
SENATE BILL 5815

State of Washington

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By Senators Muzzall, Conway, Dhingra, Holy, Padden, Rivers, and Wagoner

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1 AN ACT Relating to the physician assistant compact; and adding a
2 new chapter to Title 18 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** PURPOSE. In order to strengthen access to
5 medical services, and in recognition of the advances in the delivery
6 of medical services, the participating states of the physician
7 assistant licensure compact have allied in common purpose to develop
8 a comprehensive process that complements the existing authority of
9 state licensing boards to license and discipline physician assistants
10 and seeks to enhance the portability of a license to practice as a
11 physician assistant while safeguarding the safety of patients. This
12 compact allows medical services to be provided by physician
13 assistants, via the mutual recognition of the licensee's qualifying
14 license by other compact participating states. This compact also
15 adopts the prevailing standard for physician assistant licensure and
16 affirms that the practice and delivery of medical services by the
17 physician assistant occurs where the patient is located at the time
18 of the patient encounter, and therefore requires the physician
19 assistant to be under the jurisdiction of the state licensing board
20 where the patient is located. State licensing boards that participate
21 in this compact retain the jurisdiction to impose adverse action

1 against a compact privilege in that state issued to a physician
2 assistant through the procedures of this compact. The physician
3 assistant licensure compact will alleviate burdens for military
4 families by allowing active duty military personnel and their spouses
5 to obtain a compact privilege based on having an unrestricted license
6 in good standing from a participating state.

7 NEW SECTION. **Sec. 2.** DEFINITIONS. In this compact:

8 (1) "Adverse action" means any administrative, civil, equitable,
9 or criminal action permitted by a state's laws which is imposed by a
10 licensing board or other authority against a physician assistant
11 license or license application or compact privilege such as license
12 denial, censure, revocation, suspension, probation, monitoring of the
13 licensee, or restriction on the licensee's practice.

14 (2) "Compact privilege" means the authorization granted by a
15 remote state to allow a licensee from another participating state to
16 practice as a physician assistant to provide medical services and
17 other licensed activity to a patient located in the remote state
18 under the remote state's laws and regulations.

19 (3) "Conviction" means a finding by a court that an individual is
20 guilty of a felony or misdemeanor offense through adjudication or
21 entry of a plea of guilt or no contest to the charge by the offender.

22 (4) "Criminal background check" means the submission of
23 fingerprints or other biometric-based information for a license
24 applicant for the purpose of obtaining that applicant's criminal
25 history record information, as defined in 28 C.F.R. Sec. 20.3(d),
26 from the state's criminal history record repository as defined in 28
27 C.F.R. Sec. 20.3(f).

28 (5) "Data system" means the repository of information about
29 licensees, including but not limited to license status and adverse
30 actions, which is created and administered under the terms of this
31 compact.

32 (6) "Executive committee" means a group of directors and ex
33 officio individuals elected or appointed pursuant to section 7(6)(b)
34 of this act.

35 (7) "Impaired practitioner" means a physician assistant whose
36 practice is adversely affected by health-related condition(s) that
37 impact their ability to practice.

1 (8) "Investigative information" means information, records, or
2 documents received or generated by a licensing board pursuant to an
3 investigation.

4 (9) "Jurisprudence requirement" means the assessment of an
5 individual's knowledge of the laws and rules governing the practice
6 of a physician assistant in a state.

7 (10) "License" means current authorization by a state, other than
8 authorization pursuant to a compact privilege, for a physician
9 assistant to provide medical services, which would be unlawful
10 without current authorization.

11 (11) "Licensee" means an individual who holds a license from a
12 state to provide medical services as a physician assistant.

13 (12) "Licensing board" means any state entity authorized to
14 license and otherwise regulate physician assistants.

15 (13) "Medical services" means health care services provided for
16 the diagnosis, prevention, treatment, cure or relief of a health
17 condition, injury, or disease, as defined by a state's laws and
18 regulations.

19 (14) "Model compact" means the model for the physician assistant
20 licensure compact on file with the council of state governments or
21 other entity as designated by the commission.

22 (15) "Participating state" means a state that has enacted this
23 compact.

24 (16) "Physician assistant" means an individual who is licensed as
25 a physician assistant in a state. For purposes of this compact, any
26 other title or status adopted by a state to replace the term
27 "physician assistant" shall be deemed synonymous with "physician
28 assistant" and shall confer the same rights and responsibilities to
29 the licensee under the provisions of this compact at the time of its
30 enactment.

31 (17) "Physician assistant licensure compact commission," "compact
32 commission," or "commission" mean the national administrative body
33 created pursuant to section 7(1) of this act.

