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DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 116

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO A PHYSICIAN ASSISTANTS
LICENSURE COMPACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Title 24 of the Delaware Code by adding a new Chapter designated as Chapter 17B by making
2 insertions as shown by underline as follows:

3 Chapter 17B. PA Licensure Compact.

4 § 1701B. PA Licensure Compact.

5 The state hereby enters into the PA Licensure Compact (Compact) as set forth in this chapter. The text of the
6 Compact is set forth in this chapter.

7 §1702B. Purpose.

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

19 (b) The PA Licensure Compact will alleviate burdens for military families by allowing active duty military
20 personnel and their spouses to obtain a Compact Privilege based on having an unrestricted License in good standing from a
21 Participating State.

22 §1703B. Definitions.

23 As used in this Compact:

24 (a) “Adverse Action” means any administrative, civil, equitable, or criminal action permitted by a state’s laws
25 which is imposed by a Licensing Board or other authority against a physician assistant License or License application or
26 Compact Privilege such as License denial, censure, revocation, suspension, probation, monitoring of the Licensee, or
27 restriction on the Licensee’s practice.

28 (b) “Compact Privilege” means the authorization granted by a Remote State to allow a Licensee from another
29 Participating State to practice as a physician assistant to provide Medical Services and other licensed activity to a patient
30 located in the Remote State under the Remote State’s laws and regulations.

31 (c) “Conviction” means a finding by a court that an individual is guilty of a felony or misdemeanor offense
32 through adjudication or entry of a plea of guilt or no contest to the charge by the offender.

33 (d) “Criminal Background Check” means the submission of fingerprints or other biometric-based information for a
34 License applicant for the purpose of obtaining that applicant’s criminal history record information, as defined in 28 C.F.R.
35 § 20.3(d), from the state’s criminal history record repository as defined in 28 C.F.R. § 20.3(f).

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

38 (f) “Executive Committee” means a group of directors and ex officio individuals elected or appointed pursuant to §
39 1708B(f)(2) of this title.

40 (g) “Impaired Practitioner” means a physician assistant whose practice is adversely affected by health-related
41 condition(s) that impact their ability to practice.

42 (h) “Investigative Information” means information, records, or documents received or generated by a Licensing
43 Board pursuant to an investigation.

44 (i) “Jurisprudence Requirement” means the assessment of an individual’s knowledge of the laws and Rules
45 governing the practice of a physician assistant in a state.

46 (j) “License” means current authorization by a state, other than authorization pursuant to a Compact Privilege, for
47 a physician assistant to provide Medical Services, which would be unlawful without current authorization.

48 (k) “Licensee” means an individual who holds a License from a state to provide Medical Services as a physician
49 assistant.

50 (l) “Licensing Board” means any state entity authorized to license and otherwise regulate physician assistants.

51 (m) “Medical Services” means health care services provided for the diagnosis, prevention, treatment, cure or relief
52 of a health condition, injury, or disease, as defined by a state’s laws and regulations.

53 (n) “Model Compact” means the model for the PA Licensure Compact on file with The Council of State
54 Governments or other entity as designated by the Commission.

55 (o) “Participating State” means a state that has enacted this Compact.

56 (p) “PA” or “physician assistant” means an individual who is licensed as a physician assistant in a state. For
57 purposes of this Compact, any other title or status adopted by a state to replace the term “physician assistant” shall be
58 deemed synonymous with “physician assistant” and shall confer the same rights and responsibilities to the Licensee under
59 the provisions of this Compact at the time of its enactment.

60 (q) “PA Licensure Compact Commission,” “Compact Commission,” or “Commission” means the national
61 administrative body created pursuant to § 1708B(a) of this title.

62 (r) “Qualifying License” means an unrestricted License issued by a Participating State to provide Medical Services
63 as a physician assistant.

64 (s) “Remote State” means a Participating State where a Licensee who is not licensed as a physician assistant is
65 exercising or seeking to exercise the Compact Privilege.

