

Senate Study Bill 1052 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
HEALTH AND HUMAN SERVICES
BILL BY CHAIRPERSON
KLIMESH)

A BILL FOR

1 An Act enacting the physician assistant licensure compact.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 147J.1 Physician assistant
2 licensure compact.

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

29 2. *Definitions.* In this compact:

30 a. *"Adverse action"* means any administrative, civil,
31 equitable, or criminal action permitted by a state's laws
32 which is imposed by a licensing board or other authority
33 against a physician assistant license or license application or
34 compact privilege such as license denial, censure, revocation,
35 suspension, probation, monitoring of the licensee, or

1 restriction on the licensee's practice.

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

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

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

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

21 *f. "Executive committee"* means a group of directors and ex
22 officio individuals elected or appointed pursuant to subsection
23 7, paragraph "f", subparagraph (2).

24 *g. "Impaired practitioner"* means a physician assistant whose
25 practice is adversely affected by a health-related condition
26 that impacts the physician assistant's ability to practice.

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

30 *i. "Jurisprudence requirement"* means the assessment of an
31 individual's knowledge of the laws and rules governing the
32 practice of a physician assistant in a state.

33 *j. "License"* means current authorization by a state, other
34 than authorization pursuant to a compact privilege, for a
35 physician assistant to provide medical services, which would be

1 unlawful without current authorization.

2 *k. "Licensee"* means an individual who holds a license from a
3 state to provide medical services as a physician assistant.

4 *l. "Licensing board"* means any state entity authorized to
5 license and otherwise regulate physician assistants.

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

10 *n. "Model compact"* means the model for the physician
11 assistant licensure compact on file with the council of state
12 governments or other entity as designated by the commission.

13 *o. "Participating state"* means a state that has enacted this
14 compact.

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

22 *q. "Physician assistant licensure compact commission",*
23 *"compact commission",* or *"commission"* means the national
24 administrative body created pursuant to subsection 7, paragraph
25 *"a",* of this compact.

26 *r. "Qualifying license"* means an unrestricted license issued
27 by a participating state to provide medical services as a
28 physician assistant.

29 *s. "Remote state"* means a participating state where a
30 licensee who is not licensed as a physician assistant is
31 exercising or seeking to exercise the compact privilege.

32 *t. "Rule"* means a regulation promulgated by an entity that
33 has the force and effect of law.

34 *u. "Significant investigative information"* means
35 investigative information that a licensing board, after an

1 inquiry or investigation that includes notification and an
2 opportunity for the physician assistant to respond if required
3 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
6 territory of the United States.

7 3. *State participation in this compact.*

8 *a.* To participate in this compact, a participating state
9 shall do all of the following:

10 (1) License physician assistants.

11 (2) Participate in the compact commission's data system.

12 (3) Have a mechanism in place for receiving and
13 investigating complaints against licensees and license
14 applicants.

15 (4) Notify the commission, in compliance with the terms
16 of this compact and commission rules, of any adverse action
17 against a licensee or license applicant and the existence of
18 significant investigative information regarding a licensee or
19 license applicant.

20 (5) Fully implement a criminal background check
21 requirement, within a time frame established by commission
22 rule, by its licensing board receiving the results of a
23 criminal background check and reporting to the commission
24 whether the license applicant has been granted a license.

25 (6) Comply with the rules of the compact commission.

26 (7) Utilize passage of a recognized national exam such
27 as the NCCPA PANCE as a requirement for physician assistant
28 licensure.

29 (8) Grant the compact privilege to a holder of a qualifying
30 license in a participating state.

31 *b.* Nothing in this compact prohibits a participating state
32 from charging a fee for granting the compact privilege.

33 4. *Compact privilege.*

34 *a.* To exercise the compact privilege, a licensee must meet
35 all of the following requirements:

