

HOUSE BILL NO. 5117

October 10, 2023, Introduced by Reps. VanderWall, Rheingans, Bruck, Hope, Byrnes, Hood, MacDonell, Conlin, Dievendorf, Brabec, Paiz, Meerman, Miller, Brixie, McKinney, Schmaltz, Beson, Wilson and Whitsett and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 18001 (MCL 333.18001), as amended by 2018 PA
355, and by adding sections 16188, 17011b, 17511b, and 18011b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 16188. (1) The PA licensure compact is enacted into law**
2 **and entered into by this state as a party state with all other**
3 **jurisdictions that legally join in the compact, in the form**
4 **substantially as follows:**

1 PA Licensure Compact

2 Section 1. Purpose

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

25 Section 2. Definitions

26 In this Compact:

27 A. "Adverse Action" means any administrative, civil,
28 equitable, or criminal action permitted by a State's laws which is
29 imposed by a Licensing Board or other authority against a PA

1 License or License application or Compact Privilege such as License
2 denial, censure, revocation, suspension, probation, monitoring of
3 the Licensee, or restriction on the Licensee's practice.

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

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

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

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

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

25 G. "Impaired Practitioner" means a PA whose practice is
26 adversely affected by health-related condition(s) that impact their
27 ability to practice.

28 H. "Investigative Information" means information, records, or
29 documents received or generated by a Licensing Board pursuant to an

1 investigation.

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

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

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

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

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

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

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

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

29 Q. "PA Licensure Compact Commission," "Compact Commission," or

1 "Commission" means the national administrative body created
2 pursuant to Section 7.A of this Compact.

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

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

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

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

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

18 Section 3. State Participation in this Compact

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

21 1. License PAs.

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

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

25 4. Notify the Commission, in compliance with the terms of this
26 Compact and Commission Rules, of any Adverse Action against a
27 Licensee or License applicant and the existence of Significant
28 Investigative Information regarding a Licensee or License
29 applicant.

1 5. Fully implement a Criminal Background Check requirement,
2 within a time frame established by Commission Rule, by its
3 Licensing Board receiving the results of a Criminal Background
4 Check and reporting to the Commission whether the License applicant
5 has been granted a License.

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

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

9 8. Grant the Compact Privilege to a holder of a Qualifying
10 License in a Participating State.

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

13 Section 4. Compact Privilege

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

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

18 2. Hold current NCCPA certification.

19 3. Have no felony or misdemeanor Conviction.

20 4. Have never had a controlled substance license, permit, or
21 registration suspended or revoked by a State or by the United
22 States Drug Enforcement Administration.

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

24 6. Hold a Qualifying License.

25 7. Have had no revocation of a License or limitation or
26 restriction on any License currently held due to an adverse action.

27 8. If a Licensee has had a limitation or restriction on a
28 License or Compact Privilege due to an Adverse Action, two years
29 must have elapsed from the date on which the License or Compact

1 Privilege is no longer limited or restricted due to the Adverse
2 Action.

3 9. If a Compact Privilege has been revoked or is limited or
4 restricted in a Participating State for conduct that would not be a
5 basis for disciplinary action in a Participating State in which the
6 Licensee is practicing or applying to practice under a Compact
7 Privilege, that Participating State shall have the discretion not
8 to consider such action as an Adverse Action requiring the denial
9 or removal of a Compact Privilege in that State.

10 10. Notify the Compact Commission that the Licensee is seeking
11 the Compact Privilege in a Remote State.

12 11. Meet any Jurisprudence Requirement of a Remote State in
13 which the Licensee is seeking to practice under the Compact
14 Privilege and pay any fees applicable to satisfying the
15 Jurisprudence Requirement.

