

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 667

By Senators Takubo, Trump, Woelfel, and Plymale

[Introduced February 6, 2024; referred
to the Committee on Health and Human Resources]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §30-3G-1, §30-3G-2, §30-3G-3, §30-3G-4, §30-3G-5, §30-3G-6, §30-3G-7,
 3 §30-3G-8, §30-3G-9, §30-3G-10, §30-3G-11, §30-3G-12, and §30-3G-13, all relating to
 4 creating the Physicians Licensure Compact; providing for a purpose; creating definitions;
 5 providing for state participation in the compact; creating the compact privilege; providing
 6 for the designation of the state from which licensee is applying for a compact privilege;
 7 defining adverse actions; providing for the establishment of the Physician Assistant
 8 Licensure Compact Commission; defining the data system; providing for rulemaking;
 9 providing for oversight, dispute resolution, and enforcement; providing for the date of
 10 implementation of the Physician Assistant Licensure Compact Commission; providing for
 11 construction and severability; and creating the binding effect of the compact.

Be it enacted by the Legislature of West Virginia:

ARTICLE	3G.	PHYSICIANS	LICENSURE	COMPACT.
§30-3G-1.				Purpose.

1 In order to strengthen access to Medical Services, and in recognition of the advances in
 2 the delivery of Medical Services, the Participating States of the PA Licensure Compact have allied
 3 in common purpose to develop a comprehensive process that complements the existing authority
 4 of State Licensing Boards to license and discipline PAs and seeks to enhance the portability of a
 5 License to practice as a PA while safeguarding the safety of patients. This Compact allows
 6 Medical Services to be provided by PAs, via the mutual recognition of the Licensee's Qualifying
 7 License by other Compact Participating States. This Compact also adopts the prevailing standard
 8 for PA licensure and affirms that the practice and delivery of Medical Services by the PA occurs
 9 where the patient is located at the time of the patient encounter, and therefore requires the PA to
 10 be under the jurisdiction of the State Licensing Board where the patient is located. State Licensing
 11 Boards that participate in this Compact retain the jurisdiction to impose Adverse Action against a
 12 Compact Privilege in that State issued to a PA through the procedures of this Compact. The PA

13 Licensure Compact will alleviate burdens for military families by allowing active duty military
14 personnel and their spouses to obtain a Compact Privilege based on having an unrestricted
15 License in good standing from a Participating State.

§30-3G-2.

Definitions.

1 In this Compact:

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

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

10 (c) "Conviction" means a finding by a court that an individual is guilty of a felony or
11 misdemeanor offense through adjudication or entry of a plea of guilt or no contest to the charge by
12 the offender.

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

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

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

22 (g) "Impaired Practitioner" means a PA whose practice is adversely affected by health-

23 related condition(s) that impact their ability to practice.

24 (h) "Investigative Information" means information, records, or documents received or
25 generated by a Licensing Board pursuant to an investigation.

26 (i) "Jurisprudence Requirement" means the assessment of an individual's knowledge of
27 the laws and Rules governing the practice of a PA in a State.

28 (j) "License" means current authorization by a State, other than authorization pursuant to a
29 Compact Privilege, for a PA to provide Medical Services, which would be unlawful without current
30 authorization.

31 (k) "Licensee" means an individual who holds a License from a State to provide Medical
32 Services as a PA.

33 (l) "Licensing Board" means any State entity authorized to license and otherwise regulate
34 PA's.

35 (m) "Medical Services" means health care services provided for the diagnosis, prevention,
36 treatment, cure or relief of a health condition, injury, or disease, as defined by a State's laws and
37 regulations.

38 (n) "Model Compact" means the model for the PA Licensure Compact on file with The
39 Council of State Governments or other entity as designated by the Commission.

40 (o) "Participating State" means a State that has enacted this Compact.

41 (p) "PA" means an individual who is licensed as a physician assistant in a State. For
42 purposes of this Compact, any other title or status adopted by a State to replace the term
43 "physician assistant" shall be deemed synonymous with "physician assistant" and shall confer the
44 same rights and responsibilities to the Licensee under the provisions of this Compact at the time of
45 its enactment.

