe is not groundless and, if
4 proven true, would indicate more than a minor infraction.

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

7 SECTION 3. STATE PARTICIPATION IN THIS COMPACT

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

9 1. License PAs.

10 2. Participate in the Compact Commission's Data System.

11 3. Have a mechanism in place for receiving and investigating
12 complaints against Licensees and License applicants.

13 4. Notify the Commission, in compliance with the terms of this
14 Compact and Commission Rules, of any Adverse Action against a Licensee or
15 License applicant and the existence of Significant Investigative
16 Information regarding a Licensee or License applicant.

17 5. Fully implement a Criminal Background Check requirement, within a
18 timeframe established by Commission Rule, by its Licensing Board
19 receiving the results of a Criminal Background Check and reporting to the
20 Commission whether the License applicant has been granted a License.

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

22 7. Utilize passage of a recognized national exam such as the
23 Physician Assistant National Certifying Examination (PANCE) of the
24 National Commission on Certification of Physician Assistants (NCCPA) as a
25 requirement for PA licensure.

26 8. Grant the Compact Privilege to a holder of a Qualifying License
27 in a Participating State.

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

30 SECTION 4. COMPACT PRIVILEGE

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

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

4 2. Hold current National Commission on Certification of Physician
5 Assistants (NCCPA) certification.

6 3. Have no felony or misdemeanor Conviction.

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

10 5. Have a unique identifier as determined by Commission Rule.

11 6. Hold a Qualifying License.

12 7. Have had no revocation of a License or limitation or restriction
13 on any License currently held due to an Adverse Action.

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

18 9. If a Compact Privilege has been revoked or is limited or
19 restricted in a Participating State for conduct that would not be a basis
20 for disciplinary action in a Participating State in which the Licensee is
21 practicing or applying to practice under a Compact Privilege, that
22 Participating State shall have the discretion not to consider such action
23 as an Adverse Action requiring the denial or removal of a Compact
24 Privilege in that State.

25 10. Notify the Compact Commission that the Licensee is seeking the
26 Compact Privilege in a Remote State.

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

30 12. Report to the Commission any Adverse Action taken by a non-
31 Participating State within thirty days after the action is taken.

1 B. The Compact Privilege is valid until the expiration or revocation
2 of the Qualifying License unless terminated pursuant to an Adverse
3 Action. The Licensee must also comply with all of the requirements of
4 subsection A above to maintain the Compact Privilege in a Remote State.
5 If the Participating State takes Adverse Action against a Qualifying
6 License, the Licensee shall lose the Compact Privilege in any Remote
7 State in which the Licensee has a Compact Privilege until all of the
8 following occur:

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

10 2. Two years have elapsed from the date on which the License is no
11 longer limited or restricted due to the Adverse Action.

12 C. Once a restricted or limited License satisfies the requirements
13 of subsections B.1 and 2, the Licensee must meet the requirements of
14 subsection A to obtain a Compact Privilege in any Remote State.

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

18 SECTION 5. DESIGNATION OF THE STATE FROM WHICH THE LICENSEE IS
19 APPLYING FOR A COMPACT PRIVILEGE

20 A. Upon a Licensee's application for a Compact Privilege, the
21 Licensee shall identify to the Commission the Participating State from
22 which the Licensee is applying, in accordance with applicable Rules
23 adopted by the Commission, and subject to the following requirements:

24 1. When applying for a Compact Privilege, the Licensee shall provide
25 the Commission with the address of the Licensee's primary residence and
26 thereafter shall immediately report to the Commission any change in the
27 address of the Licensee's primary residence.

28 2. When applying for a Compact Privilege, the Licensee is required
29 to consent to accept service of process by mail at the Licensee's primary
30 residence on file with the Commission with respect to any action brought
31 against the Licensee by the Commission or a Participating State,

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

3 SECTION 6. ADVERSE ACTIONS

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

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

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

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

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

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

1 individual's otherwise lawful practice in another State.

2 C. For purposes of taking Adverse Action, the Participating State
3 which issued the Qualifying License shall give the same priority and
4 effect to reported conduct received from any other Participating State as
5 it would if the conduct had occurred within the Participating State which
6 issued the Qualifying License. In so doing, that Participating State
7 shall apply its own State laws to determine appropriate action.