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

67 (u) “Significant Investigative Information” means Investigative Information that a Licensing Board, after an
68 inquiry or investigation that includes notification and an opportunity for the physician assistant to respond if required by
69 state law, has reason to believe is not groundless and, if proven true, would indicate more than a minor infraction.

70 (v) “State” means any state, commonwealth, district, or territory of the United States.

71 § 1704B. State Participation in this Compact.

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

73 (1) License physician assistants.

74 (2) Participate in the Compact Commission’s Data System.

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

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

- 80 (5) Fully implement a Criminal Background Check requirement, within a time frame established by
81 Commission Rule, by its Licensing Board receiving the results of a Criminal Background Check and reporting to
82 the Commission whether the License applicant has been granted a License.
- 83 (6) Comply with the Rules of the Compact Commission.
- 84 (7) Utilize passage of a recognized national exam such as the National Commission on the Certification
85 of Physician Assistants (NCCPA) Physician Assistant National Certifying Examination (PANCE) as a requirement
86 for physician assistant licensure.
- 87 (8) Grant the Compact Privilege to a holder of a Qualifying License in a Participating State.
- 88 (b) Nothing in this Compact prohibits a Participating State from charging a fee for granting the Compact Privilege.
89 § 1705B. Compact Privilege.
- 90 (a) To exercise the Compact Privilege, a Licensee must:
- 91 (1) Have graduated from a physician assistant program accredited by the Accreditation Review
92 Commission on Education for the Physician Assistant, Inc. or other programs authorized by Commission Rule.
- 93 (2) Hold current NCCPA certification.
- 94 (3) Have no felony or misdemeanor Conviction.
- 95 (4) Have never had a controlled substance license, permit, or registration suspended or revoked by a state
96 or by the United States Drug Enforcement Administration.
- 97 (5) Have a unique identifier as determined by Commission Rule.
- 98 (6) Hold a Qualifying License.
- 99 (7) Have had no revocation of a License or limitation or restriction on any License currently held due to
100 an adverse action.
- 101 (8) If a Licensee has had a limitation or restriction on a License or Compact Privilege due to an Adverse
102 Action, two years must have elapsed from the date on which the License or Compact Privilege is no longer limited
103 or restricted due to the Adverse Action.
- 104 (9) If a Compact Privilege has been revoked or is limited or restricted in a Participating State for conduct
105 that would not be a basis for disciplinary action in a Participating State in which the Licensee is practicing or
106 applying to practice under a Compact Privilege, that Participating State shall have the discretion not to consider
107 such action as an Adverse Action requiring the denial or removal of a Compact Privilege in that state.
- 108 (10) Notify the Compact Commission that the Licensee is seeking the Compact Privilege in a Remote
109 State.

110 (11) Meet any Jurisprudence Requirement of a Remote State in which the Licensee is seeking to practice
111 under the Compact Privilege and pay any fees applicable to satisfying the Jurisprudence Requirement.

112 (12) Report to the Commission any Adverse Action taken by a non-participating state within 30 days
113 after the action is taken.

114 (b) The Compact Privilege is valid until the expiration or revocation of the Qualifying License unless terminated
115 pursuant to an Adverse Action. The Licensee must also comply with all of the requirements of subsection (a) of this section
116 to maintain the Compact Privilege in a Remote State. If the Participating State takes Adverse Action against a Qualifying
117 License, the Licensee shall lose the Compact Privilege in any Remote State in which the Licensee has a Compact Privilege
118 until all of the following occur:

119 (1) The License is no longer limited or restricted.

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

122 (c) Once a restricted or limited License satisfies the requirements of paragraphs (b)(1) and (b)(2) of this section,
123 the Licensee must meet the requirements of subsection (a) of this section to obtain a Compact Privilege in any Remote
124 State.

125 (d) For each Remote State in which a physician assistant seeks authority to prescribe controlled substances, the
126 physician assistant shall satisfy all requirements imposed by such state in granting or renewing such authority.