46 (q) "PA Licensure Compact Commission," "Compact Commission," or "Commission" mean
47 the national administrative body created pursuant to Section 7.A of this Compact.

48 (r) "Qualifying License" means an unrestricted License issued by a Participating State to

49 provide Medical Services as a PA.

50 (s) "Remote State" means a Participating State where a Licensee who is not licensed as a
51 PA is exercising or seeking to exercise the Compact Privilege.

52 (t) "Rule" means a regulation promulgated by an entity that has the force and effect of law.

53 (u) "Significant Investigative Information" means Investigative Information that a Licensing
54 Board, after an inquiry or investigation that includes notification and an opportunity for the PA to
55 respond if required by State law, has reason to believe is not groundless and, if proven true, would
56 indicate more than a minor infraction.

57 (v) "State" means any state, commonwealth, district, or territory of the United States.

§30-3G-3. State participation in this compact.

1 (a) To participate in this Compact, a Participating State shall:

2 (1) License PAs.

3 (2) Participate in the Compact Commission's Data System.

4 (3) Have a mechanism in place for receiving and investigating complaints against
5 Licensees and License applicants.

6 (4) Notify the Commission, in compliance with the terms of this Compact and Commission
7 Rules, of any Adverse Action against a Licensee or License applicant and the existence of
8 Significant Investigative Information regarding a Licensee or License applicant.

9 (5) Fully implement a Criminal Background Check requirement, within a time frame
10 established by Commission Rule, by its Licensing Board receiving the results of a Criminal
11 Background Check and reporting to the Commission whether the License applicant has been
12 granted a License.

13 (6) Comply with the Rules of the Compact Commission.

14 (7) Utilize passage of a recognized national exam such as the NCCPA PANCE as a
15 requirement for PA licensure.

16 (8) Grant the Compact Privilege to a holder of a Qualifying License in a Participating State.

17 (b) Nothing in this Compact prohibits a Participating State from charging a fee for granting
18 the Compact Privilege.

§30-3G-4. Compact privilege.

1 (a) To exercise the Compact Privilege, a Licensee must:

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

5 (2) Hold current NCCPA certification.

6 (3) Have no felony or misdemeanor Conviction.

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

9 (5) Have a unique identifier as determined by Commission Rule.

10 (6) Hold a Qualifying License.

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

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

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

21 (10) Notify the Compact Commission that the Licensee is seeking the Compact Privilege in
22 a Remote State.

23 (11) Meet any Jurisprudence Requirement of a Remote State in which the Licensee is

24 seeking to practice under the Compact Privilege and pay any fees applicable to satisfying the
25 Jurisprudence Requirement.

26 (12) Report to the Commission any Adverse Action taken by a non-participating State
27 within 30 days after the action is taken.

28 (b) The Compact Privilege is valid until the expiration or revocation of the Qualifying
29 License unless terminated pursuant to an Adverse Action. The Licensee must also comply with all
30 of the requirements of Subsection A above to maintain the Compact Privilege in a Remote State. If
31 the Participating State takes Adverse Action against a Qualifying License, the Licensee shall lose
32 the Compact Privilege in any Remote State in which the Licensee has a Compact Privilege until all
33 of the following occur:

34 (1) The License is no longer limited or restricted; and

35 (2) Two years have elapsed from the date on which the License is no longer limited or
36 restricted due to the Adverse Action.

37 (c) Once a restricted or limited License satisfies the requirements of Subsection B.1 and 2,
38 the Licensee must meet the requirements of Subsection A to obtain a Compact Privilege in any
39 Remote State.

40 (d) For each Remote State in which a PA seeks authority to prescribe controlled
41 substances, the PA shall satisfy all requirements imposed by such State in granting or renewing
42 such authority.

§30-3G-5. Designation of the state from which licensee is applying for a compact privilege.

1 Upon a Licensee's application for a Compact Privilege, the Licensee shall identify to the
2 Commission the Participating State from which the Licensee is applying, in accordance with
3 applicable Rules adopted by the Commission, and subject to the following requirements:

4 (1) When applying for a Compact Privilege, the Licensee shall provide the Commission
5 with the address of the Licensee's primary residence and thereafter shall immediately report to the
6 Commission any change in the address of the Licensee's primary residence.

