

AMENDMENTS TO LB823

Introduced by Health and Human Services.

1 1. Strike the original sections and insert the following new
2 sections:

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

7 SECTION 1. PURPOSE

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

1 SECTION 2. DEFINITIONS

2 In this Compact:

3 A. "Adverse Action" means any administrative, civil, equitable, or
4 criminal action permitted by a State's laws which is imposed by a
5 Licensing Board or other authority against a PA License or License
6 application or Compact Privilege such as License denial, censure,
7 revocation, suspension, probation, monitoring of the Licensee, or
8 restriction on the Licensee's practice.

9 B. "Compact Privilege" means the authorization granted by a Remote
10 State to allow a Licensee from another Participating State to practice as
11 a PA to provide Medical Services and other licensed activity to a patient
12 located in the Remote State under the Remote State's laws and
13 regulations.

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

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

22 E. "Data System" means the repository of information about
23 Licensees, including, but not limited to, License status and Adverse
24 Actions, which is created and administered under the terms of this
25 Compact.

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

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

31 H. "Investigative Information" means information, records, or

1 documents received or generated by a Licensing Board pursuant to an
2 investigation.

3 I. "Jurisprudence Requirement" means the assessment of an
4 individual's knowledge of the laws and Rules governing the practice of a
5 PA in a State.

6 J. "License" means current authorization by a State, other than
7 authorization pursuant to a Compact Privilege, for a PA to provide
8 Medical Services, which would be unlawful without current authorization.

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

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

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

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

19 O. "Participating State" means a State that has enacted this
20 Compact.

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

27 Q. "PA Licensure Compact Commission," "Compact Commission," or
28 "Commission" mean the national administrative body created pursuant to
29 Section 7.A of this Compact.

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

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

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

6 U. "Significant Investigative Information" means Investigative
7 Information that a Licensing Board, after an inquiry or investigation
8 that includes notification and an opportunity for the PA to respond if
9 required by State law, has reason to believe is not groundless and, if
10 proven true, would indicate more than a minor infraction.

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

13 SECTION 3. STATE PARTICIPATION IN THIS COMPACT

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

15 1. License PAs.

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

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

19 4. Notify the Commission, in compliance with the terms of this
20 Compact and Commission Rules, of any Adverse Action against a Licensee or
21 License applicant and the existence of Significant Investigative
22 Information regarding a Licensee or License applicant.

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

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

28 7. Utilize passage of a recognized national exam such as the
29 Physician Assistant National Certifying Examination (PANCE) of the
30 National Commission on Certification of Physician Assistants (NCCPA) as a
31 requirement for PA licensure.

1 8. Grant the Compact Privilege to a holder of a Qualifying License
2 in a Participating State.

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

5 SECTION 4. COMPACT PRIVILEGE

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

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

10 2. Hold current National Commission on Certification of Physician
11 Assistants (NCCPA) certification.

12 3. Have no felony or misdemeanor Conviction.

13 4. Have never had a controlled substance license, permit, or
14 registration suspended or revoked by a State or by the United States Drug
15 Enforcement Administration.

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

17 6. Hold a Qualifying License.

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

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

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

31 10. Notify the Compact Commission that the Licensee is seeking the

1 Compact Privilege in a Remote State.

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

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

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

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

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

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

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

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

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

30 1. When applying for a Compact Privilege, the Licensee shall provide
31 the Commission with the address of the Licensee's primary residence and

1 thereafter shall immediately report to the Commission any change in the
2 address of the Licensee's primary residence.

3 2. When applying for a Compact Privilege, the Licensee is required
4 to consent to accept service of process by mail at the Licensee's primary
5 residence on file with the Commission with respect to any action brought
6 against the Licensee by the Commission or a Participating State,
7 including a subpoena, with respect to any action brought or investigation
8 conducted by the Commission or a Participating State.

9 SECTION 6. ADVERSE ACTIONS

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

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

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

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

30 3. Notwithstanding subsection 2, subpoenas may not be issued by a
31 Participating State to gather evidence of conduct in another State that

1 is lawful in that other State for the purpose of taking Adverse Action
2 against a Licensee's Compact Privilege or application for a Compact
3 Privilege in that Participating State.

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

8 C. For purposes of taking Adverse Action, the Participating State
9 which issued the Qualifying License shall give the same priority and
10 effect to reported conduct received from any other Participating State as
11 it would if the conduct had occurred within the Participating State which
12 issued the Qualifying License. In so doing, that Participating State
13 shall apply its own State laws to determine appropriate action.

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

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

20 F. Joint Investigations

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

25 2. Participating States shall share any investigative, litigation,
26 or compliance materials in furtherance of any joint or individual
27 investigation initiated under this Compact.

