

Senate File 312 - Introduced

SENATE FILE 312
BY COMMITTEE ON HEALTH AND HUMAN
SERVICES

(SUCCESSOR TO SSB 1052)

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:

unofficial

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 of
5 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 of a
10 license to practice as a physician assistant while safeguarding
11 the safety of patients. This compact allows medical services to
12 be provided by physician assistants, via the mutual recognition
13 of the licensee's qualifying license by other compact
14 participating states. This compact also adopts the prevailing
15 standard for physician assistant licensure and affirms that the
16 practice and delivery of medical services by the physician
17 assistant occurs where the patient is located at the time of the
18 patient encounter, and therefore requires the physician assistant
19 to be under the jurisdiction of the state licensing board where
20 the patient is located. State licensing boards that participate
21 in this compact retain the jurisdiction to impose adverse action
22 against a compact privilege in that state issued to a physician
23 assistant through the procedures of this compact. The physician
24 assistant licensure compact will alleviate burdens for military
25 families by allowing active duty military personnel and their
26 spouses to obtain a compact privilege based on having an
27 unrestricted license in good standing from a participating state.

28 2. *Definitions.* In this compact:

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

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

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

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

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

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

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

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

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

32 *j. "License"* means current authorization by a state, other
33 than authorization pursuant to a compact privilege, for a
34 physician assistant to provide medical services, which would be
35 unlawful without current authorization.

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

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

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

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

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

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

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

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

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

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

33 u. "Significant investigative information" means
34 investigative information that a licensing board, after an
35 inquiry or investigation that includes notification and an

1 opportunity for the physician assistant to respond if required by
2 state law, has reason to believe is not groundless and, if proven
3 true, would indicate more than a minor infraction.

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

6 3. *State participation in this compact.*

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

9 (1) License physician assistants.

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

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

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

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

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

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

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

28 b. Nothing in this compact prohibits a participating state
29 from charging a fee for granting the compact privilege.

30 4. *Compact privilege.*

31 a. To exercise the compact privilege, a licensee must meet
32 all of the following requirements:

33 (1) Have graduated from a physician assistant program
34 accredited by the accreditation review commission on education
35 for the physician assistant, inc., or other programs authorized

1 by commission rule.

2 (2) Hold current NCCPA certification.

3 (3) Have no felony or misdemeanor conviction.

4 (4) Have never had a controlled substance license, permit, or
5 registration suspended or revoked by a state or by the United
6 States drug enforcement administration.

7 (5) Have a unique identifier as determined by commission
8 rule.

9 (6) Hold a qualifying license.

10 (7) Have had no revocation of a license or limitation or
11 restriction on any license currently held due to an adverse
12 action.

13 (8) If a licensee has had a limitation or restriction on a
14 license or compact privilege due to an adverse action, two years
15 must have elapsed from the date on which the license or compact
16 privilege is no longer limited or restricted due to the adverse
17 action.

18 (9) If a compact privilege has been revoked or is limited or
19 restricted in a participating state for conduct that would not be
20 a basis for disciplinary action in a participating state in which
21 the licensee is practicing or applying to practice under a
22 compact privilege, that participating state shall have the
23 discretion not to consider such action as an adverse action
24 requiring the denial or removal of a compact privilege in that
25 state.

26 (10) Notify the compact commission that the licensee is
27 seeking the compact privilege in a remote state.

28 (11) Meet any jurisprudence requirement of a remote state in
29 which the licensee is seeking to practice under the compact
30 privilege and pay any fees applicable to satisfying the
31 jurisprudence requirement.

32 (12) Report to the commission any adverse action taken by a
33 nonparticipating state within thirty days after the action is
34 taken.

35 b. The compact privilege is valid until the expiration or

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

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

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

12 c. Once a restricted or limited license satisfies the
13 requirements of paragraph "b", subparagraphs (1) and (2), the
14 licensee must meet the requirements of paragraph "a" to obtain a
15 compact privilege in any remote state.

16 d. For each remote state in which a physician assistant seeks
17 authority to prescribe controlled substances, the physician
18 assistant shall satisfy all requirements imposed by such state in
19 granting or renewing such authority.

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

26 a. When applying for a compact privilege, the licensee shall
27 provide the commission with the address of the licensee's primary
28 residence and thereafter shall immediately report to the
29 commission any change in the address of the licensee's primary
30 residence.