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

§30-3G-6. Adverse actions.

1 (a) A Participating State in which a Licensee is licensed shall have exclusive power to
2 impose Adverse Action against the Qualifying License issued by that Participating State.

3 (b) In addition to the other powers conferred by State law, a Remote State shall have the
4 authority, in accordance with existing State due process law, to do all of the following:

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

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

16 (3) Notwithstanding paragraph 2, subpoenas may not be issued by a Participating State to
17 gather evidence of conduct in another State that is lawful in that other State for the purpose of
18 taking Adverse Action against a Licensee's Compact Privilege or application for a Compact
19 Privilege in that Participating State.

20 (4) Nothing in this Compact authorizes a Participating State to impose discipline against a

21 PA's Compact Privilege or to deny an application for a Compact Privilege in that Participating State
22 for the individual's otherwise lawful practice in another State.

23 (c) For purposes of taking Adverse Action, the Participating State which issued the
24 Qualifying License shall give the same priority and effect to reported conduct received from any
25 other Participating State as it would if the conduct had occurred within the Participating State
26 which issued the Qualifying License. In so doing, that Participating State shall apply its own State
27 laws to determine appropriate action.

28 (d) A Participating State, if otherwise permitted by State law, may recover from the affected
29 PA the costs of investigations and disposition of cases resulting from any Adverse Action taken
30 against that PA.

31 (e) A Participating State may take Adverse Action based on the factual findings of a
32 Remote State, provided that the Participating State follows its own procedures for taking the
33 Adverse Action.

34 (f) Joint Investigations:

35 (1) In addition to the authority granted to a Participating State by its respective State PA
36 laws and regulations or other applicable State law, any Participating State may participate with
37 other Participating States in joint investigations of Licensees.

38 (2) Participating States shall share any investigative, litigation, or compliance materials in
39 furtherance of any joint or individual investigation initiated under this Compact.

40 (g) If an Adverse Action is taken against a PA's Qualifying License, the PA's Compact
41 Privilege in all Remote States shall be deactivated until two years have elapsed after all
42 restrictions have been removed from the State License. All disciplinary orders by the Participating
43 State which issued the Qualifying License that impose Adverse Action against a PA's License shall
44 include a Statement that the PA's Compact Privilege is deactivated in all Participating States
45 during the pendency of the order.

46 (h) If any Participating State takes Adverse Action, it promptly shall notify the administrator

47 of the Data System.

§30-3G-7. Establishment of the PA licensure compact commission.

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

6 (b) Membership, Voting, and Meetings.

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

10 (2) The delegate shall be either:

11 (A) A current PA, physician or public member of a Licensing Board or PA
12 Council/Committee; or

13 (B) An administrator of a Licensing Board.

14 (3) Any delegate may be removed or suspended from office as provided by the laws of the
15 State from which the delegate is appointed.

16 (4) The Participating State Licensing Board shall fill any vacancy occurring in the
17 Commission within sixty (60) days.

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

23 (6) The Commission shall meet at least once during each calendar year. Additional
24 meetings shall be held as set forth in this Compact and the bylaws.

- 25 (7) The Commission shall establish by Rule a term of office for delegates.
- 26 (c) The Commission shall have the following powers and duties:
- 27 (1) Establish a code of ethics for the Commission;
- 28 (2) Establish the fiscal year of the Commission;
- 29 (3) Establish fees;
- 30 (4) Establish bylaws;
- 31 (5) Maintain its financial records in accordance with the bylaws;
- 32 (6) Meet and take such actions as are consistent with the provisions of this Compact and
33 the bylaws;
- 34 (7) Promulgate Rules to facilitate and coordinate implementation and administration of this
35 Compact. The Rules shall have the force and effect of law and shall be binding in all Participating
36 States;
- 37 (8) Bring and prosecute legal proceedings or actions in the name of the Commission,
38 provided that the standing of any State Licensing Board to sue or be sued under applicable law
39 shall not be affected;
- 40 (9) Purchase and maintain insurance and bonds;
- 41 (10) Borrow, accept, or contract for services of personnel, including, but not limited to,
42 employees of a Participating State;
- 43 (11) Hire employees and engage contractors, elect or appoint officers, fix compensation,
44 define duties, grant such individuals appropriate authority to carry out the purposes of this
45 Compact, and establish the Commission's personnel policies and programs relating to conflicts of
46 interest, qualifications of personnel, and other related personnel matters;
- 47 (12) Accept any and all appropriate donations and grants of money, equipment, supplies,
48 materials and services, and receive, utilize and dispose of the same; provided that at all times the
49 Commission shall avoid any appearance of impropriety or conflict of interest;
- 50 (13) Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold,