127 § 1706B. Designation of the state from which Licensee is applying for a Compact Privilege.

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

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

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

138 § 1707B. Adverse Actions.

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

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

143 (1) Take Adverse Action against a physician assistant's Compact Privilege within that state to remove a
144 Licensee's Compact Privilege or take other action necessary under applicable law to protect the health and safety
145 of its citizens.

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

153 (3) Notwithstanding paragraph (b)(2) of this section, subpoenas may not be issued by a Participating State
154 to gather evidence of conduct in another state that is lawful in that other state for the purpose of taking Adverse
155 Action against a Licensee's Compact Privilege or application for a Compact Privilege in that Participating State.

156 (4) Nothing in this Compact authorizes a Participating State to impose discipline against a physician
157 assistant's Compact Privilege or to deny an application for a Compact Privilege in that Participating State for the
158 individual's otherwise lawful practice in another state.

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

163 (d) A Participating State, if otherwise permitted by state law, may recover from the affected physician assistant the
164 costs of investigations and disposition of cases resulting from any Adverse Action taken against that physician assistant.

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

167 (f) Joint investigations:

168 (1) In addition to the authority granted to a Participating State by its respective state physician assistant
169 laws and regulations or other applicable state law, any Participating State may participate with other Participating
170 States in joint investigations of Licensees.

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

173 (g) If an Adverse Action is taken against a physician assistant's Qualifying License, the physician assistant's
174 Compact Privilege in all Remote States shall be deactivated until 2 years have elapsed after all restrictions have been
175 removed from the state License. All disciplinary orders by the Participating State which issued the Qualifying License that
176 impose Adverse Action against a physician assistant's License shall include a Statement that the physician assistant's
177 Compact Privilege is deactivated in all Participating States during the pendency of the order.

178 (h) If any Participating State takes Adverse Action, it promptly shall notify the administrator of the Data System.
179 § 1708B. Establishment of the PA Licensure Compact Commission.

180 (a) The Participating States hereby create and establish a joint government agency and national administrative
181 body known as the PA Licensure Compact Commission. The Commission is an instrumentality of the Compact States
182 acting jointly and not an instrumentality of any one state. The Commission shall come into existence on or after the
183 effective date of the Compact as set forth in § 1712B(a).

184 (b) Membership, voting, and meetings:

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

188 (2) The delegate shall be either:

189 a. A current physician assistant, physician or public member of a Licensing Board or of the
190 Regulatory Council for Physician Assistants.

191 b. An administrator of a Licensing Board.

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

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

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

198 person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in
199 meetings by telecommunications, video conference, or other means of communication.

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

202 (7) The Commission shall establish by Rule a term of office for delegates.

203 (c) The Commission shall have the following powers and duties:

204 (1) Establish a code of ethics for the Commission.

205 (2) Establish the fiscal year of the Commission.

206 (3) Establish fees.

207 (4) Establish bylaws.

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

209 (6) Meet and take such actions as are consistent with the provisions of this Compact and the bylaws.

210 (7) Promulgate Rules to facilitate and coordinate implementation and administration of this Compact. The
211 Rules shall have the force and effect of law and shall be binding in all Participating States.

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

214 (9) Purchase and maintain insurance and bonds.

215 (10) Borrow, accept, or contract for services of personnel, including employees of a Participating State.

216 (11) Hire employees and engage contractors, elect or appoint officers, fix compensation, define duties,
217 grant such individuals appropriate authority to carry out the purposes of this Compact, and establish the
218 Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and
219 other related personnel matters.

220 (12) Accept any and all appropriate donations and grants of money, equipment, supplies, materials and
221 services, and receive, utilize and dispose of the same; provided that at all times the Commission shall avoid any
222 appearance of impropriety or conflict of interest.