34 (18) "Qualifying license" means an unrestricted license issued by
35 a participating state to provide medical services as a physician
36 assistant.

37 (19) "Remote state" means a participating state where a licensee
38 who is not licensed as a physician assistant is exercising or seeking
39 to exercise the compact privilege.

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

3 (21) "Significant investigative information" means investigative
4 information that a licensing board, after an inquiry or investigation
5 that includes notification and an opportunity for the physician
6 assistant to respond if required by state law, has reason to believe
7 is not groundless and, if proven true, would indicate more than a
8 minor infraction.

9 (22) "State" means any state, commonwealth, district, or
10 territory of the United States.

11 NEW SECTION. **Sec. 3.** STATE PARTICIPATION IN THIS COMPACT. (1)
12 To participate in this compact, a participating state shall:

- 13 (a) License physician assistants;
14 (b) Participate in the compact commission's data system;
15 (c) Have a mechanism in place for receiving and investigating
16 complaints against licensees and license applicants;
17 (d) Notify the commission, in compliance with the terms of this
18 compact and commission rules, of any adverse action against a
19 licensee or license applicant and the existence of significant
20 investigative information regarding a licensee or license applicant;
21 (e) Fully implement a criminal background check requirement,
22 within a time frame established by commission rule, by its licensing
23 board receiving the results of a criminal background check and
24 reporting to the commission whether the license applicant has been
25 granted a license;
26 (f) Comply with the rules of the compact commission;
27 (g) Utilize passage of a recognized national exam such as the
28 national commission on certification of physician assistants'
29 physician assistant national certifying examination as a requirement
30 for physician assistant licensure; and
31 (h) Grant the compact privilege to a holder of a qualifying
32 license in a participating state.

33 (2) Nothing in this compact prohibits a participating state from
34 charging a fee for granting the compact privilege.

35 NEW SECTION. **Sec. 4.** COMPACT PRIVILEGE. (1) To exercise the
36 compact privilege, a licensee must:

1 (a) Have graduated from a physician assistant program accredited
2 by the accreditation review commission on education for the physician
3 assistant, inc. or other programs authorized by commission rule;

4 (b) Hold current national commission on certification of
5 physician assistants' certification;

6 (c) Have no felony or misdemeanor conviction;

7 (d) Have never had a controlled substance license, permit, or
8 registration suspended or revoked by a state or by the United States
9 drug enforcement administration;

10 (e) Have a unique identifier as determined by commission rule;

11 (f) Hold a qualifying license;

12 (g) Have had no revocation of a license or limitation or
13 restriction on any license currently held due to an adverse action;

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

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

25 (h) Notify the compact commission that the licensee is seeking
26 the compact privilege in a remote state;

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

31 (j) Report to the commission any adverse action taken by a
32 nonparticipating state within 30 days after the action is taken.

33 (2) The compact privilege is valid until the expiration or
34 revocation of the qualifying license unless terminated pursuant to an
35 adverse action. The licensee must also comply with all of the
36 requirements of subsection (1) of this section to maintain the
37 compact privilege in a remote state. If the participating state takes
38 adverse action against a qualifying license, the licensee shall lose
39 the compact privilege in any remote state in which the licensee has a
40 compact privilege until all of the following occur:

1 (a) The license is no longer limited or restricted; and

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

4 (3) Once a restricted or limited license satisfies the
5 requirements of subsection (2)(a) and (b) of this section, the
6 licensee must meet the requirements of subsection (1) of this section
7 to obtain a compact privilege in any remote state.

8 (4) For each remote state in which a physician assistant seeks
9 authority to prescribe controlled substances, the physician assistant
10 shall satisfy all requirements imposed by such state in granting or
11 renewing such authority.

12 NEW SECTION. **Sec. 5.** DESIGNATION OF THE STATE FROM WHICH
13 LICENSEE IS APPLYING FOR A COMPACT PRIVILEGE. Upon a licensee's
14 application for a compact privilege, the licensee shall identify to
15 the commission the participating state from which the licensee is
16 applying, in accordance with applicable rules adopted by the
17 commission, and subject to the following requirements:

18 (1) When applying for a compact privilege, the licensee shall
19 provide the commission with the address of the licensee's primary
20 residence and thereafter shall immediately report to the commission
21 any change in the address of the licensee's primary residence.

22 (2) When applying for a compact privilege, the licensee is
23 required to consent to accept service of process by mail at the
24 licensee's primary residence on file with the commission with respect
25 to any action brought against the licensee by the commission or a
26 participating state, including a subpoena, with respect to any action
27 brought or investigation conducted by the commission or a
28 participating state.