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

19 B. The Compact Privilege is valid until the expiration or
20 revocation of the Qualifying License unless terminated pursuant to
21 an Adverse Action. The Licensee must also comply with all of the
22 requirements of Subsection A above to maintain the Compact
23 Privilege in a Remote State. If the Participating State takes
24 Adverse Action against a Qualifying License, the Licensee shall
25 lose the Compact Privilege in any Remote State in which the
26 Licensee has a Compact Privilege until all of the following occur:

- 27 1. The License is no longer limited or restricted; and
- 28 2. Two (2) years have elapsed from the date on which the
29 License is no longer limited or restricted due to the Adverse

1 Action.

2 C. Once a restricted or limited License satisfies the
3 requirements of Subsection B.1 and 2, the Licensee must meet the
4 requirements of Subsection A to obtain a Compact Privilege in any
5 Remote State.

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

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

12 A. Upon a Licensee's application for a Compact Privilege, the
13 Licensee shall identify to the Commission the Participating State
14 from which the Licensee is applying, in accordance with applicable
15 Rules adopted by the Commission, and subject to the following
16 requirements:

17 1. When applying for a Compact Privilege, the Licensee shall
18 provide the Commission with the address of the Licensee's primary
19 residence and thereafter shall immediately report to the Commission
20 any change in the address of the Licensee's primary residence.

21 2. When applying for a Compact Privilege, the Licensee is
22 required to consent to accept service of process by mail at the
23 Licensee's primary residence on file with the Commission with
24 respect to any action brought against the Licensee by the
25 Commission or a Participating State, including a subpoena, with
26 respect to any action brought or investigation conducted by the
27 Commission or a Participating State.

28 Section 6. Adverse Actions

29 A. A Participating State in which a Licensee is licensed shall

1 have exclusive power to impose Adverse Action against the
2 Qualifying License issued by that Participating State.

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

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

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

21 3. Notwithstanding paragraph 2, subpoenas may not be issued by
22 a Participating State to gather evidence of conduct in another
23 State that is lawful in that other State for the purpose of taking
24 Adverse Action against a Licensee's Compact Privilege or
25 application for a Compact Privilege in that Participating State.

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

1 C. For purposes of taking Adverse Action, the Participating
2 State which issued the Qualifying License shall give the same
3 priority and effect to reported conduct received from any other
4 Participating State as it would if the conduct had occurred within
5 the Participating State which issued the Qualifying License. In so
6 doing, that Participating State shall apply its own State laws to
7 determine appropriate action.

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

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

15 F. Joint Investigations

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

20 2. Participating States shall share any investigative,
21 litigation, or compliance materials in furtherance of any joint or
22 individual investigation initiated under this Compact.

23 G. If an Adverse Action is taken against a PA's Qualifying
24 License, the PA's Compact Privilege in all Remote States shall be
25 deactivated until two (2) years have elapsed after all restrictions
26 have been removed from the State License. All disciplinary orders
27 by the Participating State which issued the Qualifying License that
28 impose Adverse Action against a PA's License shall include a
29 Statement that the PA's Compact Privilege is deactivated in all

1 Participating States during the pendency of the order.

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

4 Section 7. Establishment of the PA Licensure Compact
5 Commission

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

13 B. Membership, Voting, and Meetings

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

18 2. The delegate shall be either:

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

21 b. An administrator of a Licensing Board.

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

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

27 5. Each delegate shall be entitled to one (1) vote on all
28 matters voted on by the Commission and shall otherwise have an
29 opportunity to participate in the business and affairs of the

1 Commission. A delegate shall vote in person or by such other means
2 as provided in the bylaws. The bylaws may provide for delegates'
3 participation in meetings by telecommunications, video conference,
4 or other means of communication.

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

8 7. The Commission shall establish by Rule a term of office for
9 delegates.

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

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

12 2. Establish the fiscal year of the Commission;

13 3. Establish fees;

14 4. Establish bylaws;

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

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

19 7. Promulgate Rules to facilitate and coordinate
20 implementation and administration of this Compact. The Rules shall
21 have the force and effect of law and shall be binding in all
22 Participating States;

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

27 9. Purchase and maintain insurance and bonds;

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

1 11. Hire employees and engage contractors, elect or appoint
2 officers, fix compensation, define duties, grant such individuals
3 appropriate authority to carry out the purposes of this Compact,
4 and establish the Commission's personnel policies and programs
5 relating to conflicts of interest, qualifications of personnel, and
6 other related personnel matters;