- 1 (1) Have graduated from a physician assistant program
2 accredited by the accreditation review commission on education
3 for the physician assistant, inc., or other programs authorized
4 by commission rule.
- 5 (2) Hold current NCCPA certification.
- 6 (3) Have no felony or misdemeanor conviction.
- 7 (4) Have never had a controlled substance license, permit,
8 or registration suspended or revoked by a state or by the
9 United States drug enforcement administration.
- 10 (5) Have a unique identifier as determined by commission
11 rule.
- 12 (6) Hold a qualifying license.
- 13 (7) Have had no revocation of a license or limitation or
14 restriction on any license currently held due to an adverse
15 action.
- 16 (8) If a licensee has had a limitation or restriction on
17 a license or compact privilege due to an adverse action, two
18 years must have elapsed from the date on which the license or
19 compact privilege is no longer limited or restricted due to the
20 adverse action.
- 21 (9) If a compact privilege has been revoked or is limited or
22 restricted in a participating state for conduct that would not
23 be a basis for disciplinary action in a participating state in
24 which the licensee is practicing or applying to practice under
25 a compact privilege, that participating state shall have the
26 discretion not to consider such action as an adverse action
27 requiring the denial or removal of a compact privilege in that
28 state.
- 29 (10) Notify the compact commission that the licensee is
30 seeking the compact privilege in a remote state.
- 31 (11) Meet any jurisprudence requirement of a remote state
32 in which the licensee is seeking to practice under the compact
33 privilege and pay any fees applicable to satisfying the
34 jurisprudence requirement.
- 35 (12) Report to the commission any adverse action taken by a

1 nonparticipating state within thirty days after the action is
2 taken.

3 **b.** The compact privilege is valid until the expiration or
4 revocation of the qualifying license unless terminated pursuant
5 to an adverse action. The licensee must also comply with all
6 of the requirements of paragraph "a" to maintain the compact
7 privilege in a remote state. If the participating state takes
8 adverse action against a qualifying license, the licensee shall
9 lose the compact privilege in any remote state in which the
10 licensee has a compact privilege until all of the following
11 occur:

12 (1) The licensee is no longer limited or restricted.

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

16 **c.** Once a restricted or limited license satisfies the
17 requirements of paragraph "b", subparagraphs (1) and (2), the
18 licensee must meet the requirements of paragraph "a" to obtain
19 a compact privilege in any remote state.

20 **d.** For each remote state in which a physician assistant
21 seeks authority to prescribe controlled substances, the
22 physician assistant shall satisfy all requirements imposed by
23 such state in granting or renewing such authority.

24 **5. Designation of the state from which licensee is applying**
25 **for a compact privilege.** Upon a licensee's application for
26 a compact privilege, the licensee shall identify to the
27 commission the participating state from which the licensee is
28 applying, in accordance with applicable rules adopted by the
29 commission, and subject to the following requirements:

30 **a.** When applying for a compact privilege, the licensee
31 shall provide the commission with the address of the licensee's
32 primary residence and thereafter shall immediately report to
33 the commission any change in the address of the licensee's
34 primary residence.

35 **b.** When applying for a compact privilege, the licensee is

1 required to consent to accept service of process by mail at
2 the licensee's primary residence on file with the commission
3 with respect to any action brought against the licensee by the
4 commission or a participating state, including a subpoena, with
5 respect to any action brought or investigation conducted by the
6 commission or a participating state.

7 6. *Adverse actions.*

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

11 b. In addition to the other powers conferred by state law,
12 a remote state shall have the authority, in accordance with
13 existing state due process law, to do all of the following:

14 (1) Take adverse action against a physician assistant's
15 compact privilege within that state to remove a licensee's
16 compact privilege or take other action necessary under
17 applicable law to protect the health and safety of its
18 citizens.

19 (2) Issue subpoenas for both hearings and investigations
20 that require the attendance and testimony of witnesses as
21 well as the production of evidence. Subpoenas issued by a
22 licensing board in a participating state for the attendance
23 and testimony of witnesses or the production of evidence from
24 another participating state shall be enforced in the latter
25 state by any court of competent jurisdiction, according to the
26 practice and procedure of that court applicable to subpoenas
27 issued in proceedings pending before it. The issuing authority
28 shall pay any witness fees, travel expenses, mileage and other
29 fees required by the service statutes of the state in which the
30 witnesses or evidence are located.

31 (3) Notwithstanding subparagraph (2), subpoenas may not be
32 issued by a participating state to gather evidence of conduct
33 in another state that is lawful in that other state for the
34 purpose of taking adverse action against a licensee's compact
35 privilege or application for a compact privilege in that

1 participating state.

2 (4) Nothing in this compact authorizes a participating
3 state to impose discipline against a physician assistant's
4 compact privilege or to deny an application for a compact
5 privilege in that participating state for the individual's
6 otherwise lawful practice in another state.

