

Amendment to SB 425

1 Amend the title of the bill by replacing it with the following:

2
3 AN ACT adopting the physician associate licensure compact.
4

5 Amend the bill by replacing all after the enacting clause with the following:
6

7 1 New Section; Physician Associates; Physician Associate Licensure Compact Adopted. Amend
8 RSA 328-D by inserting after section 18 the following new section:

9 328-D:18-a Physician Associate Licensure Compact Adopted. The state of New Hampshire
10 hereby adopts the provisions of the physician associate licensure compact as follows:

11 Section 1. Purpose.

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

27 Section 2. Definitions.

28 In this compact:

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

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1 B. “Compact privilege” means the authorization granted by a remote state to allow a licensee
2 from another participating state to practice as a PA to provide medical services and other licensed
3 activity to a patient located in the remote state under the remote state’s laws and regulations.

4 C. “Conviction” means a finding by a court that an individual is guilty of a felony or
5 misdemeanor offense through adjudication or entry of a plea of guilt or no contest to the charge by
6 the offender.

7 D. “Criminal background check” means the submission of fingerprints or other biometric based
8 information for a license applicant for the purpose of obtaining that applicant’s criminal history
9 record information, as defined in 28 C.F.R. § 20.3(d), from the state’s criminal history record
10 repository as defined in 28 C.F.R. § 20.3(f).

11 E. “Data system” means the repository of information about licensees, including but not limited
12 to license status and adverse actions, which is created and administered under the terms of this
13 compact.

14 F. “Executive committee” means a group of directors and ex-officio individuals elected or
15 appointed pursuant to Section 7.F.2.

16 G. “Impaired practitioner” means a PA whose practice is adversely affected by health related
17 condition(s) that impact their ability to practice.

18 H. “Investigative information” means information, records, or documents received or generated
19 by a licensing board pursuant to an investigation.

20 I. “Jurisprudence requirement” means the assessment of an individual’s knowledge of the laws
21 and rules governing the practice of a PA in a state.

22 J. “License” means current authorization by a state, other than authorization pursuant to a
23 compact privilege, for a PA to provide medical services, which would be unlawful without current
24 authorization.

25 K. “Licensee” means an individual who holds a license from a state to provide medical services
26 as a PA.

27 L. “Licensing board” means any state entity authorized to license and otherwise regulate PAs.

28 M. “Medical services” means health care services provided for the diagnosis, prevention,
29 treatment, cure, or relief of a health condition, injury, or disease, as defined by a state’s laws and
30 regulations.

31 N. “Model compact” means the model for the PA licensure compact on file with the council of
32 state governments or other entity as designated by the commission.

33 O. “Participating state” means a state that has enacted this compact.

34 P. “PA” means an individual who is licensed as a physician associate in a state. For purposes of
35 this compact, any other title or status adopted by a state to replace the term “physician assistant”
36 shall be deemed synonymous with “physician associate” and shall confer the same rights and
37 responsibilities to the licensee under the provisions of this compact at the time of its enactment.

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1 Q. “PA licensure compact commission,” “compact commission,” or “commission” mean the
2 national administrative body created pursuant to section 7.A of this compact.

3 R. “Qualifying license” means an unrestricted license issued by a participating state to provide
4 medical services as a PA.

5 S. “Remote state” means a participating state where a licensee who is not licensed as a PA is
6 exercising or seeking to exercise the compact privilege.

7 T. “Rule” means a regulation promulgated by an entity that has the force and effect of law.

8 U. “Significant investigative information” means investigative information that a licensing
9 board, after an inquiry or investigation that includes notification and an opportunity for the PA to
10 respond if required by state law, has reason to believe is not groundless and, if proven true, would
11 indicate more than a minor infraction.

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

13 Section 3. State Participation in this Compact.

14 A. To participate in this compact, a participating state shall:

- 15 1. License PAs.
- 16 2. Participate in the compact commission’s data system.
- 17 3. Have a mechanism in place for receiving and investigating complaints against licensees
18 and license applicants.
- 19 4. Notify the commission, in compliance with the terms of this compact and commission
20 rules, of any adverse action against a licensee or license applicant and the existence of significant
21 investigative information regarding a licensee or license applicant.

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

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

26 7. Utilize passage of a recognized national exam such as the NCCPA PANCE as a
27 requirement for PA licensure.

