

INTERIM STUDY PROPOSAL 2023-125

State of Arkansas
94th General Assembly

A Bill

JMB/JMB
SENATE BILL

By: Senator C. Penzo

Filed with: Senate Committee on Public Health, Welfare, and Labor
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO ESTABLISH THE PHYSICIAN ASSISTANT LICENSURE
COMPACT; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH THE PHYSICIAN ASSISTANT
LICENSURE COMPACT.

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

SECTION 1. Arkansas Code Title 17, Chapter 105, is amended to add an
additional subchapter to read as follows:

Subchapter 2 – Physician Assistant Licensure Compact

17-105-201. Text of compact.

The Physician Assistant Licensure Compact is enacted into law and
entered into by this state with all states legally joining therein and in the
form substantially as follows:

PA LICENSURE COMPACT

Section 1. Purpose

In order to strengthen access to Medical Services, and in recognition of the
advances in the delivery of Medical Services, the Participating States of the
PA Licensure Compact have allied in common purpose to develop a comprehensive
process that complements the existing authority of State Licensing Boards to

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

16 17 Section 2. Definitions

18 In this Compact:

19 A. "Adverse Action" means any administrative, civil, equitable, or
20 criminal action permitted by a State's laws which is imposed by a Licensing
21 Board or other authority against a PA License or License application or
22 Compact Privilege such as License denial, censure, revocation, suspension,
23 probation, monitoring of the Licensee, or restriction on the Licensee's
24 practice.

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

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

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

1 E. “Data System” means the repository of information about Licensees,
2 including but not limited to License status and Adverse Actions, which is
3 created and administered under the terms of this Compact.

4 F. “Executive Committee” means a group of directors and ex-officio
5 individuals elected or appointed pursuant to Section 7.F.2.

6 G. “Impaired Practitioner” means a PA whose practice is adversely
7 affected by health-related condition(s) that impact their ability to
8 practice.

9 H. “Investigative Information” means information, records, or
10 documents received or generated by a Licensing Board pursuant to an
11 investigation.

12 I. “Jurisprudence Requirement” means the assessment of an individual’s
13 knowledge of the laws and Rules governing the practice of a PA in a State.

14 J. “License” means current authorization by a State, other than
15 authorization pursuant to a Compact Privilege, for a PA to provide Medical
16 Services, which would be unlawful without current authorization.

17 K. “Licensee” means an individual who holds a License from a State to
18 provide Medical Services as a PA.

19 L. “Licensing Board” means any State entity authorized to license and
20 otherwise regulate PAs.

21 M. “Medical Services” means health care services provided for the
22 diagnosis, prevention, treatment, cure or relief of a health condition,
23 injury, or disease, as defined by a State’s laws and regulations.

24 N. “Model Compact” means the model for the PA Licensure Compact on
25 file with The Council of State Governments or other entity as designated by
26 the Commission.

27 O. “Participating State” means a State that has enacted this Compact.

28 P. “PA” means an individual who is licensed as a physician assistant
29 in a State. For purposes of this Compact, any other title or status adopted
30 by a State to replace the term “physician assistant” shall be deemed
31 synonymous with “physician assistant” and shall confer the same rights and
32 responsibilities to the Licensee under the provisions of this Compact at the
33 time of its enactment.

34 Q. “PA Licensure Compact Commission,” “Compact Commission,” or
35 “Commission” mean the national administrative body created pursuant to
36 Section 7.A of this Compact.

1 R. “Qualifying License” means an unrestricted License issued by a
2 Participating State to provide Medical Services as a PA.

3 S. “Remote State” means a Participating State where a Licensee who is
4 not licensed as a PA is exercising or seeking to exercise the Compact
5 Privilege.

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

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

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

15
16 Section 3. State Participation in this Compact

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

18 1. License PAs.

19 2. Participate in the Compact Commission’s Data System.

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

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

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

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

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

33 8. Grant the Compact Privilege to a holder of a Qualifying
34 License in a Participating State.