51 improve or use, any property, real, personal or mixed; provided that at all times the Commission
52 shall avoid any appearance of impropriety;

53 (14) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
54 any property real, personal, or mixed;

55 (15) Establish a budget and make expenditures;

56 (16) Borrow money;

57 (17) Appoint committees, including standing committees composed of members, State
58 regulators, State legislators or their representatives, and consumer representatives, and such
59 other interested persons as may be designated in this Compact and the bylaws;

60 (18) Provide and receive information from, and cooperate with, law enforcement agencies;

61 (19) Elect a Chair, Vice Chair, Secretary and Treasurer and such other officers of the
62 Commission as provided in the Commission's bylaws.

63 (20) Reserve for itself, in addition to those reserved exclusively to the Commission under
64 the Compact, powers that the Executive Committee may not exercise;

65 (21) Approve or disapprove a State's participation in the Compact based upon its
66 determination as to whether the State's Compact legislation departs in a material manner from the
67 Model Compact language;

68 (22) Prepare and provide to the Participating States an annual report; and Perform such
69 other functions as may be necessary or appropriate to achieve the purposes of this Compact
70 consistent with the State regulation of PA licensure and practice.

71 (d) Meetings of the Commission.

72 (1) All meetings of the Commission that are not closed pursuant to this subsection shall be
73 open to the public. Notice of public meetings shall be posted on the Commission's website at least
74 thirty (30) days prior to the public meeting.

75 (2) Notwithstanding subsection D.1 of this section, the Commission may convene a public
76 meeting by providing at least 24 hours prior notice on the Commission's website, and any other

77 means as provided in the Commission's Rules, for any of the reasons it may dispense with notice
78 of proposed rulemaking under Section 9.L.

79 (3) The Commission may convene in a closed, non-public meeting or non-public part of a
80 public meeting to receive legal advice or to discuss:

81 (A) Non-compliance of a Participating State with its obligations under this Compact;

82 (B) The employment, compensation, discipline or other matters, practices or procedures
83 related to specific employees or other matters related to the Commission's internal personnel
84 practices and procedures;

85 (C) Current, threatened, or reasonably anticipated litigation;

86 (D) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real
87 estate;

88 (E) Accusing any person of a crime or formally censuring any person;

89 (F) Disclosure of trade secrets or commercial or financial information that is privileged or
90 confidential;

91 (G) Disclosure of information of a personal nature where disclosure would constitute a
92 clearly unwarranted invasion of personal privacy;

93 (H) Disclosure of investigative records compiled for law enforcement purposes;

94 (I) Disclosure of information related to any investigative reports prepared by or on behalf of
95 or for use of the Commission or other committee charged with responsibility of investigation or
96 determination of compliance issues pursuant to this Compact;

97 (J) Legal advice; or

98 (K) Matters specifically exempted from disclosure by federal or Participating States'
99 statutes.

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

103 (5) The Commission shall keep minutes that fully and clearly describe all matters
104 discussed in a meeting and shall provide a full and accurate summary of actions taken, including a
105 description of the views expressed. All documents considered in connection with an action shall
106 be identified in such minutes. All minutes and documents of a closed meeting shall remain under
107 seal, subject to release by a majority vote of the Commission or order of a court of competent
108 jurisdiction.

109 (e) Financing of the Commission.

110 (1) The Commission shall pay, or provide for the payment of, the reasonable expenses of
111 its establishment, organization, and ongoing activities.

112 (2) The Commission may accept any and all appropriate revenue sources, donations, and
113 grants of money, equipment, supplies, materials, and services.