29 NEW SECTION. **Sec. 6.** ADVERSE ACTIONS. (1) A participating state
30 in which a licensee is licensed shall have exclusive power to impose
31 adverse action against the qualifying license issued by that
32 participating state.

33 (2)(a) In addition to the other powers conferred by state law, a
34 remote state shall have the authority, in accordance with existing
35 state due process law, to do all of the following:

36 (i) Take adverse action against a physician assistant's compact
37 privilege within that state to remove a licensee's compact privilege

1 or take other action necessary under applicable law to protect the
2 health and safety of its citizens;

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

14 (b) Notwithstanding (a)(ii) of this subsection, subpoenas may not
15 be issued by a participating state to gather evidence of conduct in
16 another state that is lawful in that other state for the purpose of
17 taking adverse action against a licensee's compact privilege or
18 application for a compact privilege in that participating state.

19 (c) Nothing in this compact authorizes a participating state to
20 impose discipline against a physician assistant's compact privilege
21 or to deny an application for a compact privilege in that
22 participating state for the individual's otherwise lawful practice in
23 another state.

24 (3) For purposes of taking adverse action, the participating
25 state which issued the qualifying license shall give the same
26 priority and effect to reported conduct received from any other
27 participating state as it would if the conduct had occurred within
28 the participating state which issued the qualifying license. In so
29 doing, that participating state shall apply its own state laws to
30 determine appropriate action.

31 (4) A participating state, if otherwise permitted by state law,
32 may recover from the affected physician assistant the costs of
33 investigations and disposition of cases resulting from any adverse
34 action taken against that physician assistant.

35 (5) A participating state may take adverse action based on the
36 factual findings of a remote state, provided that the participating
37 state follows its own procedures for taking the adverse action.

38 (6) Joint investigations.

39 (a) In addition to the authority granted to a participating state
40 by its respective state physician assistant laws and regulations or

1 other applicable state law, any participating state may participate
2 with other participating states in joint investigations of licensees.

3 (b) Participating states shall share any investigative,
4 litigation, or compliance materials in furtherance of any joint or
5 individual investigation initiated under this compact.

6 (7) If an adverse action is taken against a physician assistant's
7 qualifying license, the physician assistant's compact privilege in
8 all remote states shall be deactivated until two years have elapsed
9 after all restrictions have been removed from the state license. All
10 disciplinary orders by the participating state which issued the
11 qualifying license that impose adverse action against a physician
12 assistant's license shall include a statement that the physician
13 assistant's compact privilege is deactivated in all participating
14 states during the pendency of the order.

15 (8) If any participating state takes adverse action, it promptly
16 shall notify the administrator of the data system.

17 NEW SECTION. **Sec. 7.** ESTABLISHMENT OF THE PHYSICIAN ASSISTANT
18 LICENSURE COMPACT COMMISSION. (1) The participating states hereby
19 create and establish a joint government agency and national
20 administrative body known as the physician assistant licensure
21 compact commission. The commission is an instrumentality of the
22 compact states acting jointly and not an instrumentality of any one
23 state. The commission shall come into existence on or after the
24 effective date of the compact as set forth in section 11(1) of this
25 act.

26 (2) Membership, voting, and meetings.

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

31 (b) The delegate shall be either:

32 (i) A current physician assistant, physician, or public member of
33 a licensing board or physician assistant council/committee; or

34 (ii) An administrator of a licensing board.

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

38 (d) The participating state licensing board shall fill any
39 vacancy occurring in the commission within 60 days.

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

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

11 (g) The commission shall establish by rule a term of office for
12 delegates.

13 (3) The commission shall have the following powers and duties:

14 (a) Establish a code of ethics for the commission;

15 (b) Establish the fiscal year of the commission;

16 (c) Establish fees;

17 (d) Establish bylaws;

18 (e) Maintain its financial records in accordance with the bylaws;

19 (f) Meet and take such actions as are consistent with the
20 provisions of this compact and the bylaws;

21 (g) Promulgate rules to facilitate and coordinate implementation
22 and administration of this compact. The rules shall have the force
23 and effect of law and shall be binding in all participating states;

24 (h) Bring and prosecute legal proceedings or actions in the name
25 of the commission, provided that the standing of any state licensing
26 board to sue or be sued under applicable law shall not be affected;

27 (i) Purchase and maintain insurance and bonds;

28 (j) Borrow, accept, or contract for services of personnel
29 including, but not limited to, employees of a participating state;