28 G. If an Adverse Action is taken against a PA's Qualifying License,
29 the PA's Compact Privilege in all Remote States shall be deactivated
30 until two years have elapsed after all restrictions have been removed
31 from the Qualifying License. All disciplinary orders by the Participating

1 State which issued the Qualifying License that impose Adverse Action
2 against a PA's License shall include a Statement that the PA's Compact
3 Privilege is deactivated in all Participating States during the pendency
4 of the order.

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

7 SECTION 7. ESTABLISHMENT OF THE PA LICENSURE COMPACT COMMISSION

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

14 B. Membership, Voting, and Meetings

15 1. Each Participating State shall have and be limited to one
16 delegate selected by that Participating State's Licensing Board or, if
17 the State has more than one Licensing Board, selected collectively by the
18 Participating State's Licensing Boards.

19 2. The delegate shall be either:

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

22 b. An administrator of a Licensing Board.

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

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

27 5. Each delegate shall be entitled to one vote on all matters voted
28 on by the Commission and shall otherwise have an opportunity to
29 participate in the business and affairs of the Commission. A delegate
30 shall vote in person or by such other means as provided in the bylaws.

31 The bylaws may provide for delegates' participation in meetings by

1 telecommunications, videoconference, or other means of communication.

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

5 7. The Commission shall establish by Rule a term of office for
6 delegates.

7 C. The Commission shall have the following powers and duties:

8 1. Establish a code of ethics for the Commission;

9 2. Establish the fiscal year of the Commission;

10 3. Establish fees;

11 4. Establish bylaws;

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

13 6. Meet and take such actions as are consistent with the provisions
14 of this Compact and the bylaws;

15 7. Promulgate Rules to facilitate and coordinate implementation and
16 administration of this Compact. The Rules shall have the force and effect
17 of law and shall be binding in all Participating States;

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

21 9. Purchase and maintain insurance and bonds;

22 10. Borrow, accept, or contract for services of personnel,
23 including, but not limited to, employees of a Participating State;

24 11. Hire employees and engage contractors, elect or appoint
25 officers, fix compensation, define duties, grant such individuals
26 appropriate authority to carry out the purposes of this Compact, and
27 establish the Commission's personnel policies and programs relating to
28 conflicts of interest, qualifications of personnel, and other related
29 personnel matters;

30 12. Accept any and all appropriate donations and grants of money,
31 equipment, supplies, materials, and services, and receive, utilize, and

1 dispose of the same; provided that at all times the Commission shall
2 avoid any appearance of impropriety or conflict of interest;

3 13. Lease, purchase, accept appropriate gifts or donations of, or
4 otherwise own, hold, improve, or use, any property, real, personal, or
5 mixed; provided that at all times the Commission shall avoid any
6 appearance of impropriety;

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

9 15. Establish a budget and make expenditures;

10 16. Borrow money;

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

15 18. Provide and receive information from, and cooperate with, law
16 enforcement agencies;

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

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

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

25 22. Prepare and provide to the Participating States an annual
26 report; and

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

30 D. Meetings of the Commission

31 1. All meetings of the Commission that are not closed pursuant to

1 this subsection shall be open to the public. Notice of public meetings
2 shall be posted on the Commission's website at least thirty days prior to
3 the public meeting.

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

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

11 a. Noncompliance of a Participating State with its obligations under
12 this Compact;

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

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

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

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

20 f. Disclosure of trade secrets or commercial or financial
21 information that is privileged or confidential;

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

24 h. Disclosure of investigative records compiled for law enforcement
25 purposes;

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

30 j. Legal advice; or

31 k. Matters specifically exempted from disclosure by federal or

1 Participating States' statutes.

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

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

13 E. Financing of the Commission

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

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

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

29 a. A Compact Privilege expires when the Licensee's Qualifying
30 License in the Participating State from which the Licensee applied for
31 the Compact Privilege expires.

1 b. If the Licensee terminates the Qualifying License through which
2 the Licensee applied for the Compact Privilege before its scheduled
3 expiration, and the Licensee has a Qualifying License in another
4 Participating State, the Licensee shall inform the Commission that it is
5 changing to that Participating State the Participating State through
6 which it applies for a Compact Privilege and pay to the Commission any
7 Compact Privilege fee required by Commission Rule.

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

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

20 F. The Executive Committee

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

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

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

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

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

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

1 organizations.

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

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

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

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

11 b. Ensure Compact administration services are appropriately
12 provided, contractual or otherwise;

13 c. Prepare and recommend the budget;

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

15 e. Monitor Compact compliance of Participating States and provide
16 compliance reports to the Commission;

17 f. Establish additional committees as necessary;

18 g. Exercise the powers and duties of the Commission during the
19 interim between Commission meetings, except for issuing proposed
20 rulemaking or adopting Commission Rules or bylaws, or exercising any
21 other powers and duties exclusively reserved to the Commission by the
22 Commission's Rules; and

23 h. Perform other duties as provided in the Commission's Rules or
24 bylaws.