7 12. Accept any and all appropriate donations and grants of
8 money, equipment, supplies, materials and services, and receive,
9 utilize and dispose of the same; provided that at all times the
10 Commission shall avoid any appearance of impropriety or conflict of
11 interest;

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

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

18 15. Establish a budget and make expenditures;

19 16. Borrow money;

20 17. Appoint committees, including standing committees composed
21 of members, State regulators, State legislators or their
22 representatives, and consumer representatives, and such other
23 interested persons as may be designated in this Compact and the
24 bylaws;

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

27 19. Elect a Chair, Vice Chair, Secretary and Treasurer and
28 such other officers of the Commission as provided in the
29 Commission's bylaws.

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

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

8 22. Prepare and provide to the Participating States an annual
9 report; and

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

13 D. Meetings of the Commission

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

18 2. Notwithstanding subsection D.1 of this section, the
19 Commission may convene a public meeting by providing at least
20 twenty-four (24) hours prior notice on the Commission's website,
21 and any other means as provided in the Commission's Rules, for any
22 of the reasons it may dispense with notice of proposed rulemaking
23 under Section 9.L.

24 3. The Commission may convene in a closed, non-public meeting
25 or non-public part of a public meeting to receive legal advice or
26 to discuss:

27 a. Non-compliance of a Participating State with its
28 obligations under this Compact;

29 b. The employment, compensation, discipline or other matters,

1 practices or procedures related to specific employees or other
2 matters related to the Commission's internal personnel practices
3 and procedures;

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

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

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

9 f. Disclosure of trade secrets or commercial or financial
10 information that is privileged or confidential;

11 g. Disclosure of information of a personal nature where
12 disclosure would constitute a clearly unwarranted invasion of
13 personal privacy;

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

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

20 j. Legal advice; or

21 k. Matters specifically exempted from disclosure by federal or
22 Participating States' statutes.

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

27 5. The Commission shall keep minutes that fully and clearly
28 describe all matters discussed in a meeting and shall provide a
29 full and accurate summary of actions taken, including a description

1 of the views expressed. All documents considered in connection with
2 an action shall be identified in such minutes. All minutes and
3 documents of a closed meeting shall remain under seal, subject to
4 release by a majority vote of the Commission or order of a court of
5 competent jurisdiction.

6 E. Financing of the Commission

7 1. The Commission shall pay, or provide for the payment of,
8 the reasonable expenses of its establishment, organization, and
9 ongoing activities.

10 2. The Commission may accept any and all appropriate revenue
11 sources, donations, and grants of money, equipment, supplies,
12 materials, and services.

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

23 a. A Compact Privilege expires when the Licensee's Qualifying
24 License in the Participating State from which the Licensee applied
25 for the Compact Privilege expires.

26 b. If the Licensee terminates the Qualifying License through
27 which the Licensee applied for the Compact Privilege before its
28 scheduled expiration, and the Licensee has a Qualifying License in
29 another Participating State, the Licensee shall inform the

1 Commission that it is changing to that Participating State the
2 Participating State through which it applies for a Compact
3 Privilege and pay to the Commission any Compact Privilege fee
4 required by Commission Rule.

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

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

18 F. The Executive Committee

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

22 2. The Executive Committee shall be composed of nine (9)
23 members:

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

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

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

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

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

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

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

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

13 b. Ensure Compact administration services are appropriately
14 provided, contractual or otherwise;

15 c. Prepare and recommend the budget;

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

17 e. Monitor Compact compliance of Participating States and
18 provide compliance reports to the Commission;

19 f. Establish additional committees as necessary;

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

25 h. Perform other duties as provided in the Commission's Rules
26 or bylaws.

27 7. All meetings of the Executive Committee at which it votes
28 or plans to vote on matters in exercising the powers and duties of
29 the Commission shall be open to the public and public notice of

1 such meetings shall be given as public meetings of the Commission
2 are given.