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

36 (l) Accept any and all appropriate donations and grants of money,
37 equipment, supplies, materials, and services, and receive, utilize,
38 and dispose of the same; provided that at all times the commission
39 shall avoid any appearance of impropriety or conflict of interest;

1 (m) Lease, purchase, accept appropriate gifts or donations of, or
2 otherwise own, hold, improve, or use, any property, real, personal,
3 or mixed; provided that at all times the commission shall avoid any
4 appearance of impropriety;

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

7 (o) Establish a budget and make expenditures;

8 (p) Borrow money;

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

14 (r) Provide and receive information from, and cooperate with, law
15 enforcement agencies;

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

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

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

26 (v) Prepare and provide to the participating states an annual
27 report; and

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

31 (4) Meetings of the commission.

32 (a) All meetings of the commission that are not closed pursuant
33 to this subsection shall be open to the public. Notice of public
34 meetings shall be posted on the commission's website at least 30 days
35 prior to the public meeting.

36 (b) Notwithstanding (a) of this subsection, the commission may
37 convene a public meeting by providing at least 24 hours prior notice
38 on the commission's website, and any other means as provided in the
39 commission's rules, for any of the reasons it may dispense with
40 notice of proposed rule making under section 9(12) of this act.

1 (c) The commission may convene in a closed, nonpublic meeting or
2 nonpublic part of a public meeting to receive legal advice or to
3 discuss:

4 (i) Noncompliance of a participating state with its obligations
5 under this compact;

6 (ii) The employment, compensation, discipline or other matters,
7 practices, or procedures related to specific employees or other
8 matters related to the commission's internal personnel practices and
9 procedures;

10 (iii) Current, threatened, or reasonably anticipated litigation;

11 (iv) Negotiation of contracts for the purchase, lease, or sale of
12 goods, services, or real estate;

13 (v) Accusing any person of a crime or formally censuring any
14 person;

15 (vi) Disclosure of trade secrets or commercial or financial
16 information that is privileged or confidential;

17 (vii) Disclosure of information of a personal nature where
18 disclosure would constitute a clearly unwarranted invasion of
19 personal privacy;

20 (viii) Disclosure of investigative records compiled for law
21 enforcement purposes;

22 (ix) Disclosure of information related to any investigative
23 reports prepared by or on behalf of or for use of the commission or
24 other committee charged with responsibility of investigation or
25 determination of compliance issues pursuant to this compact;

26 (x) Legal advice; or

27 (xi) Matters specifically exempted from disclosure by federal or
28 participating states' statutes.

29 (d) If a meeting, or portion of a meeting, is closed pursuant to
30 this provision, the chair of the meeting or the chair's designee
31 shall certify that the meeting or portion of the meeting may be
32 closed and shall reference each relevant exempting provision.

33 (e) The commission shall keep minutes that fully and clearly
34 describe all matters discussed in a meeting and shall provide a full
35 and accurate summary of actions taken, including a description of the
36 views expressed. All documents considered in connection with an
37 action shall be identified in such minutes. All minutes and documents
38 of a closed meeting shall remain under seal, subject to release by a
39 majority vote of the commission or order of a court of competent
40 jurisdiction.

1 (5) Financing of the commission.

2 (a) The commission shall pay, or provide for the payment of, the
3 reasonable expenses of its establishment, organization, and ongoing
4 activities.

5 (b) The commission may accept any and all appropriate revenue
6 sources, donations, and grants of money, equipment, supplies,
7 materials, and services.

8 (c) The commission may levy on and collect an annual assessment
9 from each participating state and may impose compact privilege fees
10 on licensees of participating states to whom a compact privilege is
11 granted to cover the cost of the operations and activities of the
12 commission and its staff, which must be in a total amount sufficient
13 to cover its annual budget as approved by the commission each year
14 for which revenue is not provided by other sources. The aggregate
15 annual assessment amount levied on participating states shall be
16 allocated based upon a formula to be determined by commission rule.

17 (i) A compact privilege expires when the licensee's qualifying
18 license in the participating state from which the licensee applied
19 for the compact privilege expires.

20 (ii) If the licensee terminates the qualifying license through
21 which the licensee applied for the compact privilege before its
22 scheduled expiration, and the licensee has a qualifying license in
23 another participating state, the licensee shall inform the commission
24 that it is changing to that participating state the participating
25 state through which it applies for a compact privilege and pay to the
26 commission any compact privilege fee required by commission rule.

27 (d) The commission shall not incur obligations of any kind prior
28 to securing the funds adequate to meet the same; nor shall the
29 commission pledge the credit of any of the participating states,
30 except by and with the authority of the participating state.