28 8. Grant the compact privilege to a holder of a qualifying license in a participating state.

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

31 Section 4. Compact Privilege.

32 A. To exercise the compact privilege, a licensee must:

- 33 1. Have graduated from a PA program accredited by the Accreditation Review Commission
34 on Education for the Physician Assistant, Inc. or other programs authorized by commission rule.
- 35 2. Hold current NCCPA certification.
- 36 3. Have no felony or misdemeanor conviction.

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1 4. Have never had a controlled substance license, permit, or registration suspended or
2 revoked by a state or by the United States Drug Enforcement Administration.

3 5. Have a unique identifier as determined by commission rule.

4 6. Hold a qualifying license.

5 7. Have had no revocation of a license or limitation or restriction on any license currently
6 held due to an adverse action.

7 8. If a licensee has had a limitation or restriction on a license or compact privilege due to an
8 adverse action, 2 years must have elapsed from the date on which the license or compact privilege is
9 no longer limited or restricted due to the adverse action.

10 9. If a compact privilege has been revoked or is limited or restricted in a participating state
11 for conduct that would not be a basis for disciplinary action in a participating state in which the
12 licensee is practicing or applying to practice under a compact privilege, that participating state shall
13 have the discretion not to consider such action as an adverse action requiring the denial or removal
14 of a compact privilege in that state.

15 10. Notify the compact commission that the licensee is seeking the compact privilege in a
16 remote state.

17 11. Meet any jurisprudence requirement of a remote state in which the licensee is seeking to
18 practice under the compact privilege and pay any fees applicable to satisfying the jurisprudence
19 requirement.

20 12. Report to the commission any adverse action taken by a non-participating state within
21 30 days after the action is taken.

22 B. The compact privilege is valid until the expiration or revocation of the qualifying license
23 unless terminated pursuant to an adverse action. The licensee must also comply with all of the
24 requirements of subsection A above to maintain the compact privilege in a remote state. If the
25 participating state takes adverse action against a qualifying license, the licensee shall lose the
26 compact privilege in any remote state in which the licensee has a compact privilege until all of the
27 following occur:

28 1. The license is no longer limited or restricted; and

29 2. Two years have elapsed from the date on which the license is no longer limited or
30 restricted due to the adverse action.

31 C. Once a restricted or limited license satisfies the requirements of subsection B.1 and 2, the
32 licensee must meet the requirements of subsection A to obtain a compact privilege in any remote
33 state.

34 D. For each remote state in which a PA seeks authority to prescribe controlled substances, the
35 PA shall satisfy all requirements imposed by such state in granting or renewing such authority.

36 Section 5. Designation of the State from Which Licensee is Applying for a Compact Privilege.

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1 A. 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 with the
5 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.

12 Section 6. Adverse Actions.

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

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

17 1. Take adverse action against a PA's compact privilege within that state to remove a
18 licensee's compact privilege or take other action necessary under applicable law to protect the health
19 and safety of its citizens.

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

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

32 4. Nothing in this compact authorizes a participating state to impose discipline against a
33 PA's compact privilege or to deny an application for a compact privilege in that participating state
34 for the individual's otherwise lawful practice in another state.

35 C. For purposes of taking adverse action, the participating state which issued the qualifying
36 license shall give the same priority and effect to reported conduct received from any other
37 participating state as it would if the conduct had occurred within the participating state which

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1 issued the qualifying license. In so doing, that participating state shall apply its own state laws to
2 determine appropriate action.

3 D. A participating state, if otherwise permitted by state law, may recover from the affected PA
4 the costs of investigations and disposition of cases resulting from any adverse action taken against
5 that PA.

6 E. A participating state may take adverse action based on the factual findings of a remote state,
7 provided that the participating state follows its own procedures for taking the adverse action.

8 F. Joint investigations.

9 1. In addition to the authority granted to a participating state by its respective state PA
10 laws and regulations or other applicable state law, any participating state may participate with
11 other participating states in joint investigations of licensees.

12 2. Participating states shall share any investigative, litigation, or compliance materials in
13 furtherance of any joint or individual investigation initiated under this compact.

14 G. If an adverse action is taken against a PA's qualifying license, the PA's compact privilege in
15 all remote states shall be deactivated until 2 years have elapsed after all restrictions have been
16 removed from the state license. All disciplinary orders by the participating state which issued the
17 qualifying license that impose adverse action against a PA's license shall include a statement that
18 the PA's compact privilege is deactivated in all participating states during the pendency of the order.