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

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

14 F. Joint Investigations

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

19 2. Participating States shall share any investigative, litigation,
20 or compliance materials in furtherance of any joint or individual
21 investigation initiated under this Compact.

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

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

1 SECTION 7. ESTABLISHMENT OF THE PA LICENSURE COMPACT COMMISSION

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

8 B. Membership, Voting, and Meetings

9 1. Each Participating State shall have and be limited to one
10 delegate selected by that Participating State's Licensing Board or, if
11 the State has more than one Licensing Board, selected collectively by the
12 Participating State's Licensing Boards.

13 2. The delegate shall be either:

14 a. A current PA, physician, or public member of a Licensing Board or
15 PA Council/Committee; or

16 b. An administrator of a Licensing Board.

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

19 4. The Participating State Licensing Board shall fill any vacancy
20 occurring in the Commission within sixty days.

21 5. Each delegate shall be entitled to one vote on all matters voted
22 on by the Commission and shall otherwise have an opportunity to
23 participate in the business and affairs of the Commission. A delegate
24 shall vote in person or by such other means as provided in the bylaws.
25 The bylaws may provide for delegates' participation in meetings by
26 telecommunications, videoconference, or other means of communication.

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

30 7. The Commission shall establish by Rule a term of office for
31 delegates.

- 1 C. The Commission shall have the following powers and duties:
- 2 1. Establish a code of ethics for the Commission;
- 3 2. Establish the fiscal year of the Commission;
- 4 3. Establish fees;
- 5 4. Establish bylaws;
- 6 5. Maintain its financial records in accordance with the bylaws;
- 7 6. Meet and take such actions as are consistent with the provisions
8 of this Compact and the bylaws;
- 9 7. Promulgate Rules to facilitate and coordinate implementation and
10 administration of this Compact. The Rules shall have the force and effect
11 of law and shall be binding in all Participating States;
- 12 8. Bring and prosecute legal proceedings or actions in the name of
13 the Commission, provided that the standing of any State Licensing Board
14 to sue or be sued under applicable law shall not be affected;
- 15 9. Purchase and maintain insurance and bonds;
- 16 10. Borrow, accept, or contract for services of personnel,
17 including, but not limited to, employees of a Participating State;
- 18 11. Hire employees and engage contractors, elect or appoint
19 officers, fix compensation, define duties, grant such individuals
20 appropriate authority to carry out the purposes of this Compact, and
21 establish the Commission's personnel policies and programs relating to
22 conflicts of interest, qualifications of personnel, and other related
23 personnel matters;
- 24 12. Accept any and all appropriate donations and grants of money,
25 equipment, supplies, materials, and services, and receive, utilize, and
26 dispose of the same; provided that at all times the Commission shall
27 avoid any appearance of impropriety or conflict of interest;
- 28 13. Lease, purchase, accept appropriate gifts or donations of, or
29 otherwise own, hold, improve, or use, any property, real, personal, or
30 mixed; provided that at all times the Commission shall avoid any
31 appearance of impropriety;

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

3 15. Establish a budget and make expenditures;

4 16. Borrow money;

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

9 18. Provide and receive information from, and cooperate with, law
10 enforcement agencies;

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

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

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

19 22. Prepare and provide to the Participating States an annual
20 report; and

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

24 D. Meetings of the Commission

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

29 2. Notwithstanding subsection D.1 of this section, the Commission
30 may convene a public meeting by providing at least twenty-four hours
31 prior notice on the Commission's website, and any other means as provided

1 in the Commission's Rules, for any of the reasons it may dispense with
2 notice of proposed rulemaking under Section 9.L.

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

5 a. Noncompliance of a Participating State with its obligations under
6 this Compact;

7 b. The employment, compensation, discipline, or other matters,
8 practices, or procedures related to specific employees or other matters
9 related to the Commission's internal personnel practices and procedures;

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

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

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

14 f. Disclosure of trade secrets or commercial or financial
15 information that is privileged or confidential;

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

18 h. Disclosure of investigative records compiled for law enforcement
19 purposes;

20 i. Disclosure of information related to any investigative reports
21 prepared by or on behalf of or for use of the Commission or other
22 committee charged with responsibility of investigation or determination
23 of compliance issues pursuant to this Compact;

24 j. Legal advice; or

25 k. Matters specifically exempted from disclosure by federal or
26 Participating States' statutes.