31 (e) The commission shall keep accurate accounts of all receipts
32 and disbursements. The receipts and disbursements of the commission
33 shall be subject to the financial review and accounting procedures
34 established under its bylaws. All receipts and disbursements of funds
35 handled by the commission shall be subject to an annual financial
36 review by a certified or licensed public accountant, and the report
37 of the financial review shall be included in and become part of the
38 annual report of the commission.

39 (6) The executive committee.

1 (a) The executive committee shall have the power to act on behalf
2 of the commission according to the terms of this compact and
3 commission rules.

4 (b) The executive committee shall be composed of nine members:

5 (i) Seven voting members who are elected by the commission from
6 the current membership of the commission;

7 (ii) One ex officio, nonvoting member from a recognized national
8 physician assistant professional association; and

9 (iii) One ex officio, nonvoting member from a recognized national
10 physician assistant certification organization.

11 (c) The ex officio members will be selected by their respective
12 organizations.

13 (d) The commission may remove any member of the executive
14 committee as provided in its bylaws.

15 (e) The executive committee shall meet at least annually.

16 (f) The executive committee shall have the following duties and
17 responsibilities:

18 (i) Recommend to the commission changes to the commission's rules
19 or bylaws, changes to this compact legislation, fees to be paid by
20 compact participating states such as annual dues, and any commission
21 compact fee charged to licensees for the compact privilege;

22 (ii) Ensure compact administration services are appropriately
23 provided, contractual or otherwise;

24 (iii) Prepare and recommend the budget;

25 (iv) Maintain financial records on behalf of the commission;

26 (v) Monitor compact compliance of participating states and
27 provide compliance reports to the commission;

28 (vi) Establish additional committees as necessary;

29 (vii) Exercise the powers and duties of the commission during the
30 interim between commission meetings, except for issuing proposed rule
31 making or adopting commission rules or bylaws, or exercising any
32 other powers and duties exclusively reserved to the commission by the
33 commission's rules; and

34 (viii) Perform other duties as provided in the commission's rules
35 or bylaws.

36 (g) All meetings of the executive committee at which it votes or
37 plans to vote on matters in exercising the powers and duties of the
38 commission shall be open to the public and public notice of such
39 meetings shall be given as public meetings of the commission are
40 given.

1 (h) The executive committee may convene in a closed, nonpublic
2 meeting for the same reasons that the commission may convene in a
3 nonpublic meeting as set forth in subsection (4)(c) of this section
4 and shall announce the closed meeting as the commission is required
5 to under subsection (4)(d) of this section and keep minutes of the
6 closed meeting as the commission is required to under subsection
7 (4)(e) of this section.

8 (7) Qualified immunity, defense, and indemnification.

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

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

36 (c) The commission shall indemnify and hold harmless any member,
37 officer, executive director, employee, and representative of the
38 commission for the amount of any settlement or judgment obtained
39 against that person arising out of any actual or alleged act, error,
40 or omission that occurred within the scope of commission employment,

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

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

11 (e) Nothing herein shall be construed as a limitation on the
12 liability of any licensee for professional malpractice or misconduct,
13 which shall be governed solely by any other applicable state laws.

14 (f) Nothing herein shall be construed to designate the venue or
15 jurisdiction to bring actions for alleged acts of malpractice,
16 professional misconduct, negligence, or other such civil action
17 pertaining to the practice of a physician assistant. All such matters
18 shall be determined exclusively by state law other than this compact.

19 (g) Nothing in this compact shall be interpreted to waive or
20 otherwise abrogate a participating state's state action immunity or
21 state action affirmative defense with respect to antitrust claims
22 under the sherman act, clayton act, or any other state or federal
23 antitrust or anticompetitive law or regulation.

24 (h) Nothing in this compact shall be construed to be a waiver of
25 sovereign immunity by the participating states or by the commission.

26 NEW SECTION. **Sec. 8.** DATA SYSTEM. (1) The commission shall
27 provide for the development, maintenance, operation, and utilization
28 of a coordinated data and reporting system containing licensure,
29 adverse action, and the reporting of the existence of significant
30 investigative information on all licensed physician assistants and
31 applicants denied a license in participating states.

32 (2) Notwithstanding any other state law to the contrary, a
33 participating state shall submit a uniform data set to the data
34 system on all physician assistants to whom this compact is
35 applicable, utilizing a unique identifier, as required by the rules
36 of the commission, including:

37 (a) Identifying information;

38 (b) Licensure data;

39 (c) Adverse actions against a license or compact privilege;

1 (d) Any denial of application for licensure, and the reason(s)
2 for such denial, excluding the reporting of any criminal history
3 record information where prohibited by law;

4 (e) The existence of significant investigative information; and

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

7 (3) Significant investigative information pertaining to a
8 licensee in any participating state shall only be available to other
9 participating states.