114 (3) The Commission may levy on and collect an annual assessment from each
115 Participating State and may impose Compact Privilege fees on Licensees of Participating States
116 to whom a Compact Privilege is granted to cover the cost of the operations and activities of the
117 Commission and its staff, which must be in a total amount sufficient to cover its annual budget as
118 approved by the Commission each year for which revenue is not provided by other sources. The
119 aggregate annual assessment amount levied on Participating States shall be allocated based
120 upon a formula to be determined by Commission Rule.

121 (A) A Compact Privilege expires when the Licensee's Qualifying License in the
122 Participating State from which the Licensee applied for the Compact Privilege expires.

123 (B) If the Licensee terminates the Qualifying License through which the Licensee applied
124 for the Compact Privilege before its scheduled expiration, and the Licensee has a Qualifying
125 License in another Participating State, the Licensee shall inform the Commission that it is
126 changing to that Participating State the Participating State through which it applies for a Compact
127 Privilege and pay to the Commission any Compact Privilege fee required by Commission Rule.

128 (4) The Commission shall not incur obligations of any kind prior to securing the funds

129 adequate to meet the same; nor shall the Commission pledge the credit of any of the Participating
130 States, except by and with the authority of the Participating State.

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

137 (f) The Executive Committee.

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

140 (2) The Executive Committee shall be composed of nine (9) members:

141 (A) Seven voting members who are elected by the Commission from the current
142 membership of the Commission;

143 (B) One ex-officio, nonvoting member from a recognized national PA professional
144 association; and

145 (C) One ex-officio, nonvoting member from a recognized national PA certification
146 organization.

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

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

150 (5) The Executive Committee shall meet at least annually.

151 (6) The Executive Committee shall have the following duties and responsibilities:

152 (A) Recommend to the Commission changes to the Commission's Rules or bylaws,
153 changes to this Compact legislation, fees to be paid by Compact Participating States such as
154 annual dues, and any Commission Compact fee charged to Licensees for the Compact Privilege;

155 (B) Ensure Compact administration services are appropriately provided, contractual or
156 otherwise;

157 (C) Prepare and recommend the budget;

158 (D) Maintain financial records on behalf of the Commission;

159 (E) Monitor Compact compliance of Participating States and provide compliance reports to
160 the Commission;

161 (F) Establish additional committees as necessary;

162 (G) Exercise the powers and duties of the Commission during the interim between
163 Commission meetings, except for issuing proposed rulemaking or adopting Commission Rules or
164 bylaws, or exercising any other powers and duties exclusively reserved to the Commission by the
165 Commission's Rules; and

166 (H) Perform other duties as provided in the Commission's Rules or bylaws.

167 (7) All meeting of the Executive Committee at which it votes or plans to vote on matters in
168 exercising the powers and duties of the Commission shall be open to the public and public notice
169 of such meetings shall be given as public meetings of the Commission are given.

170 (8) The Executive Committee may convene in a closed, non-public meeting for the same
171 reasons that the Commission may convene in a non-public meeting as set forth in Section 7.D.3
172 and shall announce the closed meeting as the Commission is required to under Section 7.D.4 and
173 keep minutes of the closed meeting as the Commission is required to under Section 7.D.5.

174 (G) Qualified Immunity, Defense, and Indemnification.

175 (1) The members, officers, executive director, employees and representatives of the
176 Commission shall be immune from suit and liability, both personally and in their official capacity, for
177 any claim for damage to or loss of property or personal injury or other civil liability caused by or
178 arising out of any actual or alleged act, error, or omission that occurred, or that the person against
179 whom the claim is made had a reasonable basis for believing occurred within the scope of
180 Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be

181 construed to protect any such person from suit or liability for any damage, loss, injury, or liability
182 caused by the intentional or willful or wanton misconduct of that person. The procurement of
183 insurance of any type by the Commission shall not in any way compromise or limit the immunity
184 granted hereunder.