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

31 5. The Commission shall keep minutes that fully and clearly describe

1 all matters discussed in a meeting and shall provide a full and accurate
2 summary of actions taken, including a description of the views expressed.
3 All documents considered in connection with an action shall be identified
4 in such minutes. All minutes and documents of a closed meeting shall
5 remain under seal, subject to release by a majority vote of the
6 Commission or order of a court of competent jurisdiction.

7 E. Financing of the Commission

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

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

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

23 a. A Compact Privilege expires when the Licensee's Qualifying
24 License in the Participating State from which the Licensee applied for
25 the Compact Privilege expires.

26 b. If the Licensee terminates the Qualifying License through which
27 the Licensee applied for the Compact Privilege before its scheduled
28 expiration, and the Licensee has a Qualifying License in another
29 Participating State, the Licensee shall inform the Commission that it is
30 changing to that Participating State the Participating State through
31 which it applies for a Compact Privilege and pay to the Commission any

1 Compact Privilege fee required by Commission Rule.

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

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

14 F. The Executive Committee

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

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

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

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

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

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

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

29 5. The Executive Committee shall meet at least annually.

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

1 a. Recommend to the Commission changes to the Commission's Rules or
2 bylaws, changes to this Compact legislation, fees to be paid by Compact
3 Participating States such as annual dues, and any Commission Compact fee
4 charged to Licensees for the Compact Privilege;

5 b. Ensure Compact administration services are appropriately
6 provided, contractual or otherwise;

7 c. Prepare and recommend the budget;

8 d. Maintain financial records on behalf of the Commission;

9 e. Monitor Compact compliance of Participating States and provide
10 compliance reports to the Commission;

11 f. Establish additional committees as necessary;

12 g. Exercise the powers and duties of the Commission during the
13 interim between Commission meetings, except for issuing proposed
14 rulemaking or adopting Commission Rules or bylaws, or exercising any
15 other powers and duties exclusively reserved to the Commission by the
16 Commission's Rules; and

17 h. Perform other duties as provided in the Commission's Rules or
18 bylaws.

19 7. All meetings of the Executive Committee at which it votes or
20 plans to vote on matters in exercising the powers and duties of the
21 Commission shall be open to the public, and public notice of such
22 meetings shall be given as public meetings of the Commission are given.

23 8. The Executive Committee may convene in a closed, nonpublic
24 meeting for the same reasons that the Commission may convene in a
25 nonpublic meeting as set forth in Section 7.D.3 and shall announce the
26 closed meeting as the Commission is required to under Section 7.D.4 and
27 keep minutes of the closed meeting as the Commission is required to under
28 Section 7.D.5.

29 G. Qualified Immunity, Defense, and Indemnification

30 1. The members, officers, executive director, employees, and
31 representatives of the Commission shall have no greater liability than a

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

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

24 3. The Commission shall indemnify and hold harmless any member,
25 officer, executive director, employee, or representative of the
26 Commission for the amount of any settlement or judgment obtained against
27 that person arising out of any actual or alleged act, error, or omission
28 that occurred within the scope of Commission employment, duties, or
29 responsibilities, or that such person had a reasonable basis for
30 believing occurred within the scope of Commission employment, duties, or
31 responsibilities; provided that the actual or alleged act, error, or

1 omission did not result from the intentional or willful or wanton
2 misconduct of that person.

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

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

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

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

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

23 SECTION 8. DATA SYSTEM

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

29 B. Notwithstanding any other State law to the contrary, a
30 Participating State shall submit a uniform data set to the Data System on
31 all PAs to whom this Compact is applicable (utilizing a unique

1 identifier) as required by the Rules of the Commission, including:

2 1. Identifying information;

3 2. Licensure data;

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

5 4. Any denial of application for licensure, and the reason(s) for
6 such denial (excluding the reporting of any criminal history record
7 information where prohibited by law);

8 5. The existence of Significant Investigative Information; and

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

11 C. Significant Investigative Information pertaining to a Licensee in
12 any Participating State shall only be available to other Participating
13 States.