10 (4) The commission shall promptly notify all participating states
11 of any adverse action taken against a licensee or an individual
12 applying for a license that has been reported to it. This adverse
13 action information shall be available to any other participating
14 state.

15 (5) Participating states contributing information to the data
16 system may, in accordance with state or federal law, designate
17 information that may not be shared with the public without the
18 express permission of the contributing state. Notwithstanding any
19 such designation, such information shall be reported to the
20 commission through the data system.

21 (6) Any information submitted to the data system that is
22 subsequently expunged pursuant to federal law or the laws of the
23 participating state contributing the information shall be removed
24 from the data system upon reporting of such by the participating
25 state to the commission.

26 (7) The records and information provided to a participating state
27 pursuant to this compact or through the data system, when certified
28 by the commission or an agent thereof, shall constitute the
29 authenticated business records of the commission, and shall be
30 entitled to any associated hearsay exception in any relevant
31 judicial, quasi-judicial, or administrative proceedings in a
32 participating state.

33 NEW SECTION. **Sec. 9.** RULE MAKING. (1) The commission shall
34 exercise its rule-making powers pursuant to the criteria set forth in
35 this section and the rules adopted thereunder. Commission rules shall
36 become binding as of the date specified by the commission for each
37 rule.

38 (2) The commission shall promulgate reasonable rules in order to
39 effectively and efficiently implement and administer this compact and

1 achieve its purposes. A commission rule shall be invalid and have no
2 force or effect only if a court of competent jurisdiction holds that
3 the rule is invalid because the commission exercised its rule-making
4 authority in a manner that is beyond the scope of the purposes of
5 this compact, or the powers granted hereunder, or based upon another
6 applicable standard of review.

7 (3) The rules of the commission shall have the force of law in
8 each participating state, provided however that where the rules of
9 the commission conflict with the laws of the participating state that
10 establish the medical services a physician assistant may perform in
11 the participating state, as held by a court of competent
12 jurisdiction, the rules of the commission shall be ineffective in
13 that state to the extent of the conflict.

14 (4) If a majority of the legislatures of the participating states
15 rejects a commission rule, by enactment of a statute or resolution in
16 the same manner used to adopt this compact within four years of the
17 date of adoption of the rule, then such rule shall have no further
18 force and effect in any participating state or to any state applying
19 to participate in the compact.

20 (5) Commission rules shall be adopted at a regular or special
21 meeting of the commission.

22 (6) Prior to promulgation and adoption of a final rule or rules
23 by the commission, and at least 30 days in advance of the meeting at
24 which the rule will be considered and voted upon, the commission
25 shall file a notice of proposed rule making:

26 (a) On the website of the commission or other publicly accessible
27 platform; and

28 (b) To persons who have requested notice of the commission's
29 notices of proposed rule making; and

30 (c) In such other way(s) as the commission may by rule specify.

31 (7) The notice of proposed rule making shall include:

32 (a) The time, date, and location of the public hearing on the
33 proposed rule and the proposed time, date, and location of the
34 meeting in which the proposed rule will be considered and voted upon;

35 (b) The text of the proposed rule and the reason for the proposed
36 rule;

37 (c) A request for comments on the proposed rule from any
38 interested person and the date by which written comments must be
39 received; and

1 (d) The manner in which interested persons may submit notice to
2 the commission of their intention to attend the public hearing or
3 provide any written comments.

4 (8) Prior to adoption of a proposed rule, the commission shall
5 allow persons to submit written data, facts, opinions, and arguments,
6 which shall be made available to the public.

7 (9) If the hearing is to be held via electronic means, the
8 commission shall publish the mechanism for access to the electronic
9 hearing.

10 (a) All persons wishing to be heard at the hearing shall as
11 directed in the notice of proposed rule making, not less than five
12 business days before the scheduled date of the hearing, notify the
13 commission of their desire to appear and testify at the hearing.

14 (b) Hearings shall be conducted in a manner providing each person
15 who wishes to comment a fair and reasonable opportunity to comment
16 orally or in writing.

17 (c) All hearings shall be recorded. A copy of the recording and
18 the written comments, data, facts, opinions, and arguments received
19 in response to the proposed rule making shall be made available to a
20 person upon request.