7 c. For purposes of taking adverse action, the participating
8 state which issued the qualifying license shall give the same
9 priority and effect to reported conduct received from any other
10 participating state as it would if the conduct had occurred
11 within the participating state which issued the qualifying
12 license. In so doing, that participating state shall apply its
13 own state laws to determine appropriate action.

14 d. A participating state, if otherwise permitted by state
15 law, may recover from the affected physician assistant the
16 costs of investigations and disposition of cases resulting from
17 any adverse action taken against that physician assistant.

18 e. A participating state may take adverse action based
19 on the factual findings of a remote state, provided that the
20 participating state follows its own procedures for taking the
21 adverse action.

22 f. *Joint investigations.*

23 (1) In addition to the authority granted to a participating
24 state by its respective state physician assistant laws and
25 regulations or other applicable state law, any participating
26 state may participate with other participating states in joint
27 investigations of licensees.

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

31 g. If an adverse action is taken against a physician
32 assistant's qualifying license, the physician assistant's
33 compact privilege in all remote states shall be deactivated
34 until two years have elapsed after all restrictions have been
35 removed from the state license. All disciplinary orders by the

1 participating state which issued the qualifying license that
2 impose adverse action against a physician assistant's license
3 shall include a statement that the physician assistant's
4 compact privilege is deactivated in all participating states
5 during the pendency of the order.

6 *h.* If any participating state takes adverse action, it shall
7 promptly notify the administrator of the data system.

8 7. *Establishment of the physician assistant licensure compact*
9 *commission.*

10 *a.* The participating states hereby create and establish a
11 joint government agency and national administrative body known
12 as the physician assistant licensure compact commission. The
13 commission is an instrumentality of the compact states acting
14 jointly and not an instrumentality of any one state. The
15 commission shall come into existence on or after the effective
16 date of the compact as set forth in subsection 11, paragraph
17 "a".

18 *b. Membership, voting, and meetings.*

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

24 (2) The delegate shall be one of the following:

25 (a) A current physician assistant, physician, or public
26 member of a licensing board or physician assistant council or
27 committee.

28 (b) An administrator of a licensing board.

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

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

34 (5) Each delegate shall be entitled to one vote on all
35 matters voted on by the commission and shall otherwise have an

1 opportunity to participate in the business and affairs of the
2 commission. A delegate shall vote in person or by such other
3 means as provided in the bylaws. The bylaws may provide for
4 delegates' participation in meetings by telecommunications,
5 video conference, or other means of communication.

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

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

11 c. The commission shall have the following powers and
12 duties:

13 (1) Establish a code of ethics for the commission.

14 (2) Establish the fiscal year of the commission.

15 (3) Establish fees.

16 (4) Establish bylaws.

17 (5) Maintain its financial records in accordance with the
18 bylaws.

19 (6) Meet and take such actions as are consistent with the
20 provisions of this compact and the bylaws.

21 (7) Promulgate rules to facilitate and coordinate
22 implementation and administration of this compact. The rules
23 shall have the force and effect of law and shall be binding in
24 all participating states.

25 (8) Bring and prosecute legal proceedings or actions in the
26 name of the commission, provided that the standing of any state
27 licensing board to sue or be sued under applicable law shall
28 not be affected.

29 (9) Purchase and maintain insurance and bonds.

30 (10) Borrow, accept, or contract for services of personnel,
31 including but not limited to employees of a participating
32 state.

33 (11) Hire employees and engage contractors, elect or
34 appoint officers, fix compensation, define duties, grant such
35 individuals appropriate authority to carry out the purposes of

1 this compact, and establish the commission's personnel policies
2 and programs relating to conflicts of interest, qualifications
3 of personnel, and other related personnel matters.

4 (12) Accept any and all appropriate donations and grants
5 of money, equipment, supplies, materials, and services, and
6 receive, utilize, and dispose of the same; provided that at all
7 times the commission shall avoid any appearance of impropriety
8 or conflict of interest.

9 (13) Lease, purchase, accept appropriate gifts or donations
10 of, or otherwise own, hold, improve, or use any property, real,
11 personal, or mixed; provided that at all times the commission
12 shall avoid any appearance of impropriety.

13 (14) Sell, convey, mortgage, pledge, lease, exchange,
14 abandon, or otherwise dispose of any property, real, personal,
15 or mixed.

16 (15) Establish a budget and make expenditures.

17 (16) Borrow money.