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

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

23 F. Any information submitted to the Data System that is subsequently
24 expunged pursuant to federal law or the laws of the Participating State
25 contributing the information shall be removed from the Data System upon
26 reporting of such by the Participating State to the Commission.

27 G. The records and information provided to a Participating State
28 pursuant to this Compact or through the Data System, when certified by
29 the Commission or an agent thereof, shall constitute the authenticated
30 business records of the Commission, and shall be entitled to any
31 associated hearsay exception in any relevant judicial, quasi-judicial, or

1 administrative proceedings in a Participating State.

2 SECTION 9. RULEMAKING

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

7 B. The Commission shall promulgate reasonable Rules in order to
8 effectively and efficiently implement and administer this Compact and
9 achieve its purposes. A Commission Rule shall be invalid and have no
10 force or effect only if a court of competent jurisdiction holds that the
11 Rule is invalid because the Commission exercised its rulemaking authority
12 in a manner that is beyond the scope of the purposes of this Compact, or
13 the powers granted hereunder, or based upon another applicable standard
14 of review.

15 C. The Rules of the Commission shall have the force of law in each
16 Participating State, provided however that where the Rules of the
17 Commission conflict with the laws of the Participating State that
18 establish the medical services a PA may perform in the Participating
19 State, as held by a court of competent jurisdiction, the Rules of the
20 Commission shall be ineffective in that State to the extent of the
21 conflict.

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

28 E. Commission Rules shall be adopted at a regular or special meeting
29 of the Commission.

30 F. Prior to promulgation and adoption of a final Rule or Rules by
31 the Commission, and at least thirty days in advance of the meeting at

1 which the Rule will be considered and voted upon, the Commission shall
2 file a Notice of Proposed Rulemaking:

3 1. On the website of the Commission or other publicly accessible
4 platform;

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

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

8 G. The Notice of Proposed Rulemaking shall include:

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

12 2. The text of the proposed Rule and the reason for the proposed
13 Rule;

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

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

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

22 I. If the hearing is to be held via electronic means, the Commission
23 shall publish the mechanism for access to the electronic hearing.

24 1. All persons wishing to be heard at the hearing shall as directed
25 in the Notice of Proposed Rulemaking, not less than five business days
26 before the scheduled date of the hearing, notify the Commission of their
27 desire to appear and testify at the hearing.

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

31 3. All hearings shall be recorded. A copy of the recording and the

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

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

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

9 K. The Commission shall, by majority vote of all delegates, take
10 final action on the proposed Rule and shall determine the effective date
11 of the Rule, if adopted, based on the Rulemaking record and the full text
12 of the Rule.

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

14 2. The Commission may adopt changes to the proposed Rule provided
15 the changes do not enlarge the original purpose of the proposed Rule.

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

20 4. The Commission shall determine a reasonable effective date for
21 the Rule. Except for an emergency as provided in subsection L, the
22 effective date of the Rule shall be no sooner than thirty days after the
23 Commission issued the notice that it adopted the Rule.

24 L. Upon determination that an emergency exists, the Commission may
25 consider and adopt an emergency Rule with twenty-four hours' prior
26 notice, without the opportunity for comment or hearing, provided that the
27 usual rulemaking procedures provided in this Compact and in this section
28 shall be retroactively applied to the Rule as soon as reasonably
29 possible, in no event later than ninety days after the effective date of
30 the Rule. For the purposes of this provision, an emergency Rule is one
31 that must be adopted immediately by the Commission in order to:

- 1 1. Meet an imminent threat to public health, safety, or welfare;
- 2 2. Prevent a loss of Commission or Participating State funds;
- 3 3. Meet a deadline for the promulgation of a Commission Rule that is
- 4 established by federal law or Rule; or
- 5 4. Protect public health and safety.

6 M. The Commission or an authorized committee of the Commission may
7 direct revisions to a previously adopted Commission Rule for purposes of
8 correcting typographical errors, errors in format, errors in consistency,
9 or grammatical errors. Public notice of any revisions shall be posted on
10 the website of the Commission. The revision shall be subject to challenge
11 by any person for a period of thirty days after posting. The revision may
12 be challenged only on grounds that the revision results in a material
13 change to a Rule. A challenge shall be made as set forth in the notice of
14 revisions and delivered to the Commission prior to the end of the notice
15 period. If no challenge is made, the revision will take effect without
16 further action. If the revision is challenged, the revision may not take
17 effect without the approval of the Commission.