31 b. When applying for a compact privilege, the licensee is
32 required to consent to accept service of process by mail at the
33 licensee's primary residence on file with the commission with
34 respect to any action brought against the licensee by the
35 commission or a participating state, including a subpoena, with

1 respect to any action brought or investigation conducted by the
2 commission or a participating state.

3 6. *Adverse actions.*

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

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

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

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

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

32 (4) Nothing in this compact authorizes a participating state
33 to impose discipline against a physician assistant's compact
34 privilege or to deny an application for a compact privilege in
35 that participating state for the individual's otherwise lawful

1 practice in another state.

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

9 d. A participating state, if otherwise permitted by state
10 law, may recover from the affected physician assistant the costs
11 of investigations and disposition of cases resulting from any
12 adverse action taken against that physician assistant.

13 e. A participating state may take adverse action based on the
14 factual findings of a remote state, provided that the
15 participating state follows its own procedures for taking the
16 adverse action.

17 f. *Joint investigations.*

18 (1) In addition to the authority granted to a participating
19 state by its respective state physician assistant laws and
20 regulations or other applicable state law, any participating
21 state may participate with other participating states in joint
22 investigations of licensees.

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

26 g. If an adverse action is taken against a physician
27 assistant's qualifying license, the physician assistant's compact
28 privilege in all remote states shall be deactivated until two
29 years have elapsed after all restrictions have been removed from
30 the state license. All disciplinary orders by the participating
31 state which issued the qualifying license that impose adverse
32 action against a physician assistant's license shall include a
33 statement that the physician assistant's compact privilege is
34 deactivated in all participating states during the pendency of
35 the order.

1 h. If any participating state takes adverse action, it shall
2 promptly notify the administrator of the data system.

3 7. *Establishment of the physician assistant licensure compact*
4 *commission.*

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

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

13 (1) Each participating state shall have and be limited to one
14 delegate selected by that participating state's licensing board
15 or, if the state has more than one licensing board, selected
16 collectively by the participating state's licensing boards.

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

18 (a) A current physician assistant, physician, or public
19 member of a licensing board or physician assistant council or
20 committee.

21 (b) An administrator of a licensing board.

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

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

27 (5) Each delegate shall be entitled to one vote on all
28 matters voted on by the commission and shall otherwise have an
29 opportunity to participate in the business and affairs of the
30 commission. A delegate shall vote in person or by such other
31 means as provided in the bylaws. The bylaws may provide for
32 delegates' participation in meetings by telecommunications, video
33 conference, or other means of communication.

34 (6) The commission shall meet at least once during each
35 calendar year. Additional meetings shall be held as set forth in

1 this compact and the bylaws.

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

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

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

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

7 (3) Establish fees.

8 (4) Establish bylaws.

9 (5) Maintain its financial records in accordance with the
10 bylaws.

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

13 (7) Promulgate rules to facilitate and coordinate
14 implementation and administration of this compact. The rules
15 shall have the force and effect of law and shall be binding in
16 all participating states.

17 (8) Bring and prosecute legal proceedings or actions in the
18 name of the commission, provided that the standing of any state
19 licensing board to sue or be sued under applicable law shall not
20 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,
27 and establish the commission's personnel policies and programs
28 relating to conflicts of interest, qualifications of personnel,
29 and other related personnel matters.

30 (12) Accept any and all appropriate donations and grants of
31 money, equipment, supplies, materials, and services, and receive,
32 utilize, and dispose of the same; provided that at all times the
33 commission shall avoid any appearance of impropriety or conflict
34 of interest.

35 (13) Lease, purchase, accept appropriate gifts or donations

1 of, or otherwise own, hold, improve, or use any property, real,
2 personal, or mixed; provided that at all times the commission
3 shall avoid any appearance of impropriety.

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

7 (15) Establish a budget and make expenditures.

8 (16) Borrow money.

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

14 (18) Provide and receive information from, and cooperate
15 with, law enforcement agencies.

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

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

22 (21) Approve or disapprove a state's participation in the
23 compact based upon its determination as to whether the state's
24 compact legislation departs in a material manner from the model
25 compact language.

26 (22) Prepare and provide to the participating states an
27 annual report.

28 (23) Perform such other functions as may be necessary or
29 appropriate to achieve the purposes of this compact consistent
30 with the state regulation of physician assistant licensure and
31 practice.