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

9 G. Qualified Immunity, Defense, and Indemnification

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

24 2. The Commission shall defend any member, officer, executive
25 director, employee, and representative of the Commission in any
26 civil action seeking to impose liability arising out of any actual
27 or alleged act, error, or omission that occurred within the scope
28 of Commission employment, duties, or responsibilities, or as
29 determined by the commission that the person against whom the claim

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

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

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

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

28 6. Nothing herein shall be construed to designate the venue or
29 jurisdiction to bring actions for alleged acts of malpractice,

1 professional misconduct, negligence, or other such civil action
2 pertaining to the practice of a PA. All such matters shall be
3 determined exclusively by State law other than this Compact.

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

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

12 Section 8. Data System

13 A. The Commission shall provide for the development,
14 maintenance, operation, and utilization of a coordinated data and
15 reporting system containing licensure, Adverse Action, and the
16 reporting of the existence of Significant Investigative Information
17 on all licensed PAs and applicants denied a License in
18 Participating States.

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

- 24 1. Identifying information;
25 2. Licensure data;
26 3. Adverse Actions against a License or Compact Privilege;
27 4. Any denial of application for licensure, and the reason(s)
28 for such denial (excluding the reporting of any Criminal history
29 record information where prohibited by law);

1 5. The existence of Significant Investigative Information; and
2 6. Other information that may facilitate the administration of
3 this Compact, as determined by the Rules of the Commission.

4 C. Significant Investigative Information pertaining to a
5 Licensee in any Participating State shall only be available to
6 other Participating States.

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

12 E. Participating States contributing information to the Data
13 System may, in accordance with State or federal law, designate
14 information that may not be shared with the public without the
15 express permission of the contributing State. Notwithstanding any
16 such designation, such information shall be reported to the
17 Commission through the Data System.

18 F. Any information submitted to the Data System that is
19 subsequently expunged pursuant to federal law or the laws of the
20 Participating State contributing the information shall be removed
21 from the Data System upon reporting of such by the Participating
22 State to the Commission.

23 G. The records and information provided to a Participating
24 State pursuant to this Compact or through the Data System, when
25 certified by the Commission or an agent thereof, shall constitute
26 the authenticated business records of the Commission, and shall be
27 entitled to any associated hearsay exception in any relevant
28 judicial, quasi-judicial or administrative proceedings in a
29 Participating State.

1 Section 9. Rulemaking

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

6 B. The Commission shall promulgate reasonable Rules in order
7 to effectively and efficiently implement and administer this
8 Compact and achieve its purposes. A Commission Rule shall be
9 invalid and have not force or effect only if a court of competent
10 jurisdiction holds that the Rule is invalid because the Commission
11 exercised its rulemaking authority in a manner that is beyond the
12 scope of the purposes of this Compact, or the powers granted
13 hereunder, or based upon another applicable standard of review.

14 C. The Rules of the Commission shall have the force of law in
15 each Participating State, provided however that where the Rules of
16 the Commission conflict with the laws of the Participating State
17 that establish the medical services a PA may perform in the
18 Participating State, as held by a court of competent jurisdiction,
19 the Rules of the Commission shall be ineffective in that State to
20 the extent of the conflict.

21 D. If a majority of the legislatures of the Participating
22 States rejects a Commission Rule, by enactment of a statute or
23 resolution in the same manner used to adopt this Compact within
24 four (4) years of the date of adoption of the Rule, then such Rule
25 shall have no further force and effect in any Participating State
26 or to any State applying to participate in the Compact.

27 E. Commission Rules shall be adopted at a regular or special
28 meeting of the Commission.

29 F. Prior to promulgation and adoption of a final Rule or Rules

1 by the Commission, and at least thirty (30) days in advance of the
2 meeting at which the Rule will be considered and voted upon, the
3 Commission shall file a Notice of Proposed Rulemaking:

4 1. On the website of the Commission or other publicly
5 accessible platform; and

6 2. To persons who have requested notice of the Commission's
7 notices of proposed rulemaking, and

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

9 G. The Notice of Proposed Rulemaking shall include:

10 1. The time, date, and location of the public hearing on the
11 proposed Rule and the proposed time, date and location of the
12 meeting in which the proposed Rule will be considered and voted
13 upon;

14 2. The text of the proposed Rule and the reason for the
15 proposed Rule;

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

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

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

25 I. If the hearing is to be held via electronic means, the
26 Commission shall publish the mechanism for access to the electronic
27 hearing.