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

20 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

21 A. Oversight

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

25 2. Venue is proper and judicial proceedings by or against the
26 Commission shall be brought solely and exclusively in a court of
27 competent jurisdiction where the principal office of the Commission is
28 located. The Commission may waive venue and jurisdictional defenses to
29 the extent it adopts or consents to participate in alternative dispute
30 resolution proceedings. Nothing herein shall affect or limit the
31 selection or propriety of venue in any action against a licensee for

1 professional malpractice, misconduct, or any such similar matter.

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

8 B. Default, Technical Assistance, and Termination

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

17 2. If a State in default fails to cure the default, the defaulting
18 State may be terminated from this Compact upon an affirmative vote of a
19 majority of the delegates of the Participating States, and all rights,
20 privileges, and benefits conferred by this Compact upon such State may be
21 terminated on the effective date of termination. A cure of the default
22 does not relieve the offending State of obligations or liabilities
23 incurred during the period of default.

24 3. Termination of participation in this Compact shall be imposed
25 only after all other means of securing compliance have been exhausted.
26 Notice of intent to suspend or terminate shall be given by the Commission
27 to the governor, the majority and minority leaders of the defaulting
28 State's legislature, and to the Licensing Board of each Participating
29 State.

30 4. A State that has been terminated is responsible for all
31 assessments, obligations, and liabilities incurred through the effective

1 date of termination, including obligations that extend beyond the
2 effective date of termination.

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

7 6. The defaulting State may appeal its termination from the Compact
8 by the Commission by petitioning the United States District Court for the
9 District of Columbia or the federal district where the Commission has its
10 principal offices. The prevailing member shall be awarded all costs of
11 such litigation, including reasonable attorney's fees.

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

15 a. Licensees who have been granted a Compact Privilege in that State
16 shall retain the Compact Privilege for one hundred eighty days following
17 the effective date of such termination.

18 b. Licensees who are licensed in that State who have been granted a
19 Compact Privilege in a Participating State shall retain the Compact
20 Privilege for one hundred eighty days unless the Licensee also has a
21 Qualifying License in a Participating State or obtains a Qualifying
22 License in a Participating State before the one-hundred-eighty-day period
23 ends, in which case the Compact Privilege shall continue.

24 C. Dispute Resolution

25 1. Upon request by a Participating State, the Commission shall
26 attempt to resolve disputes related to this Compact that arise among
27 Participating States and between Participating and non-Participating
28 States.

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

31 D. Enforcement

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

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

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

16 E. Legal Action Against the Commission

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

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

27 SECTION 11. DATE OF IMPLEMENTATION OF THE PA LICENSURE COMPACT

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

30 1. On or after the effective date of the Compact, the Commission
31 shall convene and review the enactment of each of the States that enacted

1 the Compact prior to the Commission convening ("Charter Participating
2 States") to determine if the statute enacted by each such Charter
3 Participating State is materially different than the Model Compact.

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

7 b. If any Participating State later withdraws from the Compact or
8 its participation is terminated, the Commission shall remain in existence
9 and the Compact shall remain in effect even if the number of
10 Participating States should be less than seven. Participating States
11 enacting the Compact subsequent to the Commission convening shall be
12 subject to the process set forth in Section 7.C.21 to determine if their
13 enactments are materially different from the Model Compact and whether
14 they qualify for participation in the Compact.

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

20 3. All actions taken for the benefit of the Commission or in
21 furtherance of the purposes of the administration of the Compact prior to
22 the effective date of the Compact or the Commission coming into existence
23 shall be considered to be actions of the Commission unless specifically
24 repudiated by the Commission.

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

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

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

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

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

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

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

31 SECTION 12. CONSTRUCTION AND SEVERABILITY

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

6 B. The provisions of this Compact shall be severable and if any
7 phrase, clause, sentence, or provision of this Compact is held by a court
8 of competent jurisdiction to be contrary to the constitution of any
9 Participating State, of a State seeking participation in the Compact, or
10 of the United States, or the applicability thereof to any government,
11 agency, person, or circumstance is held to be unconstitutional by a court
12 of competent jurisdiction, the validity of the remainder of this Compact
13 and the applicability thereof to any other government, agency, person, or
14 circumstance shall not be affected thereby.