185 (2) The Commission shall defend any member, officer, executive director, employee, and
186 representative of the Commission in any civil action seeking to impose liability arising out of any
187 actual or alleged act, error, or omission that occurred within the scope of Commission employment,
188 duties, or responsibilities, or as determined by the commission that the person against whom the
189 claim is made had a reasonable basis for believing occurred within the scope of Commission
190 employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit
191 that person from retaining their own counsel at their own expense; and provided further, that the
192 actual or alleged act, error, or omission did not result from that person's intentional or willful or
193 wanton misconduct.

194 (3) The Commission shall indemnify and hold harmless any member, officer, executive
195 director, employee, and representative of the Commission for the amount of any settlement or
196 judgment obtained against that person arising out of any actual or alleged act, error, or omission
197 that occurred within the scope of Commission employment, duties, or responsibilities, or that such
198 person had a reasonable basis for believing occurred within the scope of Commission employment,
199 duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result
200 from the intentional or willful or wanton misconduct of that person.

201 (4) Venue is proper and judicial proceedings by or against the Commission shall be brought
202 solely and exclusively in a court of competent jurisdiction where the principal office of the
203 Commission is located. The Commission may waive venue and jurisdictional defenses in any
204 proceedings as authorized by Commission Rules.

205 (5) Nothing herein shall be construed as a limitation on the liability of any Licensee for
206 professional malpractice or misconduct, which shall be governed solely by any other applicable

207 State laws.

208 (6) Nothing herein shall be construed to designate the venue or jurisdiction to bring actions
209 for alleged acts of malpractice, professional misconduct, negligence, or other such civil action
210 pertaining to the practice of a PA. All such matters shall be determined exclusively by State law
211 other than this Compact.

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

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

§30-3G-8. Data system.

1 (a) The Commission shall provide for the development, maintenance, operation, and
2 utilization of a coordinated data and reporting system containing licensure, Adverse Action, and
3 the reporting of the existence 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 Participating State shall submit a
6 uniform data set to the Data System on all PAs to whom this Compact is applicable (utilizing a
7 unique identifier) as required by the Rules of the Commission, including:

8 (1) Identifying information;

9 (2) Licensure data;

10 (3) Adverse Actions against a License or Compact Privilege;

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

13 (5) The existence of Significant Investigative Information; and

14 (6) Other information that may facilitate the administration of this Compact, as determined

15 by the Rules of the Commission.

16 (c) Significant Investigative Information pertaining to a Licensee in any Participating State
17 shall only be available to other Participating States.

18 (d) The Commission shall promptly notify all Participating States of any Adverse Action
19 taken against a Licensee or an individual applying for a License that has been reported to it. This
20 Adverse Action information shall be available to any other Participating State.

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

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

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

§30-3G-9. **Rulemaking.**

1 (a) The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth
2 in this Section and the Rules adopted thereunder. Commission Rules shall become binding as of
3 the date specified by the Commission for each Rule.

4 (b) The Commission shall promulgate reasonable Rules in order to effectively and efficiently
5 implement and administer this Compact and achieve its purposes. A Commission Rule shall be
6 invalid and have not force or effect only if a court of competent jurisdiction holds that the Rule is
7 invalid because the Commission exercised its rulemaking authority in a manner that is beyond the

8 scope of the purposes of this Compact, or the powers granted hereunder, or based upon another
9 applicable standard of review.

10 (c) The Rules of the Commission shall have the force of law in each Participating State,
11 provided however that where the Rules of the Commission conflict with the laws of the Participating
12 State that establish the medical services a PA may perform in the Participating State, as held by a
13 court of competent jurisdiction, the Rules of the Commission shall be ineffective in that State to the
14 extent of the conflict.

15 (d) If a majority of the legislatures of the Participating States rejects a Commission Rule, by
16 enactment of a statute or resolution in the same manner used to adopt this Compact within four (4)
17 years of the date of adoption of the Rule, then such Rule shall have no further force and effect in
18 any Participating State or to any State applying to participate in the Compact.

19 (e) Commission Rules shall be adopted at a regular or special meeting of the Commission.