28 1. All persons wishing to be heard at the hearing shall as
29 directed in the Notice of Proposed Rulemaking, not less than five

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

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

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

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

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

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

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

23 2. The Commission may adopt changes to the proposed Rule
24 provided the changes do not enlarge the original purpose of the
25 proposed Rule.

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

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

6 L. Upon determination that an emergency exists, the Commission
7 may consider and adopt an emergency Rule with twenty-four (24)
8 hours prior notice, without the opportunity for comment, or
9 hearing, provided that the usual rulemaking procedures provided in
10 this Compact and in this section shall be retroactively applied to
11 the Rule as soon as reasonably possible, in no event later than
12 ninety (90) days after the effective date of the Rule. For the
13 purposes of this provision, an emergency Rule is one that must be
14 adopted immediately by the Commission in order to:

- 15 1. Meet an imminent threat to public health, safety, or
16 welfare;
- 17 2. Prevent a loss of Commission or Participating State funds;
- 18 3. Meet a deadline for the promulgation of a Commission Rule
19 that is established by federal law or Rule; or
- 20 4. Protect public health and safety.

21 M. The Commission or an authorized committee of the Commission
22 may direct revisions to a previously adopted Commission Rule for
23 purposes of correcting typographical errors, errors in format,
24 errors in consistency, or grammatical errors. Public notice of any
25 revisions shall be posted on the website of the Commission. The
26 revision shall be subject to challenge by any person for a period
27 of thirty (30) days after posting. The revision may be challenged
28 only on grounds that the revision results in a material change to a
29 Rule. A challenge shall be made as set forth in the notice of

1 revisions and delivered to the Commission prior to the end of the
2 notice period. If no challenge is made, the revision will take
3 effect without further action. If the revision is challenged, the
4 revision may not take effect without the approval of the
5 Commission.

6 N. No Participating State's rulemaking requirements shall
7 apply under this Compact.

8 Section 10. Oversight, Dispute Resolution, and Enforcement

9 A. Oversight

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

13 2. Venue is proper and judicial proceedings by or against the
14 Commission shall be brought solely and exclusively in a court of
15 competent jurisdiction where the principal office of the Commission
16 is located. The Commission may waive venue and jurisdictional
17 defenses to the extent it adopts or consents to participate in
18 alternative dispute resolution proceedings. Nothing herein shall
19 affect or limit the selection or propriety of venue in any action
20 against a licensee for professional malpractice, misconduct or any
21 such similar matter.

22 3. The Commission shall be entitled to receive service of
23 process in any proceeding regarding the enforcement or
24 interpretation of the Compact or the Commission's Rules and shall
25 have standing to intervene in such a proceeding for all purposes.
26 Failure to provide the Commission with service of process shall
27 render a judgment or order in such proceeding void as to the
28 Commission, this Compact, or Commission Rules.

29 B. Default, Technical Assistance, and Termination

1 1. If the Commission determines that a Participating State has
2 defaulted in the performance of its obligations or responsibilities
3 under this Compact or the Commission Rules, the Commission shall
4 provide written notice to the defaulting State and other
5 Participating States. The notice shall describe the default, the
6 proposed means of curing the default and any other action that the
7 Commission may take and shall offer remedial training and specific
8 technical assistance regarding the default.

9 2. If a State in default fails to cure the default, the
10 defaulting State may be terminated from this Compact upon an
11 affirmative vote of a majority of the delegates of the
12 Participating States, and all rights, privileges and benefits
13 conferred by this Compact upon such State may be terminated on the
14 effective date of termination. A cure of the default does not
15 relieve the offending State of obligations or liabilities incurred
16 during the period of default.

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

23 4. A State that has been terminated is responsible for all
24 assessments, obligations, and liabilities incurred through the
25 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
28 that is found to be in default or that has been terminated from
29 this Compact, unless agreed upon in writing between the Commission

1 and the defaulting State.