32 *d. Meetings of the commission.*

33 (1) All meetings of the commission that are not closed
34 pursuant to this paragraph shall be open to the public. Notice
35 of public meetings shall be posted on the commission's internet

1 site at least thirty days prior to the public meeting.

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

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

11 (a) Noncompliance of a participating state with its
12 obligations under this compact.

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

17 (c) Current, threatened, or reasonably anticipated
18 litigation.

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

21 (e) Accusing any person of a crime or formally censuring any
22 person.

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

25 (g) Disclosure of information of a personal nature where
26 disclosure would constitute a clearly unwarranted invasion of
27 personal privacy.

28 (h) Disclosure of investigative records compiled for law
29 enforcement purposes.

30 (i) Disclosure of information related to any investigative
31 reports prepared by or on behalf of or for use of the commission
32 or other committee charged with responsibility of investigation
33 or determination of compliance issues pursuant to this compact.

34 (j) Legal advice.

35 (k) Matters specifically exempted from disclosure by federal

1 or participating states' statutes.

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

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

15 e. *Financing of the commission.*

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

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

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

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

35 (b) If the licensee terminates the qualifying license through

1 which the licensee applied for the compact privilege before its
2 scheduled expiration, and the licensee has a qualifying license
3 in another participating state, the licensee shall inform the
4 commission that it is changing to that participating state the
5 participating state through which it applies for a compact
6 privilege and pay to the commission any compact privilege fee
7 required by commission rule.

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

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

22 *f. The executive committee.*

23 (1) The executive committee shall have the power to act on
24 behalf of the commission according to the terms of this compact
25 and commission rules.

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

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

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

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

34 (3) The ex officio members will be selected by their
35 respective organizations.

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

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

4 (6) The executive committee shall have the following duties
5 and responsibilities:

6 (a) Recommend to the commission changes to the commission's
7 rules or bylaws, changes to this compact legislation, fees to be
8 paid by compact participating states such as annual dues, and any
9 commission compact fee charged to licensees for the compact
10 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
16 provide compliance reports to the commission.

17 (f) Establish additional committees as necessary.

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

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

25 (7) All meetings of the executive committee at which it votes
26 or plans to vote on matters in exercising the powers and duties
27 of the commission shall be open to the public and public notice
28 of such meetings shall be given as public meetings of the
29 commission are given.

30 (8) The executive committee may convene in a closed,
31 nonpublic meeting for the same reasons that the commission may
32 convene in a nonpublic meeting as set forth in subsection 7,
33 paragraph "d", subparagraph (3), and shall announce the closed
34 meeting as the commission is required to under subsection 7,
35 paragraph "d", subparagraph (4), and keep minutes of the closed

1 meeting as the commission is required to under subsection 7,
2 paragraph "d", subparagraph (5).

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

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

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

33 (3) The commission shall indemnify and hold harmless any
34 member, officer, executive director, employee, and representative
35 of the commission for the amount of any settlement or judgment

1 obtained against that person arising out of any actual or alleged
2 act, error, or omission that occurred within the scope of
3 commission employment, duties, or responsibilities, or that such
4 person had a reasonable basis for believing occurred within the
5 scope of commission employment, duties, or responsibilities,
6 provided that the actual or alleged act, error, or omission did
7 not result from the intentional or willful or wanton misconduct
8 of that person.

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

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

19 (6) Nothing herein shall be construed to designate the venue
20 or jurisdiction to bring actions for alleged acts of malpractice,
21 professional misconduct, negligence, or other such civil action
22 pertaining to the practice of a physician assistant. All such
23 matters shall be determined exclusively by state law other than
24 this compact.

25 (7) Nothing in this compact shall be interpreted to waive or
26 otherwise abrogate a participating state's state action immunity
27 or state action affirmative defense with respect to antitrust
28 claims under the Sherman Act, Clayton Act, or any other state or
29 federal antitrust or anticompetitive law or regulation.

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

33 8. *Data system.*

34 a. The commission shall provide for the development,
35 maintenance, operation, and utilization of a coordinated data and

1 reporting system containing licensure, adverse action, and the
2 reporting of the existence of significant investigative
3 information on all licensed physician assistants and applicants
4 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
7 system on all physician assistants to whom this compact is
8 applicable, utilizing a unique identifier, as required by the
9 rules of the commission, including:

10 (1) Identifying information.

11 (2) Licensure data.