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

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

- 228 (15) Establish a budget and make expenditures.
- 229 (16) Borrow money.
- 230 (17) Appoint committees, including standing committees composed of members, state regulators, state
231 legislators or their representatives, and consumer representatives, and such other interested persons as may be
232 designated in this Compact and the bylaws.
- 233 (18) Provide and receive information from, and cooperate with, law enforcement agencies.
- 234 (19) Elect a Chair, Vice Chair, Secretary and Treasurer and such other officers of the Commission as
235 provided in the Commission’s bylaws.
- 236 (20) Reserve for itself, in addition to those reserved exclusively to the Commission under the Compact,
237 powers that the Executive Committee may not exercise.
- 238 (21) Approve or disapprove a state’s participation in the Compact based upon its determination as to
239 whether the state’s Compact legislation departs in a material manner from the Model Compact language.
- 240 (22) Prepare and provide to the Participating States an annual report.
- 241 (23) Perform such other functions as may be necessary or appropriate to achieve the purposes of this
242 Compact consistent with the state regulation of physician assistant licensure and practice.
- 243 (d) Meetings of the Commission:
- 244 (1) All meetings of the Commission that are not closed pursuant to this subsection shall be open to the
245 public. Notice of public meetings shall be posted on the Commission’s website at least 30 days prior to the public
246 meeting.
- 247 (2) Notwithstanding paragraph (d)(1) of this section, the Commission may convene a public meeting by
248 providing at least 24 hours prior notice on the Commission’s website, and any other means as provided in the
249 Commission’s Rules, for any of the reasons it may dispense with notice of proposed rulemaking under § 1710B(1)
250 of this title.
- 251 (3) The Commission may convene in a closed, non-public meeting or non-public part of a public meeting
252 to receive legal advice or to discuss:
- 253 a. Non-compliance of a Participating State with its obligations under this Compact.
- 254 b. The employment, compensation, discipline or other matters, practices or procedures related to
255 specific employees or other matters related to the Commission’s internal personnel practices and
256 procedures.
- 257 c. Current, threatened, or reasonably anticipated litigation.

- 258 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate.
- 259 e. Accusing any person of a crime or formally censuring any person.
- 260 f. Disclosure of trade secrets or commercial or financial information that is privileged or
- 261 confidential.
- 262 g. Disclosure of information of a personal nature where disclosure would constitute a clearly
- 263 unwarranted invasion of personal privacy.
- 264 h. Disclosure of investigative records compiled for law enforcement purposes.
- 265 i. Disclosure of information related to any investigative reports prepared by or on behalf of or for
- 266 use of the Commission or other committee charged with responsibility of investigation or determination
- 267 of compliance issues pursuant to this Compact.
- 268 j. Legal advice.
- 269 k. Matters specifically exempted from disclosure by federal or Participating States' statutes.

270 (4) If a meeting, or portion of a meeting, is closed pursuant to this provision, the chair of the meeting or

271 the chair's designee shall certify that the meeting or portion of the meeting may be closed and shall reference each

272 relevant exempting provision.

273 (5) The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting

274 and shall provide a full and accurate summary of actions taken, including a description of the views expressed. All

275 documents considered in connection with an action shall be identified in such minutes. All minutes and documents

276 of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a

277 court of competent jurisdiction.

278 (e) Financing of the Commission.

279 (1) The Commission shall pay, or provide for the payment of, the reasonable expenses of its

280 establishment, organization, and ongoing activities.

281 (2) The Commission may accept any and all appropriate revenue sources, donations, and grants of

282 money, equipment, supplies, materials, and services.

283 (3) The Commission may levy on and collect an annual assessment from each Participating State and may

284 impose Compact Privilege fees on Licensees of Participating States to whom a Compact Privilege is granted to

285 cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount

286 sufficient to cover its annual budget as approved by the Commission each year for which revenue is not provided

287 by other sources. The aggregate annual assessment amount levied on Participating States shall be allocated based
288 upon a formula to be determined by Commission Rule.