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

29 8. The Executive Committee may convene in a closed, nonpublic
30 meeting for the same reasons that the Commission may convene in a
31 nonpublic meeting as set forth in Section 7.D.3 and shall announce the

1 closed meeting as the Commission is required to under Section 7.D.4 and
2 keep minutes of the closed meeting as the Commission is required to under
3 Section 7.D.5.

4 G. Qualified Immunity, Defense, and Indemnification

5 1. The members, officers, executive director, employees, and
6 representatives of the Commission shall have no greater liability than a
7 state employee would have under the same or similar circumstances, either
8 personally or in their official capacity, for any claim for damage to or
9 loss of property or personal injury or other civil liability caused by or
10 arising out of any actual or alleged act, error, or omission that
11 occurred, or that the person against whom the claim is made had a
12 reasonable basis for believing occurred, within the scope of Commission
13 employment, duties, or responsibilities; provided that nothing in this
14 paragraph shall be construed to protect any such person from suit or
15 liability for any damage, loss, injury, or liability caused by the
16 intentional or willful or wanton misconduct of that person. The
17 procurement of insurance of any type by the Commission shall not in any
18 way compromise or limit the immunity granted hereunder.

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

31 3. The Commission shall indemnify and hold harmless any member,

1 officer, executive director, employee, or representative of the
2 Commission for the amount of any settlement or judgment obtained against
3 that person arising out of any actual or alleged act, error, or omission
4 that occurred within the scope of Commission employment, duties, or
5 responsibilities, or that such person had a reasonable basis for
6 believing occurred within the scope of Commission employment, duties, or
7 responsibilities; provided that the actual or alleged act, error, or
8 omission did not result from the intentional or willful or wanton
9 misconduct of that person.

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

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

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

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

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

30 SECTION 8. DATA SYSTEM

31 A. The Commission shall provide for the development, maintenance,

1 operation, and utilization of a coordinated data and reporting system
2 containing licensure, Adverse Action, and the reporting of the existence
3 of Significant Investigative Information on all licensed PAs and
4 applicants denied a License in Participating States.

5 B. Notwithstanding any other State law to the contrary, a
6 Participating State shall submit a uniform data set to the Data System on
7 all PAs to whom this Compact is applicable (utilizing a unique
8 identifier) as required by the Rules of the Commission, including:

9 1. Identifying information;

10 2. Licensure data;

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

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

15 5. The existence of Significant Investigative Information; and

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

18 C. Significant Investigative Information pertaining to a Licensee in
19 any Participating State shall only be available to other Participating
20 States.

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

25 E. Participating States contributing information to the Data System
26 may, in accordance with State or federal law, designate information that
27 may not be shared with the public without the express permission of the
28 contributing State. Notwithstanding any such designation, such
29 information shall be reported to the Commission through the Data System.

30 F. Any information submitted to the Data System that is subsequently
31 expunged pursuant to federal law or the laws of the Participating State

1 contributing the information shall be removed from the Data System upon
2 reporting of such by the Participating State to the Commission.

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

9 SECTION 9. RULEMAKING

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

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

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

29 D. If a majority of the legislatures of the Participating States
30 rejects a Commission Rule, by enactment of a statute or resolution in the
31 same manner used to adopt this Compact within four years of the date of

1 adoption of the Rule, then such Rule shall have no further force and
2 effect in any Participating State or to any State applying to participate
3 in the Compact.

4 E. Commission Rules shall be adopted at a regular or special meeting
5 of the Commission.

6 F. Prior to promulgation and adoption of a final Rule or Rules by
7 the Commission, and at least thirty days in advance of the meeting at
8 which the Rule will be considered and voted upon, the Commission shall
9 file a Notice of Proposed Rulemaking:

10 1. On the website of the Commission or other publicly accessible
11 platform;

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

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

15 G. The Notice of Proposed Rulemaking shall include:

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

19 2. The text of the proposed Rule and the reason for the proposed
20 Rule;

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

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

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

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

31 1. All persons wishing to be heard at the hearing shall as directed

1 in the Notice of Proposed Rulemaking, not less than five business days
2 before the scheduled date of the hearing, notify the Commission of their
3 desire to appear and testify at the hearing.

4 2. Hearings shall be conducted in a manner providing each person who
5 wishes to comment a fair and reasonable opportunity to comment orally or
6 in writing.

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

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

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

16 K. The Commission shall, by majority vote of all delegates, take
17 final action on the proposed Rule and shall determine the effective date
18 of the Rule, if adopted, based on the Rulemaking record and the full text
19 of the Rule.

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

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

23 3. The Commission shall provide on its website an explanation of the
24 reasons for substantive changes made to the proposed Rule as well as
25 reasons for substantive changes not made that were recommended by
26 commenters.