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

1
2 Section 4. Compact Privilege

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

- 4 1. Have graduated from a PA program accredited by the
5 Accreditation Review Commission on Education for the Physician Assistant,
6 Inc. or other programs authorized by Commission Rule.
- 7 2. Hold current NCCPA certification.
- 8 3. Have no felony or misdemeanor Conviction.
- 9 4. Have never had a controlled substance license, permit, or
10 registration suspended or revoked by a State or by the United States Drug
11 Enforcement Administration.
- 12 5. Have a unique identifier as determined by Commission Rule.
- 13 6. Hold a Qualifying License.
- 14 7. Have had no revocation of a License or limitation or
15 restriction on any License currently held due to an adverse action.
- 16 8. If a Licensee has had a limitation or restriction on a
17 License or Compact Privilege due to an Adverse Action, two years must have
18 elapsed from the date on which the License or Compact Privilege is no longer
19 limited or restricted due to the Adverse Action.
- 20 9. If a Compact Privilege has been revoked or is limited or
21 restricted in a Participating State for conduct that would not be a basis for
22 disciplinary action in a Participating State in which the Licensee is
23 practicing or applying to practice under a Compact Privilege, that
24 Participating State shall have the discretion not to consider such action as
25 an Adverse Action requiring the denial or removal of a Compact Privilege in
26 that State.
- 27 10. Notify the Compact Commission that the Licensee is seeking
28 the Compact Privilege in a Remote State.
- 29 11. Meet any Jurisprudence Requirement of a Remote State in
30 which the Licensee is seeking to practice under the Compact Privilege and pay
31 any fees applicable to satisfying the Jurisprudence Requirement.
- 32 12. Report to the Commission any Adverse Action taken by a non-
33 participating State within thirty (30) days after the action is taken.
- 34 B. The Compact Privilege is valid until the expiration or revocation
35 of the Qualifying License unless terminated pursuant to an Adverse Action.
36 The Licensee must also comply with all of the requirements of Subsection A

1 above to maintain the Compact Privilege in a Remote State. If the
2 Participating State takes Adverse Action against a Qualifying License, the
3 Licensee shall lose the Compact Privilege in any Remote State in which the
4 Licensee has a Compact Privilege until all of the following occur:

5 1. The License is no longer limited or restricted; and

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

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

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

14
15 Section 5. Designation of the State from Which Licensee is Applying for a
16 Compact Privilege

17 A. Upon a Licensee's application for a Compact Privilege, the Licensee
18 shall identify to the Commission the Participating State from which the
19 Licensee is applying, in accordance with applicable Rules adopted by the
20 Commission, and subject to the following requirements:

21 1. When applying for a Compact Privilege, the Licensee shall
22 provide the Commission with the address of the Licensee's primary residence
23 and thereafter shall immediately report to the Commission any change in the
24 address of the Licensee's primary residence.

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

31
32 Section 6. Adverse Actions

33 A. A Participating State in which a Licensee is licensed shall have
34 exclusive power to impose Adverse Action against the Qualifying License
35 issued by that Participating State.

36 B. In addition to the other powers conferred by State law, a Remote

1 State shall have the authority, in accordance with existing State due process
2 law, to do all of the following:

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

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

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

22 4. Nothing in this Compact authorizes a Participating State to
23 impose discipline against a PA's Compact Privilege or to deny an application
24 for a Compact Privilege in that Participating State for the individual's
25 otherwise lawful practice in another State.

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

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

35 E. A Participating State may take Adverse Action based on the factual
36 findings of a Remote State, provided that the Participating State follows its

1 own procedures for taking the Adverse Action.

2 F. Joint Investigations

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

7 2. Participating States shall share any investigative,
8 litigation, or compliance materials in furtherance of any joint or individual
9 investigation initiated under this Compact.

10 G. If an Adverse Action is taken against a PA's Qualifying License,
11 the PA's Compact Privilege in all Remote States shall be deactivated until
12 two (2) years have elapsed after all restrictions have been removed from the
13 State License. All disciplinary orders by the Participating State which
14 issued the Qualifying License that impose Adverse Action against a PA's
15 License shall include a Statement that the PA's Compact Privilege is
16 deactivated in all Participating States during the pendency of the order.