18 (17) Appoint committees, including standing committees
19 composed of members, state regulators, state legislators or
20 their representatives, and consumer representatives, and such
21 other interested persons as may be designated in this compact
22 and the bylaws.

23 (18) Provide and receive information from, and cooperate
24 with, law enforcement agencies.

25 (19) Elect a chair, vice chair, secretary, and treasurer
26 and such other officers of the commission as provided in the
27 commission's bylaws.

28 (20) Reserve for itself, in addition to those reserved
29 exclusively to the commission under the compact, powers that
30 the executive committee may not exercise.

31 (21) Approve or disapprove a state's participation in the
32 compact based upon its determination as to whether the state's
33 compact legislation departs in a material manner from the model
34 compact language.

35 (22) Prepare and provide to the participating states an

1 annual report.

2 (23) Perform such other functions as may be necessary or
3 appropriate to achieve the purposes of this compact consistent
4 with the state regulation of physician assistant licensure and
5 practice.

6 *d. Meetings of the commission.*

7 (1) All meetings of the commission that are not closed
8 pursuant to this paragraph shall be open to the public. Notice
9 of public meetings shall be posted on the commission's internet
10 site at least thirty days prior to the public meeting.

11 (2) Notwithstanding subparagraph (1), the commission may
12 convene a public meeting by providing at least twenty-four
13 hours prior notice on the commission's internet site, and any
14 other means as provided in the commission's rules, for any of
15 the reasons it may dispense with notice of proposed rulemaking
16 under subsection 9, paragraph "1".

17 (3) The commission may convene in a closed, nonpublic
18 meeting or nonpublic part of a public meeting to receive legal
19 advice or to discuss any of the following:

20 (a) Noncompliance of a participating state with its
21 obligations under this compact.

22 (b) The employment, compensation, discipline or other
23 matters, practices or procedures related to specific employees
24 or other matters related to the commission's internal personnel
25 practices and procedures.

26 (c) Current, threatened, or reasonably anticipated
27 litigation.

28 (d) Negotiation of contracts for the purchase, lease, or
29 sale of goods, services, or real estate.

30 (e) Accusing any person of a crime or formally censuring any
31 person.

32 (f) Disclosure of trade secrets or commercial or financial
33 information that is privileged or confidential.

34 (g) Disclosure of information of a personal nature where
35 disclosure would constitute a clearly unwarranted invasion of

1 personal privacy.

2 (h) Disclosure of investigative records compiled for law
3 enforcement purposes.

4 (i) Disclosure of information related to any investigative
5 reports prepared by or on behalf of or for use of the
6 commission or other committee charged with responsibility of
7 investigation or determination of compliance issues pursuant to
8 this compact.

9 (j) Legal advice.

10 (k) Matters specifically exempted from disclosure by
11 federal or participating states' statutes.

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

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

25 *e. Financing of the commission.*

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

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

32 (3) The commission may levy on and collect an annual
33 assessment from each participating state and may impose
34 compact privilege fees on licensees of participating states
35 to whom a compact privilege is granted to cover the cost of

1 the operations and activities of the commission and its staff,
2 which must be in a total amount sufficient to cover its annual
3 budget as approved by the commission each year for which
4 revenue is not provided by other sources. The aggregate annual
5 assessment amount levied on participating states shall be
6 allocated based upon a formula to be determined by commission
7 rule.

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

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

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

24 (5) The commission shall keep accurate accounts of all
25 receipts and disbursements. The receipts and disbursements
26 of the commission shall be subject to the financial review
27 and accounting procedures established under its bylaws. All
28 receipts and disbursements of funds handled by the commission
29 shall be subject to an annual financial review by a certified
30 or licensed public accountant, and the report of the financial
31 review shall be included in and become part of the annual
32 report of the commission.

33 *f. The executive committee.*

34 (1) The executive committee shall have the power to act on
35 behalf of the commission according to the terms of this compact

1 and commission rules.

2 (2) The executive committee shall be composed of nine
3 members:

4 (a) Seven voting members who are elected by the commission
5 from the current membership of the commission.

6 (b) One ex officio, nonvoting member from a recognized
7 national physician assistant professional association.

8 (c) One ex officio, nonvoting member from a recognized
9 national physician assistant certification organization.

10 (3) The ex officio members will be selected by their
11 respective organizations.

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

14 (5) The executive committee shall meet at least annually.