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

31 L. Upon determination that an emergency exists, the Commission may

1 consider and adopt an emergency Rule with twenty-four hours' prior
2 notice, without the opportunity for comment or hearing, provided that the
3 usual rulemaking procedures provided in this Compact and in this section
4 shall be retroactively applied to the Rule as soon as reasonably
5 possible, in no event later than ninety days after the effective date of
6 the Rule. For the purposes of this provision, an emergency Rule is one
7 that must be adopted immediately by the Commission in order to:

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

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

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

27 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

28 A. Oversight

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

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

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

15 B. Default, Technical Assistance, and Termination

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

24 2. If a State in default fails to cure the default, the defaulting
25 State may be terminated from this Compact upon an affirmative vote of a
26 majority of the delegates of the Participating States, and all rights,
27 privileges, and benefits conferred by this Compact upon such State may be
28 terminated on the effective date of termination. A cure of the default
29 does not relieve the offending State of obligations or liabilities
30 incurred during the period of default.

31 3. Termination of participation in this Compact shall be imposed

1 only after all other means of securing compliance have been exhausted.
2 Notice of intent to suspend or terminate shall be given by the Commission
3 to the governor, the majority and minority leaders of the defaulting
4 State's legislature, and to the Licensing Board of each Participating
5 State.

6 4. A State that has been terminated is responsible for all
7 assessments, obligations, and liabilities incurred through the effective
8 date of termination, including obligations that extend beyond the
9 effective date of termination.

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

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

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

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

25 b. Licensees who are licensed in that State who have been granted a
26 Compact Privilege in a Participating State shall retain the Compact
27 Privilege for one hundred eighty days unless the Licensee also has a
28 Qualifying License in a Participating State or obtains a Qualifying
29 License in a Participating State before the one-hundred-eighty-day period
30 ends, in which case the Compact Privilege shall continue.

31 C. Dispute Resolution

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

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

7 D. Enforcement

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

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

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

23 E. Legal Action Against the Commission

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

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

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

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

6 1. On or after the effective date of the Compact, the Commission
7 shall convene and review the enactment of each of the States that enacted
8 the Compact prior to the Commission convening ("Charter Participating
9 States") to determine if the statute enacted by each such Charter
10 Participating State is materially different than the Model Compact.

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

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

22 2. Participating States enacting the Compact subsequent to the seven
23 initial Charter Participating States shall be subject to the process set
24 forth in Section 7.C.21 to determine if their enactments are materially
25 different from the Model Compact and whether they qualify for
26 participation in the Compact.

27 3. All actions taken for the benefit of the Commission or in
28 furtherance of the purposes of the administration of the Compact prior to
29 the effective date of the Compact or the Commission coming into existence
30 shall be considered to be actions of the Commission unless specifically
31 repudiated by the Commission.

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

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

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

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

22 3. Upon the enactment of a statute withdrawing a State from this
23 Compact, the State shall immediately provide notice of such withdrawal to
24 all Licensees within that State. Such withdrawing State shall continue to
25 recognize all Licenses and Compact Privileges to practice within that
26 State granted pursuant to this Compact for a minimum of one hundred
27 eighty days after the date of such notice of withdrawal.

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

1 provisions of this Compact.

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

7 SECTION 12. CONSTRUCTION AND SEVERABILITY

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

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

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

1 severable matters.

2 SECTION 13. BINDING EFFECT OF COMPACT

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

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

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

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

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

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

1 The Nebraska State Patrol shall issue a report to the department that
2 includes the criminal history record information concerning the
3 applicant.

4 (3) This section shall not apply to a dentist who is an applicant
5 for a dental locum tenens under section 38-1122, to a physician or
6 osteopathic physician who is an applicant for a physician locum tenens
7 under section 38-2036, or to a veterinarian who is an applicant for a
8 veterinarian locum tenens under section 38-3335.

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

15 (5) The department and the Nebraska State Patrol may adopt and
16 promulgate rules and regulations concerning costs associated with the
17 fingerprinting and the national criminal history record information
18 check.

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

22 Sec. 3. Section 38-2001, Revised Statutes Cumulative Supplement,
23 2022, is amended to read:

24 38-2001 Sections 38-2001 to 38-2064 and section 4 of this act shall
25 be known and may be cited as the Medicine and Surgery Practice Act.

26 Sec. 4. A person holding a compact privilege to practice in
27 Nebraska under the Physician Assistant (PA) Licensure Compact may act as
28 a physician assistant as authorized pursuant to such compact.

29 Sec. 5. This act becomes operative on January 1, 2025.

30 Sec. 6. Original section 38-2001, Revised Statutes Cumulative
31 Supplement, 2022, and section 38-131, Revised Statutes Supplement, 2023,

1 are repealed.