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

291 b. If the Licensee terminates the Qualifying License through which the Licensee applied for the
292 Compact Privilege before its scheduled expiration, and the Licensee has a Qualifying License in another
293 Participating State, the Licensee shall inform the Commission that it is changing to that Participating
294 State the Participating State through which it applies for a Compact Privilege and pay to the Commission
295 any Compact Privilege fee required by Commission Rule.

296 (4) The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet
297 the same; nor shall the Commission pledge the credit of any of the Participating States, except by and with the
298 authority of the Participating State.

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

304 (f) The Executive Committee.

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

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

308 a. Seven voting members who are elected by the Commission from the current membership of
309 the Commission.

310 b. One ex-officio, nonvoting member from a recognized national physician assistant professional
311 association.

312 c. One ex-officio, nonvoting member from a recognized national physician assistant certification
313 organization.

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

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

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

- 317 (6) The Executive Committee shall have the following duties and responsibilities:
- 318 a. Recommend to the Commission changes to the Commission's Rules or bylaws, changes to
- 319 this Compact legislation, fees to be paid by Compact Participating States such as annual dues, and any
- 320 Commission Compact fee charged to Licensees for the Compact Privilege.
- 321 b. Ensure Compact administration services are appropriately provided, contractual or otherwise.
- 322 c. Prepare and recommend the budget.
- 323 d. Maintain financial records on behalf of the Commission.
- 324 e. Monitor Compact compliance of Participating States and provide compliance reports to the
- 325 Commission.
- 326 f. Establish additional committees as necessary.
- 327 g. Exercise the powers and duties of the Commission during the interim between Commission
- 328 meetings, except for issuing proposed rulemaking or adopting Commission Rules or bylaws, or exercising
- 329 any other powers and duties exclusively reserved to the Commission by the Commission's Rules.
- 330 h. Perform other duties as provided in the Commission's Rules or bylaws.

331 (7) All meeting of the Executive Committee at which it votes or plans to vote on matters in exercising the

332 powers and duties of the Commission shall be open to the public and public notice of such meetings shall be given

333 as public meetings of the Commission are given.

334 (8) The Executive Committee may convene in a closed, non-public meeting for the same reasons that the

335 Commission may convene in a non-public meeting as set forth in paragraph (d)(3) of this section and shall

336 announce the closed meeting as the Commission is required to under paragraph (d)(4) of this section and keep

337 minutes of the closed meeting as the Commission is required to under paragraph (d)(5) of this section.

338 (g) Qualified Immunity, Defense, and Indemnification.

339 (1) The members, officers, executive director, employees and representatives of the Commission shall be

340 immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of

341 property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or

342 omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing

343 occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this

344 paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or

345 liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of

346 any type by the Commission shall not in any way compromise or limit the immunity granted hereunder.

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

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

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

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

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

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

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

374 § 1709D. Data System.

375 (a) The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated
376 data and reporting system containing licensure, Adverse Action, and the reporting of the existence of Significant
377 Investigative Information on all licensed physician assistants and applicants denied a License in Participating States.

378 (b) Notwithstanding any other state law to the contrary, a Participating State shall submit a uniform data set to the
379 Data System on all physician assistants to whom this Compact is applicable (utilizing a unique identifier) as required by the
380 Rules of the Commission, including:

381 (1) Identifying information.

382 (2) Licensure data.

383 (3) Adverse Actions against a License or Compact Privilege.

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

386 (5) The existence of Significant Investigative Information.

387 (6) Other information that may facilitate the administration of this Compact, as determined by the Rules
388 of the Commission.

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

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

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

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

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

404 § 1710B. Rulemaking.

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

408 (b) The Commission shall promulgate reasonable Rules in order to effectively and efficiently implement and
409 administer this Compact and achieve its purposes. A Commission Rule shall be invalid and have not force or effect only if a
410 court of competent jurisdiction holds that the Rule is invalid because the Commission exercised its rulemaking authority in
411 a manner that is beyond the scope of the purposes of this Compact, or the powers granted hereunder, or based upon another
412 applicable standard of review.