15 (6) The executive committee shall have the following duties
16 and responsibilities:

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

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

24 (c) Prepare and recommend the budget.

25 (d) Maintain financial records on behalf of the commission.

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

28 (f) Establish additional committees as necessary.

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

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

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

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

14 *g. Qualified immunity, defense, and indemnification.*

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

30 (2) The commission shall defend any member, officer,
31 executive director, employee, and representative of the
32 commission in any civil action seeking to impose liability
33 arising out of any actual or alleged act, error, or omission
34 that occurred within the scope of commission employment,
35 duties, or responsibilities, or as determined by the commission

1 that the person against whom the claim is made had a reasonable
2 basis for believing occurred within the scope of commission
3 employment, duties, or responsibilities; provided that nothing
4 in this subparagraph shall be construed to prohibit that
5 person from retaining counsel at the person's own expense;
6 and provided further, that the actual or alleged act, error,
7 or omission did not result from that person's intentional or
8 willful or wanton misconduct.

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

20 (4) Venue is proper and judicial proceedings by or against
21 the commission shall be brought solely and exclusively in a
22 court of competent jurisdiction where the principal office of
23 the commission is located. The commission may waive venue and
24 jurisdictional defenses in any proceedings as authorized by
25 commission rules.

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

30 (6) Nothing herein shall be construed to designate the
31 venue or jurisdiction to bring actions for alleged acts of
32 malpractice, professional misconduct, negligence, or other
33 such civil action pertaining to the practice of a physician
34 assistant. All such matters shall be determined exclusively by
35 state law other than this compact.

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

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

10 8. *Data system.*

11 *a.* The commission shall provide for the development,
12 maintenance, operation, and utilization of a coordinated data
13 and reporting system containing licensure, adverse action, and
14 the reporting of the existence of significant investigative
15 information on all licensed physician assistants and applicants
16 denied a license in participating states.

17 *b.* Notwithstanding any other state law to the contrary,
18 a participating state shall submit a uniform data set to the
19 data system on all physician assistants to whom this compact is
20 applicable, utilizing a unique identifier, as required by the
21 rules of the commission, including:

22 (1) Identifying information.

23 (2) Licensure data.

24 (3) Adverse actions against a license or compact privilege.

25 (4) Any denial of application for licensure, and the reason
26 for such denial, excluding the reporting of any criminal
27 history record information where prohibited by law.

28 (5) The existence of significant investigative information.

29 (6) Other information that may facilitate the
30 administration of this compact, as determined by the rules of
31 the commission.

32 *c.* Significant investigative information pertaining to a
33 licensee in any participating state shall only be available to
34 other participating states.

35 *d.* The commission shall promptly notify all participating

1 states of any adverse action taken against a licensee or an
2 individual applying for a license that has been reported to it.
3 This adverse action information shall be available to any other
4 participating state.

5 *e.* Participating states contributing information to the data
6 system may, in accordance with state or federal law, designate
7 information that may not be shared with the public without the
8 express permission of the contributing state. Notwithstanding
9 any such designation, such information shall be reported to the
10 commission through the data system.

11 *f.* Any information submitted to the data system that is
12 subsequently expunged pursuant to federal law or the laws of
13 the participating state contributing the information shall be
14 removed from the data system upon reporting of such by the
15 participating state to the commission.

16 *g.* The records and information provided to a participating
17 state pursuant to this compact or through the data system,
18 when certified by the commission or an agent thereof,
19 shall constitute the authenticated business records of the
20 commission, and shall be entitled to any associated hearsay
21 exception in any relevant judicial, quasi-judicial, or
22 administrative proceedings in a participating state.

23 9. *Rulemaking.*

24 *a.* The commission shall exercise its rulemaking powers
25 pursuant to the criteria set forth in this subsection and
26 the rules adopted thereunder. Commission rules shall become
27 binding as of the date specified by the commission for each
28 rule.

29 *b.* The commission shall promulgate reasonable rules in order
30 to effectively and efficiently implement and administer this
31 compact and achieve its purposes. A commission rule shall
32 be invalid and not have force or effect only if a court of
33 competent jurisdiction holds that the rule is invalid because
34 the commission exercised its rulemaking authority in a manner
35 that is beyond the scope of the purposes of this compact, or

1 the powers granted in this subsection, or based upon another
2 applicable standard of review.