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

19
20 Section 7. Establishment of the PA Licensure Compact Commission

21 A. The Participating States hereby create and establish a joint
22 government agency and national administrative body known as the PA Licensure
23 Compact Commission. The Commission is an instrumentality of the Compact
24 States acting jointly and not an instrumentality of any one State. The
25 Commission shall come into existence on or after the effective date of the
26 Compact as set forth in Section 11.A.

27 B. Membership, Voting, and Meetings

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

32 2. The delegate shall be either:

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

35 b. An administrator of a Licensing Board.

36 3. Any delegate may be removed or suspended from office as

1 provided by the laws of the State from which the delegate is appointed.

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

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

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

13 7. The Commission shall establish by Rule a term of office for
14 delegates.

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

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

17 2. Establish the fiscal year of the Commission;

18 3. Establish fees;

19 4. Establish bylaws;

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

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

23 7. Promulgate Rules to facilitate and coordinate implementation
24 and administration of this Compact. The Rules shall have the force and effect
25 of law and shall be binding in all Participating States;

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

29 9. Purchase and maintain insurance and bonds;

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

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

1 12. Accept any and all appropriate donations and grants of
2 money, equipment, supplies, materials and services, and receive, utilize and
3 dispose of the same; provided that at all times the Commission shall avoid
4 any appearance of impropriety or conflict of interest;

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

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

11 15. Establish a budget and make expenditures;

12 16. Borrow money;

13 17. Appoint committees, including standing committees composed
14 of members, State regulators, State legislators or their representatives, and
15 consumer representatives, and such other interested persons as may be
16 designated in this Compact and the bylaws;

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

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

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

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

27 22. Prepare and provide to the Participating States an annual
28 report; and

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

32 D. Meetings of the Commission

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

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

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

8 a. Non-compliance of a Participating State with its
9 obligations under this Compact;

10 b. The employment, compensation, discipline or other
11 matters, practices or procedures related to specific employees or other
12 matters related to the Commission's internal personnel practices and
13 procedures;

14 c. Current, threatened, or reasonably anticipated
15 litigation;

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

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

20 f. Disclosure of trade secrets or commercial or financial
21 information that is privileged or confidential;

22 g. Disclosure of information of a personal nature where
23 disclosure would constitute a clearly unwarranted invasion of personal
24 privacy;

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

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

31 j. Legal advice; or

32 k. Matters specifically exempted from disclosure by
33 federal or Participating States' statutes.

34 4. If a meeting, or portion of a meeting, is closed pursuant to
35 this provision, the chair of the meeting or the chair's designee shall
36 certify that the meeting or portion of the meeting may be closed and shall

1 reference each relevant exempting provision.

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

9 E. Financing of the Commission

10 1. The Commission shall pay, or provide for the payment of, the
11 reasonable expenses of its establishment, organization, and ongoing
12 activities.

13 2. The Commission may accept any and all appropriate revenue
14 sources, donations, and grants of money, equipment, supplies, materials, and
15 services.

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

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

28 b. If the Licensee terminates the Qualifying License
29 through which the Licensee applied for the Compact Privilege before its
30 scheduled expiration, and the Licensee has a Qualifying License in another
31 Participating State, the Licensee shall inform the Commission that it is
32 changing to that Participating State the Participating State through which it
33 applies for a Compact Privilege and pay to the Commission any Compact
34 Privilege fee required by Commission Rule.

35 4. The Commission shall not incur obligations of any kind prior
36 to securing the funds adequate to meet the same; nor shall the Commission

1 pledge the credit of any of the Participating States, except by and with the
2 authority of the Participating State.

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

10 F. The Executive Committee

11 1. The Executive Committee shall have the power to act on behalf
12 of the Commission according to the terms of this Compact and Commission
13 Rules.