21 (d) Nothing in this section shall be construed as requiring a
22 separate hearing on each proposed rule. Proposed rules may be grouped
23 for the convenience of the commission at hearings required by this
24 section.

25 (10) Following the public hearing the commission shall consider
26 all written and oral comments timely received.

27 (11) The commission shall, by majority vote of all delegates,
28 take final action on the proposed rule and shall determine the
29 effective date of the rule, if adopted, based on the rule-making
30 record and the full text of the rule.

31 (a) If adopted, the rule shall be posted on the commission's
32 website.

33 (b) The commission may adopt changes to the proposed rule
34 provided the changes do not enlarge the original purpose of the
35 proposed rule.

36 (c) The commission shall provide on its website an explanation of
37 the reasons for substantive changes made to the proposed rule as well
38 as reasons for substantive changes not made that were recommended by
39 commenters.

1 (d) The commission shall determine a reasonable effective date
2 for the rule. Except for an emergency as provided in subsection (12)
3 of this section, the effective date of the rule shall be no sooner
4 than 30 days after the commission issued the notice that it adopted
5 the rule.

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

- 15 (a) Meet an imminent threat to public health, safety, or welfare;
- 16 (b) Prevent a loss of commission or participating state funds;
- 17 (c) Meet a deadline for the promulgation of a commission rule
18 that is established by federal law or rule; or
- 19 (d) Protect public health and safety.

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

33 (14) No participating state's rule-making requirements shall
34 apply under this compact.

35 NEW SECTION. **Sec. 10.** OVERSIGHT, DISPUTE RESOLUTION, AND
36 ENFORCEMENT. (1) Oversight.

37 (a) The executive and judicial branches of state government in
38 each participating state shall enforce this compact and take all
39 actions necessary and appropriate to implement the compact.

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

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

17 (2) Default, technical assistance, and termination.

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

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

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

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

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

9 (f) The defaulting state may appeal its termination from the
10 compact by the commission by petitioning the United States district
11 court for the District of Columbia or the federal district where the
12 commission has its principal offices. The prevailing member shall be
13 awarded all costs of such litigation, including reasonable attorneys'
14 fees.

15 (g) Upon the termination of a state's participation in the
16 compact, the state shall immediately provide notice to all licensees
17 within that state of such termination:

18 (i) Licensees who have been granted a compact privilege in that
19 state shall retain the compact privilege for 180 days following the
20 effective date of such termination.

21 (ii) Licensees who are licensed in that state who have been
22 granted a compact privilege in a participating state shall retain the
23 compact privilege for 180 days unless the licensee also has a
24 qualifying license in a participating state or obtains a qualifying
25 license in a participating state before the 180-day period ends, in
26 which case the compact privilege shall continue.

27 (3) Dispute resolution.

28 (a) Upon request by a participating state, the commission shall
29 attempt to resolve disputes related to this compact that arise among
30 participating states and between participating and nonparticipating
31 states.

32 (b) The commission shall promulgate a rule providing for both
33 mediation and binding dispute resolution for disputes as appropriate.

34 (4) Enforcement.

35 (a) The commission, in the reasonable exercise of its discretion,
36 shall enforce the provisions of this compact and rules of the
37 commission.

38 (b) If compliance is not secured after all means to secure
39 compliance have been exhausted, by majority vote, the commission may
40 initiate legal action in the United States district court for the

1 District of Columbia or the federal district where the commission has
2 its principal offices, against a participating state in default to
3 enforce compliance with the provisions of this compact and the
4 commission's promulgated rules and bylaws. The relief sought may
5 include both injunctive relief and damages. In the event judicial
6 enforcement is necessary, the prevailing party shall be awarded all
7 costs of such litigation, including reasonable attorneys' fees.

8 (c) The remedies herein shall not be the exclusive remedies of
9 the commission. The commission may pursue any other remedies
10 available under federal or state law.

11 (5) Legal action against the commission.

12 (a) Participating states may initiate legal action against the
13 commission in the United States district court for the District of
14 Columbia or the federal district where the commission has its
15 principal offices to enforce compliance with the provisions of the
16 compact and its rules. The relief sought may include both injunctive
17 relief and damages. In the event judicial enforcement is necessary,
18 the prevailing party shall be awarded all costs of such litigation,
19 including reasonable attorneys' fees.

20 (b) No person other than a participating state shall enforce this
21 compact against the commission.

22 NEW SECTION. **Sec. 11.** DATE OF IMPLEMENTATION OF THE PHYSICIAN
23 ASSISTANT LICENSURE COMPACT COMMISSION. (1) This compact shall come
24 into effect on the date on which this compact statute is enacted into
25 law in the seventh participating state.