3 *c.* The rules of the commission shall have the force of
4 law in each participating state, provided however that where
5 the rules of the commission conflict with the laws of the
6 participating state that establish the medical services a
7 physician assistant may perform in the participating state, as
8 held by a court of competent jurisdiction, the rules of the
9 commission shall be ineffective in that state to the extent of
10 the conflict.

11 *d.* If a majority of the legislatures of the participating
12 states rejects a commission rule by enactment of a statute or
13 resolution in the same manner used to adopt this compact within
14 four years of the date of adoption of the rule, then such rule
15 shall have no further force and effect in any participating
16 state or to any state applying to participate in the compact.

17 *e.* Commission rules shall be adopted at a regular or special
18 meeting of the commission.

19 *f.* Prior to promulgation and adoption of a final rule or
20 rules by the commission, and at least thirty days in advance
21 of the meeting at which the rule will be considered and voted
22 upon, the commission shall file a notice of proposed rulemaking
23 using all of the following methods:

24 (1) On the internet site of the commission or other publicly
25 accessible platform.

26 (2) To persons who have requested notice of the commission's
27 notices of proposed rulemaking.

28 (3) In such other ways as the commission may by rule
29 specify.

30 *g.* The notice of proposed rulemaking shall include all of
31 the following:

32 (1) The time, date, and location of the public hearing on
33 the proposed rule and the proposed time, date, and location of
34 the meeting in which the proposed rule will be considered and
35 voted upon.

1 (2) The text of the proposed rule and the reason for the
2 proposed rule.

3 (3) A request for comments on the proposed rule from any
4 interested person and the date by which written comments must
5 be received.

6 (4) The manner in which interested persons may submit notice
7 to the commission of their intention to attend the public
8 hearing or provide any written comments.

9 *h.* Prior to adoption of a proposed rule, the commission
10 shall allow persons to submit written data, facts, opinions,
11 and arguments, which shall be made available to the public.

12 *i.* If the hearing is to be held via electronic means,
13 the commission shall publish the mechanism for access to the
14 electronic hearing.

15 (1) All persons wishing to be heard at the hearing shall as
16 directed in the notice of proposed rulemaking, not less than
17 five business days before the scheduled date of the hearing,
18 notify the commission of their desire to appear and testify at
19 the hearing.

20 (2) Hearings shall be conducted in a manner providing each
21 person who wishes to comment a fair and reasonable opportunity
22 to comment orally or in writing.

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

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

31 *j.* Following the public hearing the commission shall
32 consider all written and oral comments timely received.

33 *k.* The commission shall, by majority vote of all delegates,
34 take final action on the proposed rule and shall determine the
35 effective date of the rule, if adopted, based on the rulemaking

1 record and the full text of the rule.

2 (1) If adopted, the rule shall be posted on the commission's
3 internet site.

4 (2) The commission may adopt changes to the proposed rule
5 provided the changes do not enlarge the original purpose of the
6 proposed rule.

7 (3) The commission shall provide on its internet site an
8 explanation of the reasons for substantive changes made to the
9 proposed rule as well as reasons for substantive changes not
10 made that were recommended by commenters.

11 (4) The commission shall determine a reasonable effective
12 date for the rule. Except for an emergency as provided in
13 paragraph "1", the effective date of the rule shall be no sooner
14 than thirty days after the commission issued the notice that it
15 adopted the rule.

16 1. Upon determination that an emergency exists, the
17 commission may consider and adopt an emergency rule with
18 twenty-four hours prior notice, without the opportunity
19 for comment, or hearing, provided that the usual rulemaking
20 procedures provided in this compact and in this subsection
21 shall be retroactively applied to the rule as soon as
22 reasonably possible, in no event later than ninety days after
23 the effective date of the rule. For the purposes of this
24 paragraph, an emergency rule is one that must be adopted
25 immediately by the commission in order to do any of the
26 following:

27 (1) Meet an imminent threat to public health, safety, or
28 welfare.

29 (2) Prevent a loss of commission or participating state
30 funds.

31 (3) Meet a deadline for the promulgation of a commission
32 rule that is established by federal law or rule.

33 (4) Protect public health and safety.