19 H. If any participating state takes adverse action, it promptly shall notify the administrator of
20 the data system.

21 Section 7. Establishment of the PA Licensure Compact Commission.

22 A. The participating states hereby create and establish a joint government agency and national
23 administrative body known as the PA licensure compact commission. The commission is an
24 instrumentality of the compact states acting jointly and not an instrumentality of any one state. The
25 commission shall come into existence on or after the effective date of the compact as set forth in
26 section 11.A.

27 B. Membership, voting, and meetings.

28 1. Each participating state shall have and be limited to one delegate selected by that
29 participating state's licensing board or, if the state has more than one licensing board, selected
30 collectively by the participating state's licensing boards.

31 2. The delegate shall be either:

32 a. A current PA, physician, or public member of a licensing board or PA
33 council/committee; or

34 b. An administrator of a licensing board.

35 3. Any delegate may be removed or suspended from office as provided by the laws of the
36 state from which the delegate is appointed.

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1 4. The participating state licensing board shall fill any vacancy occurring in the commission
2 within 60 days.

3 5. Each delegate shall be entitled to one vote on all matters voted on by the commission and
4 shall otherwise have an opportunity to participate in the business and affairs of the commission. A
5 delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may
6 provide for delegates' participation in meetings by telecommunications, video conference, or other
7 means of communication.

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

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

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

12 1. Establish a code of ethics for the commission;

13 2. Establish the fiscal year of the commission;

14 3. Establish fees;

15 4. Establish bylaws;

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

17 6. Meet and take such actions as are consistent with the provisions of this compact and the
18 bylaws;

19 7. Promulgate rules to facilitate and coordinate implementation and administration of this
20 compact. The rules shall have the force and effect of law and shall be binding in all participating
21 states;

22 8. Bring and prosecute legal proceedings or actions in the name of the commission, provided
23 that the standing of any state licensing board to sue or be sued under applicable law shall not be
24 affected;

25 9. Purchase and maintain insurance and bonds;

26 10. Borrow, accept, or contract for services of personnel, including, but not limited to,
27 employees of a participating state;

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

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

35 13. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold,
36 improve, or use, any property, real, personal or mixed; provided that at all times the commission
37 shall avoid any appearance of impropriety;

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

3 15. Establish a budget and make expenditures;

4 16. Borrow money;

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

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

9 19. Elect a chair, vice chair, secretary, and treasurer and such other officers of the
10 commission as provided in the commission's bylaws.

11 20. Reserve for itself, in addition to those reserved exclusively to the commission under the
12 compact, powers that the executive committee may not exercise;

13 21. Approve or disapprove a state's participation in the compact based upon its
14 determination as to whether the state's compact legislation departs in a material manner from the
15 model compact language;

16 22. Prepare and provide to the participating states an annual report; and

17 23. Perform such other functions as may be necessary or appropriate to achieve the purposes
18 of this compact consistent with the state regulation of PA licensure and practice.

19 D. Meetings of the commission.

20 1. All meetings of the commission that are not closed pursuant to this subsection shall be
21 open to the public. Notice of public meetings shall be posted on the commission's website at least 30
22 days prior to the public meeting.

23 2. Notwithstanding subsection D.1 of this section, the commission may convene a public
24 meeting by providing at least 24 hours prior notice on the commission's website, and any other
25 means as provided in the commission's rules, for any of the reasons it may dispense with notice of
26 proposed rulemaking under section 9.L.

27 3. The commission may convene in a closed, non-public meeting or non-public part of a
28 public meeting to receive legal advice or to discuss:

29 a. Non-compliance of a participating state with its obligations under this compact;

30 b. The employment, compensation, discipline, or other matters, practices or procedures
31 related to specific employees or other matters related to the commission's internal personnel
32 practices and procedures;

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

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

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

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1 f. Disclosure of trade secrets or commercial or financial information that is privileged or
2 confidential;

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

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

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

9 j. Legal advice; or

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

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

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

20 E. Financing of the commission.

21 1. The commission shall pay, or provide for the payment of, the reasonable expenses of its
22 establishment, organization, and ongoing activities.

23 2. The commission may accept any and all appropriate revenue sources, donations, and
24 grants of money, equipment, supplies, materials, and services.