413 (c) The Rules of the Commission shall have the force of law in each Participating State, provided however that
414 where the Rules of the Commission conflict with the laws of the Participating State that establish the medical services a
415 physician assistant may perform in the Participating State, as held by a court of competent jurisdiction, the Rules of the
416 Commission shall be ineffective in that state to the extent of the conflict.

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

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

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

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

425 (2) To persons who have requested notice of the Commission's notices of proposed rulemaking; and

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

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

428 (1) The time, date, and location of the public hearing on the proposed Rule and the proposed time, date
429 and location of the meeting in which the proposed Rule will be considered and voted upon.

430 (2) The text of the proposed Rule and the reason for the proposed Rule.

431 (3) A request for comments on the proposed Rule from any interested person and the date by which
432 written comments must be received.

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

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

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

439 (1) All persons wishing to be heard at the hearing shall as directed in the Notice of Proposed Rulemaking,
440 not less than 5 business days before the scheduled date of the hearing, notify the Commission of their desire to
441 appear and testify at the hearing.

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

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

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

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

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

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

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

455 (3) The Commission shall provide on its website an explanation of the reasons for substantive changes
456 made to the proposed Rule as well as reasons for substantive changes not made that were recommended by
457 commenters.

458 (4) The Commission shall determine a reasonable effective date for the Rule. Except for an emergency as
459 provided in subsection (l) of this section, the effective date of the Rule shall be no sooner than 30 days after the
460 Commission issued the notice that it adopted the Rule.

461 (l) Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule
462 with 24 hours prior notice, without the opportunity for comment, or hearing, provided that the usual rulemaking procedures
463 provided in this Compact and in this section shall be retroactively applied to the Rule as soon as reasonably possible, in no

464 event later than 90 days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one
465 that must be adopted immediately by the Commission in order to do one or more of the following:

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

467 (2) Prevent a loss of Commission or Participating State funds.

468 (3) Meet a deadline for the promulgation of a Commission Rule that is established by federal law or Rule.

469 (4) Protect public health and safety.

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

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

479 § 1711B. Oversight, Dispute Resolution, and Enforcement.

480 (a) Oversight:

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

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

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

492 (b) Default, technical assistance, and termination:

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

498 (2) If a state in default fails to cure the default, the defaulting state may be terminated from this Compact
499 upon an affirmative vote of a majority of the delegates of the Participating States, and all rights, privileges and
500 benefits conferred by this Compact upon such state may be terminated on the effective date of termination. A cure
501 of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

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

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

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

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

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

517 a. Licensees who have been granted a Compact Privilege in that state shall retain the Compact
518 Privilege for 180 days following the effective date of such termination.

519 b. Licensees who are licensed in that state who have been granted a Compact Privilege in a
520 Participating State shall retain the Compact Privilege for 180 days unless the Licensee also has a
521 Qualifying License in a Participating State or obtains a Qualifying License in a Participating State before
522 the 180-day period ends, in which case the Compact Privilege shall continue.

523 (c) Dispute resolution.

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

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

528 (d) Enforcement.

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

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

537 (3) The remedies herein shall not be the exclusive remedies of the Commission. The Commission may
538 pursue any other remedies available under federal or state law.

539 (e) Legal Action against the Commission.

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

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

546 § 1712B. Date of Implementation of the PA Licensure Compact Commission.

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

549 (1) On or after the effective date of the Compact, the Commission shall convene and review the
550 enactment of each of the states that enacted the Compact prior to the Commission convening ("Charter
551 Participating States") to determine if the statute enacted by each such Charter Participating State is materially
552 different from the Model Compact.

553 a. A Charter Participating State whose enactment is found to be materially different from the
554 Model Compact shall be entitled to the default process set forth in § 1711B(b) of this title.