34 m. The commission or an authorized committee of the
35 commission may direct revisions to a previously adopted

1 commission rule for purposes of correcting typographical
2 errors, errors in format, errors in consistency, or grammatical
3 errors. Public notice of any revisions shall be posted on
4 the internet site of the commission. The revision shall be
5 subject to challenge by any person for a period of thirty days
6 after posting. The revision may be challenged only on grounds
7 that the revision results in a material change to a rule. A
8 challenge shall be made as set forth in the notice of revisions
9 and delivered to the commission prior to the end of the notice
10 period. If no challenge is made, the revision will take
11 effect without further action. If the revision is challenged,
12 the revision may not take effect without the approval of the
13 commission.

14 *n.* No participating state's rulemaking requirements shall
15 apply under this compact.

16 10. *Oversight, dispute resolution, and enforcement.*

17 *a. Oversight.*

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

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

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

1 void as to the commission, this compact, or commission rules.

2 *b. Default, technical assistance, and termination.*

3 (1) If the commission determines that a participating
4 state has defaulted in the performance of its obligations
5 or responsibilities under this compact or the commission
6 rules, the commission shall provide written notice to the
7 defaulting state and other participating states. The notice
8 shall describe the default, the proposed means of curing the
9 default, and any other action that the commission may take and
10 shall offer remedial training and specific technical assistance
11 regarding the default.

12 (2) If a state in default fails to cure the default, the
13 defaulting state may be terminated from this compact upon
14 an affirmative vote of a majority of the delegates of the
15 participating states, and all rights, privileges, and benefits
16 conferred by this compact upon such state may be terminated on
17 the effective date of termination. A cure of the default does
18 not relieve the offending state of obligations or liabilities
19 incurred during the period of default.

20 (3) Termination of participation in this compact shall be
21 imposed only after all other means of securing compliance have
22 been exhausted. Notice of intent to suspend or terminate shall
23 be given by the commission to the governor, the majority and
24 minority leaders of the defaulting state's legislature, and to
25 the licensing boards of each of the participating states.

26 (4) A state that has been terminated is responsible for
27 all assessments, obligations, and liabilities incurred through
28 the effective date of termination, including obligations that
29 extend beyond the effective date of termination.

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

34 (6) The defaulting state may appeal its termination from
35 the compact by the commission by petitioning the United States

1 district court for the District of Columbia or the federal
2 district where the commission has its principal offices.
3 The prevailing member shall be awarded all costs of such
4 litigation, including reasonable attorney fees.

5 (7) Upon the termination of a state's participation in the
6 compact, the state shall immediately provide notice to all
7 licensees within that state of such termination.

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

11 (b) Licensees who are licensed in that state who have been
12 granted a compact privilege in a participating state shall
13 retain the compact privilege for one hundred eighty days unless
14 the licensee also has a qualifying license in a participating
15 state or obtains a qualifying license in a participating state
16 before the one-hundred-eighty-day period ends, in which case
17 the compact privilege shall continue.

18 *c. Dispute resolution.*

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

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

26 *d. Enforcement.*

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

30 (2) If compliance is not secured after all means to
31 secure compliance have been exhausted, by majority vote, the
32 commission may initiate legal action in the United States
33 district court for the District of Columbia or the federal
34 district where the commission has its principal offices,
35 against a participating state in default to enforce compliance

1 with the provisions of this compact and the commission's
2 promulgated rules and bylaws. The relief sought may include
3 both injunctive relief and damages. In the event judicial
4 enforcement is necessary, the prevailing party shall be awarded
5 all costs of such litigation, including reasonable attorney
6 fees.

7 (3) The remedies in subparagraph (2) shall not be the
8 exclusive remedies of the commission. The commission may
9 pursue any other remedies available under federal or state law.

10 *e. Legal action against the commission.*

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

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

22 *11. Date of implementation of the physician assistant
23 licensure compact commission.*

24 *a.* This compact shall come into effect on the date on
25 which this compact statute is enacted into law in the seventh
26 participating state.

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

33 (a) A charter participating state whose enactment is found
34 to be materially different from the model compact shall be
35 entitled to the default process set forth in subsection 10,

1 paragraph "b".

2 (b) If any participating state later withdraws from the
3 compact or its participation is terminated, the commission
4 shall remain in existence and the compact shall remain in
5 effect even if the number of participating states should be
6 less than seven. Participating states enacting the compact
7 subsequent to the commission convening shall be subject to the
8 process set forth in subsection 7, paragraph "c", subparagraph
9 (21), to determine if their enactments are materially
10 different from the model compact and whether they qualify for
11 participation in the compact.