14 2. The Executive Committee shall be composed of nine (9)
15 members:

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

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

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

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

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

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

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

29 a. Recommend to the Commission changes to the Commission's
30 Rules or bylaws, changes to this Compact legislation, fees to be paid by
31 Compact Participating States such as annual dues, and any Commission Compact
32 fee charged to Licensees for the Compact Privilege;

33 b. Ensure Compact administration services are
34 appropriately provided, contractual or otherwise;

35 c. Prepare and recommend the budget;

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

1 e. Monitor Compact compliance of Participating States and
2 provide compliance reports to the Commission;

3 f. Establish additional committees as necessary;

4 g. Exercise the powers and duties of the Commission during
5 the interim between Commission meetings, except for issuing proposed
6 rulemaking or adopting Commission Rules or bylaws, or exercising any other
7 powers and duties exclusively reserved to the Commission by the Commission's
8 Rules; and

9 h. Perform other duties as provided in the Commission's
10 Rules or bylaws.

11 7. All meeting of the Executive Committee at which it votes or
12 plans to vote on matters in exercising the powers and duties of the
13 Commission shall be open to the public and public notice of such meetings
14 shall be given as public meetings of the Commission are given.

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

20 G. Qualified Immunity, Defense, and Indemnification

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

34 2. The Commission shall defend any member, officer, executive
35 director, employee, and representative of the Commission in any civil action
36 seeking to impose liability arising out of any actual or alleged act, error,

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

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

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

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

26 6. Nothing herein shall be construed to designate the venue or
27 jurisdiction to bring actions for alleged acts of malpractice, professional
28 misconduct, negligence, or other such civil action pertaining to the practice
29 of a PA. All such matters shall be determined exclusively by State law other
30 than this Compact.

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

36 8. Nothing in this Compact shall be construed to be a waiver of

1 sovereign immunity by the Participating States or by the Commission.

2
3 Section 8. Data System

4 A. The Commission shall provide for the development, maintenance,
5 operation, and utilization of a coordinated data and reporting system
6 containing licensure, Adverse Action, and the reporting of the existence of
7 Significant Investigative Information on all licensed PAs and applicants
8 denied a License in Participating States.

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

- 13 1. Identifying information;
14 2. Licensure data;
15 3. Adverse Actions against a License or Compact Privilege;
16 4. Any denial of application for licensure, and the reason(s)
17 for such denial (excluding the reporting of any Criminal history record
18 information where prohibited by law);
19 5. The existence of Significant Investigative Information; and
20 6. Other information that may facilitate the administration of
21 this Compact, as determined by the Rules of the Commission.

22 C. Significant Investigative Information pertaining to a Licensee in
23 any Participating State shall only be available to other Participating
24 States.

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

29 E. Participating States contributing information to the Data System
30 may, in accordance with State or federal law, designate information that may
31 not be shared with the public without the express permission of the
32 contributing State. Notwithstanding any such designation, such information
33 shall be reported to the Commission through the Data System.

34 F. Any information submitted to the Data System that is subsequently
35 expunged pursuant to federal law or the laws of the Participating State
36 contributing the information shall be removed from the Data System upon

1 reporting of such by the Participating State to the Commission.

2 G. The records and information provided to a Participating State
3 pursuant to this Compact or through the Data System, when certified by the
4 Commission or an agent thereof, shall constitute the authenticated business
5 records of the Commission, and shall be entitled to any associated hearsay
6 exception in any relevant judicial, quasi-judicial or administrative
7 proceedings in a Participating State.

8
9 Section 9. Rulemaking

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

14 B. The Commission shall promulgate reasonable Rules in order to
15 effectively and efficiently implement and administer this Compact and achieve
16 its purposes. A Commission Rule shall be invalid and have not force or effect
17 only if a court of competent jurisdiction holds that the Rule is invalid
18 because the Commission exercised its rulemaking authority in a manner that is
19 beyond the scope of the purposes of this Compact, or the powers granted
20 hereunder, or based upon another applicable standard of review.