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

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

16 (5) The existence of significant investigative information.

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

19 c. Significant investigative information pertaining to a
20 licensee in any participating state shall only be available to
21 other participating states.

22 d. The commission shall promptly notify all participating
23 states of any adverse action taken against a licensee or an
24 individual applying for a license that has been reported to it.
25 This adverse action information shall be available to any other
26 participating state.

27 e. Participating states contributing information to the data
28 system may, in accordance with state or federal law, designate
29 information that may not be shared with the public without the
30 express permission of the contributing state. Notwithstanding
31 any such designation, such information shall be reported to the
32 commission through the data system.

33 f. Any information submitted to the data system that is
34 subsequently expunged pursuant to federal law or the laws of the
35 participating state contributing the information shall be removed

1 from the data system upon reporting of such by the participating
2 state to the commission.

3 g. The records and information provided to a participating
4 state pursuant to this compact or through the data system, when
5 certified by the commission or an agent thereof, shall constitute
6 the authenticated business records of the commission, and shall
7 be entitled to any associated hearsay exception in any relevant
8 judicial, quasi-judicial, or administrative proceedings in a
9 participating state.

10 9. *Rulemaking.*

11 a. The commission shall exercise its rulemaking powers
12 pursuant to the criteria set forth in this subsection and the
13 rules adopted thereunder. Commission rules shall become binding
14 as of the date specified by the commission for each rule.

15 b. The commission shall promulgate reasonable rules in order
16 to effectively and efficiently implement and administer this
17 compact and achieve its purposes. A commission rule shall be
18 invalid and not have force or effect only if a court of competent
19 jurisdiction holds that the rule is invalid because the
20 commission exercised its rulemaking authority in a manner that is
21 beyond the scope of the purposes of this compact, or the powers
22 granted in this subsection, or based upon another applicable
23 standard of review.

24 c. The rules of the commission shall have the force of law in
25 each participating state, provided however that where the rules
26 of the commission conflict with the laws of the participating
27 state that establish the medical services a physician assistant
28 may perform in the participating state, as held by a court of
29 competent jurisdiction, the rules of the commission shall be
30 ineffective in that state to the extent of the conflict.

31 d. If a majority of the legislatures of the participating
32 states rejects a commission rule by enactment of a statute or
33 resolution in the same manner used to adopt this compact within
34 four years of the date of adoption of the rule, then such rule
35 shall have no further force and effect in any participating state

1 or to any state applying to participate in the compact.

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

4 f. Prior to promulgation and adoption of a final rule or
5 rules by the commission, and at least thirty days in advance of
6 the meeting at which the rule will be considered and voted upon,
7 the commission shall file a notice of proposed rulemaking using
8 all of the following methods:

9 (1) On the internet site of the commission or other publicly
10 accessible platform.

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

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

14 g. The notice of proposed rulemaking shall include all of the
15 following:

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
18 meeting in which the proposed rule will be considered and voted
19 upon.

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

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

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

28 h. Prior to adoption of a proposed rule, the commission shall
29 allow persons to submit written data, facts, opinions, and
30 arguments, which shall be made available to the public.

31 i. If the hearing is to be held via electronic means, the
32 commission shall publish the mechanism for access to the
33 electronic hearing.

34 (1) All persons wishing to be heard at the hearing shall as
35 directed in the notice of proposed rulemaking, not less than five

1 business days before the scheduled date of the hearing, notify
2 the commission of their desire to appear and testify at the
3 hearing.

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

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

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

15 j. Following the public hearing the commission shall consider
16 all written and oral comments timely received.

17 k. The commission shall, by majority vote of all delegates,
18 take final action on the proposed rule and shall determine the
19 effective date of the rule, if adopted, based on the rulemaking
20 record and the full text of the rule.

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

23 (2) The commission may adopt changes to the proposed rule
24 provided the changes do not enlarge the original purpose of the
25 proposed rule.

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

30 (4) The commission shall determine a reasonable effective
31 date for the rule. Except for an emergency as provided in
32 paragraph "l", the effective date of the rule shall be no sooner
33 than thirty days after the commission issued the notice that it
34 adopted the rule.