12 (2) Participating states enacting the compact subsequent
13 to the seven initial charter participating states shall be
14 subject to the process set forth in subsection 7, paragraph
15 "c", subparagraph (21), to determine if their enactments are
16 materially different from the model compact and whether they
17 qualify for participation in the compact.

18 (3) All actions taken for the benefit of the commission
19 or in furtherance of the purposes of the administration of
20 the compact prior to the effective date of the compact or the
21 commission coming into existence shall be considered to be
22 actions of the commission unless specifically repudiated by the
23 commission.

24 b. Any state that joins this compact shall be subject to
25 the commission's rules and bylaws as they exist on the date on
26 which this compact becomes law in that state. Any rule that
27 has been previously adopted by the commission shall have the
28 full force and effect of law on the day this compact becomes
29 law in that state.

30 c. Any participating state may withdraw from this compact by
31 enacting a statute repealing the same.

32 (1) A participating state's withdrawal shall not take
33 effect until one hundred eighty days after enactment of the
34 repealing statute. During this one-hundred-eighty-day period,
35 all compact privileges that were in effect in the withdrawing

1 state and were granted to licensees licensed in the withdrawing
2 state shall remain in effect. If any licensee licensed in the
3 withdrawing state is also licensed in another participating
4 state or obtains a license in another participating state
5 within the one hundred eighty days, the licensee's compact
6 privileges in other participating states shall not be affected
7 by the passage of the one hundred eighty days.

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

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

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

25 e. This compact may be amended by the participating states.
26 No amendment to this compact shall become effective and binding
27 upon any participating state until it is enacted materially in
28 the same manner into the laws of all participating states as
29 determined by the commission.

30 12. *Construction and severability.*

31 a. This compact and the commission's rulemaking authority
32 shall be liberally construed so as to effectuate the purposes
33 and the implementation and administration of the compact.
34 Provisions of the compact expressly authorizing or requiring
35 the promulgation of rules shall not be construed to limit the

1 commission's rulemaking authority solely for those purposes.

2 **b.** The provisions of this compact shall be severable and
3 if any phrase, clause, sentence, or provision of this compact
4 is held by a court of competent jurisdiction to be contrary to
5 the constitution of any participating state, a state seeking
6 participation in the compact, or of the United States, or
7 the applicability thereof to any government, agency, person
8 or circumstance is held to be unconstitutional by a court of
9 competent jurisdiction, the validity of the remainder of this
10 compact and the applicability thereof to any other government,
11 agency, person or circumstance shall not be affected thereby.

12 **c.** Notwithstanding paragraph "b" or this subsection 12, the
13 commission may deny a state's participation in the compact or,
14 in accordance with the requirements of subsection 10, paragraph
15 "b", terminate a participating state's participation in the
16 compact, if it determines that a constitutional requirement of
17 a participating state is, or would be with respect to a state
18 seeking to participate in the compact, a material departure
19 from the compact. Otherwise, if this compact shall be held to
20 be contrary to the constitution of any participating state,
21 the compact shall remain in full force and effect as to the
22 remaining participating states and in full force and effect
23 as to the participating state affected as to all severable
24 matters.

25 13. *Binding effect of compact.*

26 **a.** Nothing in this compact prevents the enforcement of any
27 other law of a participating state that is not inconsistent
28 with this compact.

29 **b.** Any laws in a participating state in conflict with this
30 compact are superseded to the extent of the conflict.

31 **c.** All agreements between the commission and the
32 participating states are binding in accordance with their
33 terms.

34

EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill establishes the physician assistant licensure
3 compact.

4 The compact establishes a system whereby a physician
5 assistant licensed to practice in one participating state
6 may practice in another participating state under a compact
7 privilege without applying for a license in that state. The
8 compact imposes certain minimum requirements on the licensure
9 of physician assistants in participating states.

10 The compact creates a commission to administer the operation
11 of the compact. The commission is an instrumentality of the
12 participating states. The compact includes provisions relating
13 to the establishment and membership of the commission; powers
14 of the commission; meetings and voting requirements of the
15 commission; commission bylaws and rules; commission committees;
16 commission finances; the establishment of a data system;
17 compacting state compliance; venue for judicial proceedings;
18 defense and indemnification; effective dates and amendments to
19 the compact; withdrawal, default, and expulsion; severability
20 and construction; and the binding effect of the compact and
21 other laws.

22 The compact becomes effective upon the adoption of the
23 compact by the seventh participating state.