20 (f) Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at
21 least thirty (30) days in advance of the meeting at which the Rule will be considered and voted
22 upon, the Commission shall file a Notice of Proposed Rulemaking:

23 (1) On the website of the Commission or other publicly accessible platform; and

24 (2) To persons who have requested notice of the Commission's notices of proposed
25 rulemaking, and

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

27 (g) The Notice of Proposed Rulemaking shall include:

28 (1) The time, date, and location of the public hearing on the proposed Rule and the proposed
29 time, date and location of the meeting in which the proposed Rule will be considered and voted
30 upon;

31 (2) The text of the proposed Rule and the reason for the proposed Rule;

32 (3) A request for comments on the proposed Rule from any interested person and the date
33 by which written comments must be received; and

34 (4) The manner in which interested persons may submit notice to the Commission of their
35 intention to attend the public hearing or provide any written comments.

36 (h) Prior to adoption of a proposed Rule, the Commission shall allow persons to submit
37 written data, facts, opinions, and arguments, which shall be made available to the public.

38 (i) If the hearing is to be held via electronic means, the Commission shall publish the
39 mechanism for access to the electronic hearing.

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

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

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

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

51 (j) Following the public hearing the Commission shall consider all written and oral
52 comments timely received.

53 (k) The Commission shall, by majority vote of all delegates, take final action on the
54 proposed Rule and shall determine the effective date of the Rule, if adopted, based on the
55 Rulemaking record and the full text of the Rule.

56 (1) If adopted, the Rule shall be posted on the Commission's website.

57 (2) The Commission may adopt changes to the proposed Rule provided the changes do not
58 enlarge the original purpose of the proposed Rule.

59 (3) The Commission shall provide on its website an explanation of the reasons for

60 substantive changes made to the proposed Rule as well as reasons for substantive changes not
61 made that were recommended by commenters.

62 (4) The Commission shall determine a reasonable effective date for the Rule. Except for an
63 emergency as provided in subsection I, the effective date of the Rule shall be no sooner than thirty
64 (30) days after the Commission issued the notice that it adopted the Rule.

65 (l) Upon determination that an emergency exists, the Commission may consider and adopt
66 an emergency Rule with 24 hours prior notice, without the opportunity for comment, or hearing,
67 provided that the usual rulemaking procedures provided in this Compact and in this section shall be
68 retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90)
69 days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is
70 one that must be adopted immediately by the Commission in order to:

71 (1) Meet an imminent threat to public health, safety, or welfare;

72 (2) Prevent a loss of Commission or Participating State funds;

73 (3) Meet a deadline for the promulgation of a Commission Rule that is established by federal
74 law or Rule; or

75 (4) Protect public health and safety.

76 (m) The Commission or an authorized committee of the Commission may direct revisions to
77 a previously adopted Commission Rule for purposes of correcting typographical errors, errors in
78 format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted
79 on the website of the Commission. The revision shall be subject to challenge by any person for a
80 period of thirty (30) days after posting. The revision may be challenged only on grounds that the
81 revision results in a material change to a Rule. A challenge shall be made as set forth in the notice
82 of revisions and delivered to the Commission prior to the end of the notice period. If no challenge is
83 made, the revision will take effect without further action. If the revision is challenged, the revision
84 may not take effect without the approval of the Commission.

85 (n) No Participating State's rulemaking requirements shall apply under this Compact.

§30-3G-10. Oversight, dispute resolution, and enforcement.

1 (a) Oversight.

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

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

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

16 (b) Default, Technical Assistance, and Termination.

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

23 (2) If a State in default fails to cure the default, the defaulting State may be terminated from
24 this Compact upon an affirmative vote of a majority of the delegates of the Participating States, and
25 all rights, privileges and benefits conferred by this Compact upon such State may be terminated on

26 the effective date of termination. A cure of the default does not relieve the offending State of
27 obligations or liabilities incurred during the period of default.

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

32 (4) A State that has been terminated is responsible for all assessments, obligations, and
33 liabilities incurred through the effective date of termination, including obligations that extend
34 beyond the effective date of termination.

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

38 (6) The defaulting State may appeal its termination from the Compact by the Commission
39 by petitioning the U.S. District Court for the District of Columbia or the federal district where the
40 Commission has its principal offices. The prevailing member shall be awarded all costs of such
41 litigation, including reasonable attorney's fees.