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

8 7. Upon the termination of a State's participation in the
9 Compact, the State shall immediately provide notice to all
10 Licensees within that State of such termination:

11 a. Licensees who have been granted a Compact Privilege in that
12 State shall retain the Compact Privilege for one hundred eighty
13 (180) days following the effective date of such termination.

14 b. Licensees who are licensed in that State who have been
15 granted a Compact Privilege in a Participating State shall retain
16 the Compact Privilege for one hundred eighty (180) days unless the
17 Licensee also has a Qualifying License in a Participating State or
18 obtains a Qualifying License in a Participating State before the
19 one hundred eighty (180)-day period ends, in which case the Compact
20 Privilege shall continue.

21 C. Dispute Resolution

22 1. Upon request by a Participating State, the Commission shall
23 attempt to resolve disputes related to this Compact that arise
24 among Participating States and between participating and non-
25 Participating States.

26 2. The Commission shall promulgate a Rule providing for both
27 mediation and binding dispute resolution for disputes as
28 appropriate.

29 D. Enforcement

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

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

15 3. The remedies herein shall not be the exclusive remedies of
16 the Commission. The Commission may pursue any other remedies
17 available under federal or State law.

18 E. Legal Action Against the Commission

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

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

29 Section 11. Date of Implementation of the PA Licensure Compact

1 Commission

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

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

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

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

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

28 3. All actions taken for the benefit of the Commission or in
29 furtherance of the purposes of the administration of the Compact

1 prior to the effective date of the Compact or the Commission coming
2 into existence shall be considered to be actions of the Commission
3 unless specifically repudiated by the Commission.

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

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

11 1. A Participating State's withdrawal shall not take effect
12 until one hundred eighty (180) days after enactment of the
13 repealing statute. During this one hundred eighty (180) day-period,
14 all Compact Privileges that were in effect in the withdrawing State
15 and were granted to Licensees licensed in the withdrawing State
16 shall remain in effect. If any Licensee licensed in the withdrawing
17 State is also licensed in another Participating State or obtains a
18 license in another Participating State within the one hundred
19 eighty (180) days, the Licensee's Compact Privileges in other
20 Participating States shall not be affected by the passage of the
21 one hundred eighty (180) days.

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

26 3. Upon the enactment of a statute withdrawing a State from
27 this Compact, the State shall immediately provide notice of such
28 withdrawal to all Licensees within that State. Such withdrawing
29 State shall continue to recognize all licenses granted pursuant to

1 this Compact for a minimum of one hundred eighty (180) days after
2 the date of such notice of withdrawal.

3 D. Nothing contained in this Compact shall be construed to
4 invalidate or prevent any PA licensure agreement or other
5 cooperative arrangement between Participating States and between a
6 Participating State and non-Participating State that does not
7 conflict with the provisions of this Compact.

8 E. This Compact may be amended by the Participating States. No
9 amendment to this Compact shall become effective and binding upon
10 any Participating State until it is enacted materially in the same
11 manner into the laws of all Participating States as determined by
12 the Commission.

13 Section 12. Construction and Severability

14 A. This Compact and the Commission's rulemaking authority
15 shall be liberally construed so as to effectuate the purposes, and
16 the implementation and administration of the Compact. Provisions of
17 the Compact expressly authorizing or requiring the promulgation of
18 Rules shall not be construed to limit the Commission's rulemaking
19 authority solely for those purposes.

20 B. The provisions of this Compact shall be severable and if
21 any phrase, clause, sentence or provision of this Compact is held
22 by a court of competent jurisdiction to be contrary to the
23 constitution of any Participating State, a State seeking
24 participation in the Compact, or of the United States, or the
25 applicability thereof to any government, agency, person or
26 circumstance is held to be unconstitutional by a court of competent
27 jurisdiction, the validity of the remainder of this Compact and the
28 applicability thereof to any other government, agency, person or
29 circumstance shall not be affected thereby.

1 C. Notwithstanding subsection B or this section, the
2 Commission may deny a State's participation in the Compact or, in
3 accordance with the requirements of Section 10.B, terminate a
4 Participating State's participation in the Compact, if it
5 determines that a constitutional requirement of a Participating
6 State is, or would be with respect to a State seeking to
7 participate in the Compact, a material departure from the Compact.
8 Otherwise, if this Compact shall be held to be contrary to the
9 constitution of any Participating State, the Compact shall remain
10 in full force and effect as to the remaining Participating States
11 and in full force and effect as to the Participating State affected
12 as to all severable matters.