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

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

34 b. If the licensee terminates the qualifying license through which the licensee applied for
35 the compact privilege before its scheduled expiration, and the licensee has a qualifying license in
36 another participating state, the licensee shall inform the commission that it is changing to that

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1 participating state the participating state through which it applies for a compact privilege and pay to
2 the commission any compact privilege fee required by commission rule.

3 4. The commission shall not incur obligations of any kind prior to securing the funds
4 adequate to meet the same; nor shall the commission pledge the credit of any of the participating
5 states, except by and with the authority of the participating state.

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

12 F. The executive committee.

13 1. The executive committee shall have the power to act on behalf of the commission
14 according to the terms of this compact and commission rules.

15 2. The executive committee shall be composed of 9 members:

16 a. Seven voting members who are elected by the commission from the current
17 membership of the commission;

18 b. One ex-officio, nonvoting member from a recognized national PA professional
19 association; and

20 c. One ex-officio, nonvoting member from a recognized national PA certification
21 organization.

22 3. The ex-officio members will be selected by their respective organizations.

23 4. The commission may remove any member of the executive committee as provided in its
24 bylaws.

25 5. The executive committee shall meet at least annually.

26 6. The executive committee shall have the following duties and responsibilities:

27 a. Recommend to the commission changes to the commission's rules or bylaws, changes
28 to this compact legislation, fees to be paid by compact participating states such as annual dues, and
29 any commission compact fee charged to licensees for the compact privilege;

30 b. Ensure compact administration services are appropriately provided, contractual or
31 otherwise;

32 c. Prepare and recommend the budget;

33 d. Maintain financial records on behalf of the commission;

34 e. Monitor compact compliance of participating states and provide compliance reports to
35 the commission;

36 f. Establish additional committees as necessary;

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1 g. Exercise the powers and duties of the commission during the interim between
2 commission meetings, except for issuing proposed rulemaking or adopting commission rules or
3 bylaws, or exercising any other powers and duties exclusively reserved to the commission by the
4 commission's rules; and

5 h. Perform other duties as provided in the commission's rules or bylaws.

6 7. All meeting of the executive committee at which it votes or plans to vote on matters in
7 exercising the powers and duties of the commission shall be open to the public and public notice of
8 such meetings shall be given as public meetings of the commission are given.

9 8. The executive committee may convene in a closed, non-public meeting for the same
10 reasons that the commission may convene in a non-public meeting as set forth in section 7.D.3 and
11 shall announce the closed meeting as the commission is required to under section 7.D.4 and keep
12 minutes of the closed meeting as the commission is required to under section 7.D.5.

13 G. Qualified immunity, defense, and indemnification.

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

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

33 3. The commission shall indemnify and hold harmless any member, officer, executive
34 director, employee, and representative of the commission for the amount of any settlement or
35 judgment obtained against that person arising out of any actual or alleged act, error, or omission
36 that occurred within the scope of commission employment, duties, or responsibilities, or that such
37 person had a reasonable basis for believing occurred within the scope of commission employment,

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1 duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result
2 from the intentional or willful or wanton misconduct of that person.

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

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

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

14 7. Nothing in this compact shall be interpreted to waive or otherwise abrogate a
15 participating state's state action immunity or state action affirmative defense with respect to
16 antitrust claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or
17 anticompetitive law or regulation.

18 8. Nothing in this compact shall be construed to be a waiver of sovereign immunity by the
19 participating states or by the commission.

20 Section 8. Data System.

21 A. The commission shall provide for the development, maintenance, operation, and utilization of
22 a coordinated data and reporting system containing licensure, adverse action, and the reporting of
23 the existence of significant investigative information on all licensed PAs and applicants denied a
24 license in participating states.

25 B. Notwithstanding any other state law to the contrary, a participating state shall submit a
26 uniform data set to the data system on all PAs to whom this compact is applicable (utilizing a unique
27 identifier) as required by the rules of the commission, including:

- 28 1. Identifying information;
- 29 2. Licensure data;
- 30 3. Adverse actions against a license or compact privilege;
- 31 4. Any denial of application for licensure, and the reason(s) for such denial (excluding the
32 reporting of any criminal history record information where prohibited by law);
- 33 5. The existence of significant investigative information; and
- 34 6. Other information that may facilitate the administration of this compact, as determined
35 by the rules of the commission.