42 (7) Upon the termination of a State's participation in the Compact, the State shall
43 immediately provide notice to all Licensees within that State of such termination:

44 (A) Licensees who have been granted a Compact Privilege in that State shall retain the
45 Compact Privilege for 180 days following the effective date of such termination.

46 (B) Licensees who are licensed in that State who have been granted a Compact Privilege
47 in a Participating State shall retain the Compact Privilege for one hundred eighty (180) days unless
48 the Licensee also has a Qualifying License in a Participating State or obtains a Qualifying License
49 in a Participating State before the 180 day period ends, in which case the Compact Privilege shall
50 continue.

51 (c) Dispute Resolution.

52 (1) Upon request by a Participating State, the Commission shall attempt to resolve disputes
53 related to this Compact that arise among Participating States and between participating and non-
54 Participating States.

55 (2) The Commission shall promulgate a Rule providing for both mediation and binding
56 dispute resolution for disputes as appropriate.

57 (d) Enforcement.

58 (1) The Commission, in the reasonable exercise of its discretion, shall enforce the
59 provisions of this Compact and Rules of the Commission.

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

67 (3) The remedies herein shall not be the exclusive remedies of the Commission. The
68 Commission may pursue any other remedies available under federal or State law.

69 (e) Legal Action Against the Commission.

70 (1) A Participating State may initiate legal action against the Commission in the U.S. District
71 Court for the District of Columbia or the federal district where the Commission has its principal
72 offices to enforce compliance with the provisions of the Compact and its Rules. The relief sought
73 may include both injunctive relief and damages. In the event judicial enforcement is necessary, the
74 prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

75 (2) No person other than a Participating State shall enforce this Compact against the
76 Commission.

§30-3G-11. Date of Implementation of the PA Licensure Compact Commission.

1 (a) This Compact shall come into effect on the date on which this Compact statute is
2 enacted into law in the seventh Participating State.

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

7 (A) A Charter Participating State whose enactment is found to be materially different from
8 the Model Compact shall be entitled to the default process set forth in Section 10.B.

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

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

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

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

27 (c) Any Participating State may withdraw from this Compact by enacting a statute repealing
28 the same.

29 (1) A Participating State's withdrawal shall not take effect until one hundred eighty (180)
30 days after enactment of the repealing statute. During this one hundred eighty (180) day-period, all
31 Compact Privileges that were in effect in the withdrawing State and were granted to Licensees
32 licensed in the withdrawing State shall remain in effect. If any Licensee licensed in the withdrawing
33 State is also licensed in another Participating State or obtains a license in another Participating
34 State within the 180 days, the Licensee's Compact Privileges in other Participating States shall not
35 be affected by the passage of the 180 days.

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

39 (3) Upon the enactment of a statute withdrawing a State from this Compact, the State shall
40 immediately provide notice of such withdrawal to all Licensees within that State. Such withdrawing
41 State shall continue to recognize all licenses granted pursuant to this Compact for a minimum of
42 180 days after the date of such notice of withdrawal.

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

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

§30-3G-12. Construction and severability.

1 (a) This Compact and the Commission's rulemaking authority shall be liberally construed

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

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

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

§30-3G-13. Binding effect of compact.

1 (a) Nothing herein prevents the enforcement of any other law of a Participating State that is
 2 not inconsistent with this Compact.

3 (b) Any laws in a Participating State in conflict with this Compact are superseded to the
 4 extent of the conflict.

5 (c) All agreements between the Commission and the Participating States are binding in
 6 accordance with their terms.

NOTE: The purpose of this bill relates to the creation of the Physicians Licensure Compact.

The bill provides for a purpose. The bill creates definitions. The bill provides for state participation in the compact. The bill creates the compact privilege. The bill provides for the designation of the state from which licensee is applying for a compact privilege. The bill defines adverse actions. The bill provides for the establishment of the PA Licensure Compact Commission. The bill defines the data system. The bill provides for rulemaking. The bill provides for oversight, dispute resolution, and enforcement. The bill provides for the date of implementation of the PA Licensure Compact Commission. The bill provides for construction and severability. Finally, the bill creates the binding effect of the compact.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.