13 Section 13. Binding Effect of Compact

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

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

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

20 (2) Subsection (1) may be referred to as the "PA licensure
21 compact".

22 Sec. 17011b. (1) An individual who holds a compact privilege
23 under the PA licensure compact enacted in section 16188 is
24 authorized to engage in the practice as a physician's assistant
25 under this article.

26 (2) For purposes of this article, including the obligations of
27 an individual who is licensed to engage in the practice as a
28 physician's assistant, an individual who holds a compact privilege
29 under the PA licensure compact enacted in section 16188 is

1 considered a physician's assistant who is licensed under this part.

2 Sec. 17511b. (1) An individual who holds a compact privilege
3 under the PA licensure compact enacted in section 16188 is
4 authorized to engage in the practice as a physician's assistant
5 under this article.

6 (2) For purposes of this article, including the obligations of
7 an individual who is licensed to engage in the practice as a
8 physician's assistant, an individual who holds a compact privilege
9 under the PA licensure compact enacted in section 16188 is
10 considered a physician's assistant who is licensed under this part.

11 Sec. 18001. (1) As used in this part:

12 (a) "Medical care services" means those services within the
13 scope of practice of podiatric physicians licensed by the board,
14 except those services that the board prohibits or otherwise
15 restricts within a practice agreement or determines shall not be
16 delegated by a podiatric physician without endangering the health
17 and safety of patients as provided for in section 18048.

18 (b) "Participating podiatrist" means a podiatric physician or
19 a podiatric physician designated by a group of podiatric physicians
20 under section 18049 to represent that group.

21 (c) "Podiatric physician" or "**podiatrist**" means an individual
22 who is licensed under this article to engage in the practice of
23 podiatric medicine and podiatric surgery.

24 (d) "Practice agreement" means an agreement described in
25 section 18047.

26 (e) "Practice as a physician's assistant" means the practice
27 of podiatric medicine and podiatric surgery with a participating
28 ~~podiatric physician~~ **podiatrist** under a practice agreement.

29 (f) Except as otherwise provided in subdivision (g), "practice

1 of podiatric medicine and podiatric surgery" or "**practice of**
 2 **podiatry**" means any of the following:

3 (i) The evaluation, diagnosis, management, and prevention of
 4 conditions of the lower extremities, including local manifestations
 5 of systemic disease in the human foot and ankle, by attending to
 6 and advising patients and through the use of devices, diagnostic
 7 tests, drugs and biologicals, surgical procedures, or other means.
 8 The evaluation, diagnosis, management, and prevention of conditions
 9 of the lower extremities may include osseous and soft tissue
 10 procedures that address the pathology of the foot, ankle, and the
 11 contiguous attachments below the tibial tuberosity.

12 (ii) The treatment of ulcerations below the tibial tuberosity
 13 and of human nail diseases, callosities, and verruca.

14 (g) "Practice of podiatric medicine and podiatric surgery"
 15 does not include amputations proximal to the tibiotalar joint,
 16 proximal osseous procedures that do not involve the tibiotalar
 17 joint, or the administration of intravenous sedation or general
 18 anesthesia.

19 (h) "Task force" means the joint task force created in section
 20 17025.

21 (2) In addition to the definitions in this part, article 1
 22 contains general definitions and principles of construction
 23 applicable to all articles in this code and part 161 contains
 24 definitions applicable to this part.

25 **Sec. 18011b. (1) An individual who holds a compact privilege**
 26 **under the PA licensure compact enacted in section 16188 is**
 27 **authorized to engage in the practice as a physician's assistant**
 28 **under this article.**

29 (2) For purposes of this article, including the obligations of

1 an individual who is licensed to engage in the practice as a
2 physician's assistant, an individual who holds a compact privilege
3 under the PA licensure compact enacted in section 16188 is
4 considered a physician's assistant who is licensed under this part.