35 l. Upon determination that an emergency exists, the

1 commission may consider and adopt an emergency rule with
2 twenty-four hours prior notice, without the opportunity for
3 comment, or hearing, provided that the usual rulemaking
4 procedures provided in this compact and in this subsection shall
5 be retroactively applied to the rule as soon as reasonably
6 possible, in no event later than ninety days after the effective
7 date of the rule. For the purposes of this paragraph, an
8 emergency rule is one that must be adopted immediately by the
9 commission in order to do any of the following:

10 (1) Meet an imminent threat to public health, safety, or
11 welfare.

12 (2) Prevent a loss of commission or participating state
13 funds.

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

16 (4) Protect public health and safety.

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

32 n. No participating state's rulemaking requirements shall
33 apply under this compact.

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

35 a. *Oversight.*

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

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

13 (3) The commission shall be entitled to receive service of
14 process in any proceeding regarding the enforcement or
15 interpretation of the compact or the commission's rules and shall
16 have standing to intervene in such a proceeding for all purposes.
17 Failure to provide the commission with service of process shall
18 render a judgment or order in such proceeding void as to the
19 commission, this compact, or commission rules.

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

21 (1) If the commission determines that a participating state
22 has defaulted in the performance of its obligations or
23 responsibilities under this compact or the commission rules, the
24 commission shall provide written notice to the defaulting state
25 and other participating states. The notice shall describe the
26 default, the proposed means of curing the default, and any other
27 action that the commission may take and shall offer remedial
28 training and specific technical assistance regarding the default.

29 (2) If a state in default fails to cure the default, the
30 defaulting state may be terminated from this compact upon an
31 affirmative vote of a majority of the delegates of the
32 participating states, and all rights, privileges, and benefits
33 conferred by this compact upon such state may be terminated on
34 the effective date of termination. A cure of the default does
35 not relieve the offending state of obligations or liabilities

1 incurred during the period of default.

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

8 (4) A state that has been terminated is responsible for all
9 assessments, obligations, and liabilities incurred through the
10 effective date of termination, including obligations that extend
11 beyond the effective date of termination.

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

16 (6) The defaulting state may appeal its termination from the
17 compact by the commission by petitioning the United States
18 district court for the District of Columbia or the federal
19 district where the commission has its principal offices. The
20 prevailing member shall be awarded all costs of such litigation,
21 including reasonable attorney fees.

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

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

28 (b) Licensees who are licensed in that state who have been
29 granted a compact privilege in a participating state shall retain
30 the compact privilege for one hundred eighty days unless the
31 licensee also has a qualifying license in a participating state
32 or obtains a qualifying license in a participating state before
33 the one-hundred-eighty-day period ends, in which case the compact
34 privilege shall continue.

35 c. *Dispute resolution.*

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

5 (2) The commission shall promulgate a rule providing for both
6 mediation and binding dispute resolution for disputes as
7 appropriate.

8 *d. Enforcement.*

9 (1) The commission, in the reasonable exercise of its
10 discretion, shall enforce the provisions of this compact and
11 rules of the commission.

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

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

26 *e. Legal action against the commission.*

27 (1) A participating state may initiate legal action against
28 the commission in the United States district court for the
29 District of Columbia or the federal district where the commission
30 has its principal offices to enforce compliance with the
31 provisions of the compact and its rules. The relief sought may
32 include both injunctive relief and damages. In the event
33 judicial enforcement is necessary, the prevailing party shall be
34 awarded all costs of such litigation, including reasonable
35 attorney fees.

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

3 11. *Date of implementation of the physician assistant*
4 *licensure compact commission.*

5 a. This compact shall come into effect on the date on which
6 this compact statute is enacted into law in the seventh
7 participating state.

8 (1) On or after the effective date of the compact, the
9 commission shall convene and review the enactment of each of the
10 states that enacted the compact prior to the commission
11 convening, the charter participating states, to determine if the
12 statute enacted by each such charter participating state is
13 materially different than the model compact.

14 (a) A charter participating state whose enactment is found to
15 be materially different from the model compact shall be entitled
16 to the default process set forth in subsection 10, paragraph "b".

17 (b) If any participating state later withdraws from the
18 compact or its participation is terminated, the commission shall
19 remain in existence and the compact shall remain in effect even
20 if the number of participating states should be less than seven.
21 Participating states enacting the compact subsequent to the
22 commission convening shall be subject to the process set forth in
23 subsection 7, paragraph "c", subparagraph (21), to determine if
24 their enactments are materially different from the model compact
25 and whether they qualify for participation in the compact.