15 C. Notwithstanding subsection B of this section, the Commission may
16 deny a State's participation in the Compact or, in accordance with the
17 requirements of Section 10.B, terminate a Participating State's
18 participation in the Compact, if it determines that a constitutional
19 requirement of a Participating State is, or would be with respect to a
20 State seeking to participate in the Compact, a material departure from
21 the Compact. Otherwise, if this Compact shall be held to be contrary to
22 the constitution of any Participating State, the Compact shall remain in
23 full force and effect as to the remaining Participating States and in
24 full force and effect as to the Participating State affected as to all
25 severable matters.

26 SECTION 13. BINDING EFFECT OF COMPACT

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

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

31 C. All agreements between the Commission and the Participating

1 States are binding in accordance with their terms.

2 Sec. 2. Section 38-131, Revised Statutes Supplement, 2023, is
3 amended to read:

4 38-131 (1) An applicant for an initial license to practice as a
5 registered nurse, a licensed practical nurse, a physical therapist, a
6 physical therapy assistant, a psychologist, an advanced emergency medical
7 technician, an emergency medical technician, an audiologist, a speech-
8 language pathologist, a licensed independent mental health practitioner,
9 an occupational therapist, an occupational therapy assistant, or a
10 paramedic; to practice a profession which, by statute, requires a
11 criminal background check pursuant to this section; or to practice a
12 profession which is authorized to prescribe controlled substances shall
13 be subject to a criminal background check. Except as provided in
14 subsection (4) of this section, such an applicant for an initial license
15 shall submit a full set of fingerprints to the Nebraska State Patrol for
16 a criminal history record information check. The applicant shall
17 authorize release of the results of the national criminal history record
18 information check by the Federal Bureau of Investigation to the
19 department. The applicant shall pay the actual cost of the fingerprinting
20 and criminal background check.

21 (2) The Nebraska State Patrol is authorized to submit the
22 fingerprints of such applicants to the Federal Bureau of Investigation
23 and to issue a report to the department that includes the criminal
24 history record information concerning the applicant. The Nebraska State
25 Patrol shall forward submitted fingerprints to the Federal Bureau of
26 Investigation for a national criminal history record information check.
27 The Nebraska State Patrol shall issue a report to the department that
28 includes the criminal history record information concerning the
29 applicant.

30 (3) This section shall not apply to a dentist who is an applicant
31 for a dental locum tenens under section 38-1122, to a physician or

1 osteopathic physician who is an applicant for a physician locum tenens
2 under section 38-2036, or to a veterinarian who is an applicant for a
3 veterinarian locum tenens under section 38-3335.

4 (4) An applicant for a temporary educational permit as defined in
5 section 38-2019 shall have ninety days from the issuance of the permit to
6 comply with subsection (1) of this section and shall have such permit
7 suspended after such ninety-day period if the criminal background check
8 is not complete or revoked if the criminal background check reveals that
9 the applicant was not qualified for the permit.

10 (5) The department and the Nebraska State Patrol may adopt and
11 promulgate rules and regulations concerning costs associated with the
12 fingerprinting and the national criminal history record information
13 check.

14 (6) For purposes of interpretation by the Federal Bureau of
15 Investigation, the term department in this section means the Division of
16 Public Health of the Department of Health and Human Services.

17 Sec. 3. Section 38-2001, Revised Statutes Cumulative Supplement,
18 2022, is amended to read:

19 38-2001 Sections 38-2001 to 38-2064 and sections 4 and 5 of this act
20 shall be known and may be cited as the Medicine and Surgery Practice Act.

21 Sec. 4. An applicant for licensure as a physician assistant shall
22 be subject to a criminal background check as provided in section 38-131.

23 Sec. 5. A person holding a compact privilege to practice in
24 Nebraska under the Physician Assistant (PA) Licensure Compact may act as
25 a physician assistant as authorized pursuant to such compact.

26 Sec. 6. This act becomes operative on January 1, 2025.

27 Sec. 7. Original section 38-2001, Revised Statutes Cumulative
28 Supplement, 2022, and section 38-131, Revised Statutes Supplement, 2023,
29 are repealed.