36 C. Significant investigative information pertaining to a licensee in any participating state shall
37 only be available to other participating states.

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

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

8 F. Any information submitted to the data system that is subsequently expunged pursuant to
9 federal law or the laws of the participating state contributing the information shall be removed from
10 the data system upon reporting of such by the participating state to the commission.

11 G. The records and information provided to a participating state pursuant to this compact or
12 through the data system, when certified by the commission or an agent thereof, shall constitute the
13 authenticated business records of the commission, and shall be entitled to any associated hearsay
14 exception in any relevant judicial, quasi-judicial or administrative proceedings in a participating
15 state.

16 Section 9. Rulemaking.

17 A. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this
18 section and the rules adopted thereunder. Commission rules shall become binding as of the date
19 specified by the commission for each rule.

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

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

31 D. If a majority of the legislatures of the participating states rejects a commission rule, by
32 enactment of a statute or resolution in the same manner used to adopt this compact within 4 years of
33 the date of adoption of the rule, then such rule shall have no further force and effect in any
34 participating state or to any state applying to participate in the compact.

35 E. Commission rules shall be adopted at a regular or special meeting of the commission.

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1 F. Prior to promulgation and adoption of a final rule or rules by the commission, and at least 30
2 days in advance of the meeting at which the rule will be considered and voted upon, the commission
3 shall file a notice of proposed rulemaking:

- 4 1. On the website of the commission or other publicly accessible platform; and
5 2. To persons who have requested notice of the commission's notices of proposed rulemaking,
6 and
7 3. In such other way(s) as the commission may by rule specify.

8 G. The notice of proposed rulemaking shall include:

- 9 1. The time, date, and location of the public hearing on the proposed rule and the proposed
10 time, date, and location of the meeting in which the proposed rule will be considered and voted upon;
11 2. The text of the proposed rule and the reason for the proposed rule;
12 3. A request for comments on the proposed rule from any interested person and the date by
13 which written comments must be received; and
14 4. The manner in which interested persons may submit notice to the commission of their
15 intention to attend the public hearing or provide any written comments.

16 H. Prior to adoption of a proposed rule, the commission shall allow persons to submit written
17 data, facts, opinions, and arguments, which shall be made available to the public.

18 I. If the hearing is to be held via electronic means, the commission shall publish the mechanism
19 for access to the electronic hearing.

20 1. All persons wishing to be heard at the hearing shall as directed in the notice of proposed
21 rulemaking, not less than 5 business days before the scheduled date of the hearing, notify the
22 commission of their desire to appear and testify at the hearing.

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

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

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

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

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

- 36 1. If adopted, the rule shall be posted on the commission's website.

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2. The commission may adopt changes to the proposed rule provided the changes do not enlarge the original purpose of the proposed rule.

3. The commission shall provide on its website an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters.

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

L. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with 24 hours prior notice, without the opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately by the commission in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of commission or participating state funds;
3. Meet a deadline for the promulgation of a commission rule that is established by federal law or rule; or
4. Protect public health and safety.

M. The commission or an authorized committee of the commission may direct revisions to a previously adopted commission rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made as set forth in the notice of revisions and delivered to the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

N. No participating state's rulemaking requirements shall apply under this compact.

Section 10. Oversight, Dispute Resolution, and Enforcement.

A. Oversight.

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

2. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall

1 affect or limit the selection or propriety of venue in any action against a licensee for professional
2 malpractice, misconduct or any such similar matter.

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

8 B. Default, technical assistance, and termination.

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

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

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

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

27 5. The commission shall not bear any costs related to a state that is found to be in default or
28 that has been terminated from this compact, unless agreed upon in writing between the commission
29 and the defaulting state.

30 6. The defaulting state may appeal its termination from the compact by the commission by
31 petitioning the United States District Court for the District of Columbia or the federal district where
32 the commission has its principal offices. The prevailing member shall be awarded all costs of such
33 litigation, including reasonable attorney's fees.

34 7. Upon the termination of a state's participation in the compact, the state shall
35 immediately provide notice to all licensees within that state of such termination:

36 a. Licensees who have been granted a compact privilege in that state shall retain the
37 compact privilege for 180 days following the effective date of such termination.

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1 b. Licensees who are licensed in that state who have been granted a compact privilege in
2 a participating state shall retain the compact privilege for 180 days unless the licensee also has a
3 qualifying license in a participating state or obtains a qualifying license in a participating state
4 before the 180-day period ends, in which case the compact privilege shall continue.