26 (2) Participating states enacting the compact subsequent to
27 the seven initial charter participating states shall be subject
28 to the process set forth in subsection 7, paragraph "c",
29 subparagraph (21), to determine if their enactments are
30 materially different from the model compact and whether they
31 qualify for participation in the compact.

32 (3) All actions taken for the benefit of the commission or in
33 furtherance of the purposes of the administration of the compact
34 prior to the effective date of the compact or the commission
35 coming into existence shall be considered to be actions of the

1 commission unless specifically repudiated by the commission.

2 b. Any state that joins this compact shall be subject to the
3 commission's rules and bylaws as they exist on the date on which
4 this compact becomes law in that state. Any rule that has been
5 previously adopted by the commission shall have the full force
6 and effect of law on the day this compact becomes law in that
7 state.

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

10 (1) A participating state's withdrawal shall not take effect
11 until one hundred eighty days after enactment of the repealing
12 statute. During this one-hundred-eighty-day period, all compact
13 privileges that were in effect in the withdrawing state and were
14 granted to licensees licensed in the withdrawing state shall
15 remain in effect. If any licensee licensed in the withdrawing
16 state is also licensed in another participating state or obtains
17 a license in another participating state within the one hundred
18 eighty days, the licensee's compact privileges in other
19 participating states shall not be affected by the passage of the
20 one hundred eighty days.

21 (2) Withdrawal shall not affect the continuing requirement of
22 the state licensing board of the withdrawing state to comply with
23 the investigative, and adverse action reporting requirements of
24 this compact prior to the effective date of withdrawal.

25 (3) Upon the enactment of a statute withdrawing a state from
26 this compact, the state shall immediately provide notice of such
27 withdrawal to all licensees within that state. Such withdrawing
28 state shall continue to recognize all licenses granted pursuant
29 to this compact for a minimum of one hundred eighty days after
30 the date of such notice of withdrawal.

31 d. Nothing contained in this compact shall be construed to
32 invalidate or prevent any physician assistant licensure agreement
33 or other cooperative arrangement between participating states and
34 between a participating state and nonparticipating state that
35 does not conflict with the provisions of this compact.

1 e. This compact may be amended by the participating states.
2 No amendment to this compact shall become effective and binding
3 upon any participating state until it is enacted materially in
4 the same manner into the laws of all participating states as
5 determined by the commission.

6 12. *Construction and severability.*

7 a. This compact and the commission's rulemaking authority
8 shall be liberally construed so as to effectuate the purposes and
9 the implementation and administration of the compact. Provisions
10 of the compact expressly authorizing or requiring the
11 promulgation of rules shall not be construed to limit the
12 commission's rulemaking authority solely for those purposes.

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

23 c. Notwithstanding paragraph "b" or this subsection 12, the
24 commission may deny a state's participation in the compact or, in
25 accordance with the requirements of subsection 10, paragraph "b",
26 terminate a participating state's participation in the compact,
27 if it determines that a constitutional requirement of a
28 participating state is, or would be with respect to a state
29 seeking to participate in the compact, a material departure from
30 the compact. Otherwise, if this compact shall be held to be
31 contrary to the constitution of any participating state, the
32 compact shall remain in full force and effect as to the remaining
33 participating states and in full force and effect as to the
34 participating state affected as to all severable matters.

35 13. *Binding effect of compact.*

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

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

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

8 EXPLANATION

9 The inclusion of this explanation does not constitute agreement with
10 the explanation's substance by the members of the general assembly.

11 This bill establishes the physician assistant licensure
12 compact.

13 The compact establishes a system whereby a physician assistant
14 licensed to practice in one participating state may practice in
15 another participating state under a compact privilege without
16 applying for a license in that state. The compact imposes
17 certain minimum requirements on the licensure of physician
18 assistants in participating states.

19 The compact creates a commission to administer the operation
20 of the compact. The commission is an instrumentality of the
21 participating states. The compact includes provisions relating
22 to the establishment and membership of the commission; powers
23 of the commission; meetings and voting requirements of the
24 commission; commission bylaws and rules; commission committees;
25 commission finances; the establishment of a data system;
26 compacting state compliance; venue for judicial proceedings;
27 defense and indemnification; effective dates and amendments to
28 the compact; withdrawal, default, and expulsion; severability and
29 construction; and the binding effect of the compact and other
30 laws.

31 The compact becomes effective upon the adoption of the compact
32 by the seventh participating state.