26 (a) On or after the effective date of the compact, the commission
27 shall convene and review the enactment of each of the states that
28 enacted the compact prior to the commission convening ("charter
29 participating states") to determine if the statute enacted by each
30 such charter participating state is materially different than the
31 model compact.

32 (i) A charter participating state whose enactment is found to be
33 materially different from the model compact shall be entitled to the
34 default process set forth in section 10(2) of this act.

35 (ii) If any participating state later withdraws from the compact
36 or its participation is terminated, the commission shall remain in
37 existence and the compact shall remain in effect even if the number
38 of participating states should be less than seven. Participating
39 states enacting the compact subsequent to the commission convening

1 shall be subject to the process set forth in section 7(3)(u) of this
2 act to determine if their enactments are materially different from
3 the model compact and whether they qualify for participation in the
4 compact.

5 (b) Participating states enacting the compact subsequent to the
6 seven initial charter participating states shall be subject to the
7 process set forth in section 7(3)(u) of this act to determine if
8 their enactments are materially different from the model compact and
9 whether they qualify for participation in the compact.

10 (c) All actions taken for the benefit of the commission or in
11 furtherance of the purposes of the administration of the compact
12 prior to the effective date of the compact or the commission coming
13 into existence shall be considered to be actions of the commission
14 unless specifically repudiated by the commission.

15 (2) Any state that joins this compact shall be subject to the
16 commission's rules and bylaws as they exist on the date on which this
17 compact becomes law in that state. Any rule that has been previously
18 adopted by the commission shall have the full force and effect of law
19 on the day this compact becomes law in that state.

20 (3) Any participating state may withdraw from this compact by
21 enacting a statute repealing the same.

22 (a) A participating state's withdrawal shall not take effect
23 until 180 days after enactment of the repealing statute. During this
24 180-day period, all compact privileges that were in effect in the
25 withdrawing state and were granted to licensees licensed in the
26 withdrawing state shall remain in effect. If any licensee licensed in
27 the withdrawing state is also licensed in another participating state
28 or obtains a license in another participating state within the 180
29 days, the licensee's compact privileges in other participating states
30 shall not be affected by the passage of the 180 days.

31 (b) Withdrawal shall not affect the continuing requirement of the
32 state licensing board(s) of the withdrawing state to comply with the
33 investigative and adverse action reporting requirements of this
34 compact prior to the effective date of withdrawal.

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

1 (4) Nothing contained in this compact shall be construed to
2 invalidate or prevent any physician assistant licensure agreement or
3 other cooperative arrangement between participating states and
4 between a participating state and nonparticipating state that does
5 not conflict with the provisions of this compact.

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

11 NEW SECTION. **Sec. 12.** CONSTRUCTION AND SEVERABILITY. (1) This
12 compact and the commission's rule-making authority shall be liberally
13 construed so as to effectuate the purposes, and the implementation
14 and administration of the compact. Provisions of the compact
15 expressly authorizing or requiring the promulgation of rules shall
16 not be construed to limit the commission's rule-making authority
17 solely for those purposes.

18 (2) The provisions of this compact shall be severable and if any
19 phrase, clause, sentence, or provision of this compact is held by a
20 court of competent jurisdiction to be contrary to the constitution of
21 any participating state, a state seeking participation in the
22 compact, or of the United States, or the applicability thereof to any
23 government, agency, person, or circumstance is held to be
24 unconstitutional by a court of competent jurisdiction, the validity
25 of the remainder of this compact and the applicability thereof to any
26 other government, agency, person, or circumstance shall not be
27 affected thereby.

28 (3) Notwithstanding subsection (2) of this section, the
29 commission may deny a state's participation in the compact or, in
30 accordance with the requirements of section 10(2) of this act,
31 terminate a participating state's participation in the compact, if it
32 determines that a constitutional requirement of a participating state
33 is, or would be with respect to a state seeking to participate in the
34 compact, a material departure from the compact. Otherwise, if this
35 compact shall be held to be contrary to the constitution of any
36 participating state, the compact shall remain in full force and
37 effect as to the remaining participating states and in full force and
38 effect as to the participating state affected as to all severable
39 matters.

1 NEW SECTION. **Sec. 13.** BINDING EFFECT OF COMPACT. (1) Nothing
2 herein prevents the enforcement of any other law of a participating
3 state that is not inconsistent with this compact.

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

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

8 NEW SECTION. **Sec. 14.** Sections 1 through 13 of this act
9 constitute a new chapter in Title 18 RCW.

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