21 C. The Rules of the Commission shall have the force of law in each
22 Participating State, provided however that where the Rules of the Commission
23 conflict with the laws of the Participating State that establish the medical
24 services a PA may perform in the Participating State, as held by a court of
25 competent jurisdiction, the Rules of the Commission shall be ineffective in
26 that State to the extent of the conflict.

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

33 E. Commission Rules shall be adopted at a regular or special meeting
34 of the Commission.

35 F. Prior to promulgation and adoption of a final Rule or Rules by the
36 Commission, and at least thirty (30) days in advance of the meeting at which

1 the Rule will be considered and voted upon, the Commission shall file a
2 Notice of Proposed Rulemaking:

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

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

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

8 G. The Notice of Proposed Rulemaking shall include:

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

12 2. The text of the proposed Rule and the reason for the proposed
13 Rule;

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

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

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

23 I. If the hearing is to be held via electronic means, the Commission
24 shall publish the mechanism for access to the electronic hearing.

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

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

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

36 4. Nothing in this section shall be construed as requiring a

1 separate hearing on each proposed Rule. Proposed Rules may be grouped for the
2 convenience of the Commission at hearings required by this section.

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

5 K. The Commission shall, by majority vote of all delegates, take final
6 action on the proposed Rule and shall determine the effective date of the
7 Rule, if adopted, based on the Rulemaking record and the full text of the
8 Rule.

9 1. If adopted, the Rule shall be posted on the Commission's
10 website.

11 2. The Commission may adopt changes to the proposed Rule
12 provided the changes do not enlarge the original purpose of the proposed
13 Rule.

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

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

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

- 29 1. Meet an imminent threat to public health, safety, or welfare;
30 2. Prevent a loss of Commission or Participating State funds;
31 3. Meet a deadline for the promulgation of a Commission Rule
32 that is established by federal law or Rule; or
33 4. Protect public health and safety.

34 M. The Commission or an authorized committee of the Commission may
35 direct revisions to a previously adopted Commission Rule for purposes of
36 correcting typographical errors, errors in format, errors in consistency, or

1 grammatical errors. Public notice of any revisions shall be posted on the
2 website of the Commission. The revision shall be subject to challenge by any
3 person for a period of thirty (30) days after posting. The revision may be
4 challenged only on grounds that the revision results in a material change to
5 a Rule. A challenge shall be made as set forth in the notice of revisions and
6 delivered to the Commission prior to the end of the notice period. If no
7 challenge is made, the revision will take effect without further action. If
8 the revision is challenged, the revision may not take effect without the
9 approval of the Commission.

10 N. No Participating State's rulemaking requirements shall apply under
11 this Compact.

13 Section 10. Oversight, Dispute Resolution, and Enforcement

14 A. Oversight

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

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

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

32 B. Default, Technical Assistance, and Termination

33 1. If the Commission determines that a Participating State has
34 defaulted in the performance of its obligations or responsibilities under
35 this Compact or the Commission Rules, the Commission shall provide written
36 notice to the defaulting State and other Participating States. The notice

1 shall describe the default, the proposed means of curing the default and any
2 other action that the Commission may take and shall offer remedial training
3 and specific technical assistance regarding the default.

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

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

17 4. A State that has been terminated is responsible for all
18 assessments, obligations, and liabilities incurred through the effective date
19 of termination, including obligations that extend beyond the effective date
20 of termination.

21 5. The Commission shall not bear any costs related to a State
22 that is found to be in default or that has been terminated from this Compact,
23 unless agreed upon in writing between the Commission and the defaulting
24 State.

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

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

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

36 b. Licensees who are licensed in that State who have been

1 granted a Compact Privilege in a Participating State shall retain the Compact
2 Privilege for one hundred eighty (180) days unless the Licensee also has a
3 Qualifying License in a Participating State or obtains a Qualifying License
4 in a Participating State before the one hundred eighty (180)-day period ends,
5 in which case the Compact Privilege shall continue.

6 C. Dispute Resolution

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

10 2. The Commission shall promulgate a Rule providing for both
11 mediation and binding dispute resolution for disputes as appropriate.