5 C. Dispute resolution.

6 1. Upon request by a participating state, the commission shall attempt to resolve disputes
7 related to this compact that arise among participating states and between participating and non-
8 participating states.

9 2. The commission shall promulgate a rule providing for both mediation and binding dispute
10 resolution for disputes as appropriate.

11 D. Enforcement.

12 1. The commission, in the reasonable exercise of its discretion, shall enforce the provisions of
13 this compact and rules of the commission.

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

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

23 E. Legal action against the commission.

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

30 2. No person other than a participating state shall enforce this compact against the
31 commission.

32 Section 11. Date of Implementation of the PA Licensure Compact Commission.

33 A. This compact shall come into effect on the date on which this compact statute is enacted into
34 law in the seventh participating state.

35 1. On or after the effective date of the compact, the commission shall convene and review the
36 enactment of each of the states that enacted the compact prior to the commission convening ("charter

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1 participating states”) to determine if the statute enacted by each such charter participating state is
2 materially different than the model compact.

3 a. A charter participating state whose enactment is found to be materially different from
4 the model compact shall be entitled to the default process set forth in section 10.B.

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

11 2. Participating states enacting the compact subsequent to the 7 initial charter participating
12 states shall be subject to the process set forth in section 7.C.21 to determine if their enactments are
13 materially different from the model compact and whether they qualify for participation in the
14 compact.

15 3. All actions taken for the benefit of the commission or in furtherance of the purposes of the
16 administration of the compact prior to the effective date of the compact or the commission coming
17 into existence shall be considered to be actions of the commission unless specifically repudiated by
18 the commission.

19 B. Any state that joins this compact shall be subject to the commission’s rules and bylaws as
20 they exist on the date on which this compact becomes law in that state. Any rule that has been
21 previously adopted by the commission shall have the full force and effect of law on the day this
22 compact becomes law in that state.

23 C. Any participating state may withdraw from this compact by enacting a statute repealing the
24 same.

25 1. A participating state’s withdrawal shall not take effect until 180 days after enactment of
26 the repealing statute. During this 180-day period, all compact privileges that were in effect in the
27 withdrawing state and were granted to licensees licensed in the withdrawing state shall remain in
28 effect. If any licensee licensed in the withdrawing state is also licensed in another participating
29 state or obtains a license in another participating state within the 180 days, the licensee’s compact
30 privileges in other participating states shall not be affected by the passage of the 180 days.

31 2. Withdrawal shall not affect the continuing requirement of the state licensing boards of
32 the withdrawing state to comply with the investigative, and adverse action reporting requirements
33 of this compact prior to the effective date of withdrawal.

34 3. Upon the enactment of a statute withdrawing a state from this compact, the state shall
35 immediately provide notice of such withdrawal to all licensees within that state. Such withdrawing
36 state shall continue to recognize all licenses granted pursuant to this compact for a minimum of 180
37 days after the date of such notice of withdrawal.

1 D. Nothing contained in this compact shall be construed to invalidate or prevent any PA
2 licensure agreement or other cooperative arrangement between participating states and between a
3 participating state and non-participating state that does not conflict with the provisions of this
4 compact.

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

8 Section 12. Construction and Severability.

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

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

20 C. Notwithstanding subsection B or this section, the commission may deny a state's
21 participation in the compact or, in accordance with the requirements of section 10.B, terminate a
22 participating state's participation in the compact, if it determines that a constitutional requirement
23 of a participating state is, or would be with respect to a state seeking to participate in the compact, a
24 material departure from the compact. Otherwise, if this compact shall be held to be contrary to the
25 constitution of any participating state, the compact shall remain in full force and effect as to the
26 remaining participating states and in full force and effect as to the participating state affected as to
27 all severable matters.

28 Section 13. Binding Effect of Compact.

29 A. Nothing herein prevents the enforcement of any other law of a participating state that is not
30 inconsistent with this compact.

31 B. Any laws in a participating state in conflict with this compact are superseded to the extent of
32 the conflict.

33 C. All agreements between the commission and the participating states are binding in
34 accordance with their terms.

35 2 Effective Date. This act shall take effect 60 days after its passage.

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AMENDED ANALYSIS

This bill adopts the PA licensure compact.