555 b. If any Participating State later withdraws from the Compact or its participation is terminated,
556 the Commission shall remain in existence and the Compact shall remain in effect even if the number of
557 Participating States should be less than seven. Participating States enacting the Compact subsequent to
558 the Commission convening shall be subject to the process set forth in § 1708B(c)(21) of this title to
559 determine if their enactments are materially different from the Model Compact and whether they qualify
560 for participation in the Compact.

561 (2) Participating States enacting the Compact subsequent to the seven initial Charter Participating States
562 shall be subject to the process set forth in § 1708B(c)(21) of this title to determine if their enactments are
563 materially different from the Model Compact and whether they qualify for participation in the Compact.

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

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

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

571 (1) A Participating State's withdrawal shall not take effect until 180 days after enactment of the repealing
572 statute. During this 180-day period, all Compact Privileges that were in effect in the withdrawing state and were
573 granted to Licensees licensed in the withdrawing state shall remain in effect. If any Licensee licensed in the
574 withdrawing state is also licensed in another Participating State or obtains a license in another Participating State
575 within the 180 days, the Licensee's Compact Privileges in other Participating States shall not be affected by the
576 passage of the 180 days.

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

580 (3) Upon the enactment of a statute withdrawing a state from this Compact, the state shall immediately
581 provide notice of such withdrawal to all Licensees within that state. Such withdrawing state shall continue to

582 recognize all licenses granted pursuant to this Compact for a minimum of 180 days after the date of such notice of
583 withdrawal.

584 (d) Nothing contained in this Compact shall be construed to invalidate or prevent any physician assistant licensure
585 agreement or other cooperative arrangement between Participating States and between a Participating State and non-
586 Participating State that does not conflict with the provisions of this Compact.

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

590 § 1713B. Construction and Severability.

591 (a) This Compact and the Commission's rulemaking authority shall be liberally construed so as to effectuate the
592 purposes, and the implementation and administration of the Compact. Provisions of the Compact expressly authorizing or
593 requiring the promulgation of Rules shall not be construed to limit the Commission's rulemaking authority solely for those
594 purposes.

595 (b) The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this
596 Compact is held by a court of competent jurisdiction to be contrary to the constitution of any Participating State, a state
597 seeking participation in the Compact, or of the United States, or the applicability thereof to any government, agency, person
598 or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this
599 Compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected
600 thereby.

601 (c) Notwithstanding subsection (b) of this section, the Commission may deny a state's participation in the
602 Compact or, in accordance with the requirements of § 1711B(b) of this title, terminate a Participating State's participation
603 in the Compact, if it determines that a constitutional requirement of a Participating State is, or would be with respect to a
604 state seeking to participate in the Compact, a material departure from the Compact. Otherwise, if this Compact shall be held
605 to be contrary to the constitution of any Participating State, the Compact shall remain in full force and effect as to the
606 remaining Participating States and in full force and effect as to the Participating State affected as to all severable matters.

607 § 1714B. Binding Effect of Compact.

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

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

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

SYNOPSIS

This Act adopts the PA Licensure Compact, which is an interstate occupational licensure compact for physician assistants (PAs). The purpose of the Compact is to strengthen access to medical services and enhance the portability of a license to practice as a physician assistant while safeguarding the safety of patients and complementing the existing authority of state licensing boards to license and discipline physician assistants. Under the Compact, a physician assistant licensed in a Compact member state may obtain a privilege to practice in another Compact member state. Physician assistants using a Compact privilege to practice in another state must adhere to laws and regulations of practice in that state and are under the jurisdiction of the regulatory board of the state in which they are practicing.

The Compact contemplates the establishment of a PA Compact Commission, which will consist of one delegate from each member state and will administer the Compact, and a data system, for the purpose of maintaining a coordinated data and reporting system containing licensure, adverse action, and investigative information on licensed physician assistants in participating states.

The Compact will take effect on the date of enactment by the seventh state. Currently, 1 state has enacted the Compact and at least 4 states, not including Delaware, are considering legislation to enact the Compact.

Author: Senator S. McBride