12 D. Enforcement

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

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

24 3. The remedies herein shall not be the exclusive remedies of
25 the Commission. The Commission may pursue any other remedies available under
26 federal or State law.

27 E. Legal Action Against the Commission

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

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

1
2 Section 11. Date of Implementation of the PA Licensure Compact Commission

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

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

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

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

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

26 3. All actions taken for the benefit of the Commission or in
27 furtherance of the purposes of the administration of the Compact prior to the
28 effective date of the Compact or the Commission coming into existence shall
29 be considered to be actions of the Commission unless specifically repudiated
30 by the Commission.

31 B. Any State that joins this Compact shall be subject to the
32 Commission’s Rules and bylaws as they exist on the date on which this Compact
33 becomes law in that State. Any Rule that has been previously adopted by the
34 Commission shall have the full force and effect of law on the day this
35 Compact becomes law in that State.

36 C. Any Participating State may withdraw from this Compact by enacting

1 a statute repealing the same.

2 1. A Participating State's withdrawal shall not take effect
3 until one hundred eighty (180) days after enactment of the repealing statute.
4 During this one hundred eighty (180) day-period, all Compact Privileges that
5 were in effect in the withdrawing State and were granted to Licensees
6 licensed in the withdrawing State shall remain in effect. If any Licensee
7 licensed in the withdrawing State is also licensed in another Participating
8 State or obtains a license in another Participating State within the one
9 hundred eighty (180) days, the Licensee's Compact Privileges in other
10 Participating States shall not be affected by the passage of the one hundred
11 eighty (180) days.

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

16 3. Upon the enactment of a statute withdrawing a State from this
17 Compact, the State shall immediately provide notice of such withdrawal to all
18 Licensees within that State. Such withdrawing State shall continue to
19 recognize all licenses granted pursuant to this Compact for a minimum of one
20 hundred eighty (180) days after the date of such notice of withdrawal.

21 D. Nothing contained in this Compact shall be construed to invalidate
22 or prevent any PA licensure agreement or other cooperative arrangement
23 between Participating States and between a Participating State and non-
24 Participating State that does not conflict with the provisions of this
25 Compact.

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

30
31 Section 12. Construction and Severability

32 A. This Compact and the Commission's rulemaking authority shall be
33 liberally construed so as to effectuate the purposes, and the implementation
34 and administration of the Compact. Provisions of the Compact expressly
35 authorizing or requiring the promulgation of Rules shall not be construed to
36 limit the Commission's rulemaking authority solely for those purposes.

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

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

20
21 Section 13. Binding Effect of Compact

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

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

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

28
29 17-105-202. Administration of compact – Rules.

30 (a) The Arkansas State Medical Board is the Physician Assistant
31 Licensure Compact administrator for this state.

32 (b)(1) The board shall promulgate rules necessary to implement this
33 subchapter.

34 (2) Rules promulgated by the board under subdivision (b)(1) of
35 this section shall be consistent with the Physician Assistant Licensure
36 Compact necessary to implement this subchapter.

1 (c) The board is not required to adopt the rules of the Physician
2 Assistant Licensure Compact Commission for those rules to be effective in
3 this state.

4
5 SECTION 2. DO NOT CODIFY. Initial rules.

6 (a) The Arkansas State Medical Board shall promulgate rules necessary
7 to implement this act.

8 (b) When adopting the initial rules to implement this act, the final
9 rules shall be filed with the Secretary of State for adoption under § 25-15-
10 204(f):

11 (1) On or before January 1, 2026; or

12 (2) If approval under § 10-3-309 has not occurred by January 1,
13 2025, as soon as practicable after approval under § 10-3-309.

14 (c) The board shall file the proposed rule with the Legislative
15 Council under § 10-3-309(c) sufficiently in advance of January 1, 2026, so
16 that the Legislative Council may consider the rule for approval before
17 January 1, 2026.

18
19
20 Referred by Senator C. Penzo

21 Prepared by: JMB/JMB

22
23