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BILL ANALYSIS



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House Bill 4309 (Substitute H-1 as passed by the House)

Sponsor: Representative Dave Prestin

House Committee: Health Policy

Senate Committee: Health Policy

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INTRODUCTION

The bill would enact a Physician Assistant (PA) State Licensure Compact (Compact), or an agreement between states to establish uniform standards for licensure of PAs. It would facilitate the interstate licensure of PAs by establishing licensing and sanctioning standards, such as by allowing any Compact member state to investigate violations of the standards set forth for PAs in any other member state in which a PA held a license or Compact privilege. Member states would have to establish a Physician's Assistant Compact Commission (Commission) to build and use a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states. Generally, a member state would have to require its executive, legislative, and judicial branches of state government to enforce the Compact.

The bill would take effect 90 days after its enactment.

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

The bill is a reintroduction of House Bill 5117 from the 2023-2024 Legislative Session.

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State government and no fiscal impact on local units of government. The bill would require the Department of Licensing and Regulatory Affairs (LARA) to take on significant responsibilities and incur significant expenses for data integration with the Commission. The Department has estimated these expenses to be \$100,000. If many out-of-State licensees took advantage of the Compact by practicing in the State without applying for a Michigan license, then revenue from license application fees in the State would decline.

As a participant in the Compact, the State could incur legal costs if it defaulted on Compact terms. The State also could incur additional enforcement costs. The Commission also could levy and collect an annual assessment on the State to cover its own operation costs. The total assessment is currently unknown. The Compact also would allow licenses from other states to practice in the State without paying the conventional fees to LARA; this would have a negative impact on traditional licensure revenues.

MCL 333.18001 et al.

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CONTENT

The bill would enact within Article 15 (Occupations) of the Public Health Code the Compact, which would allow physician's assistants to practice in any member state. Specifically, the Compact does the following:

- Specifies the requirements to participate in the Compact, including participating fully in the Physician's Assistant Compact Commission's data system and having a mechanism in place for receiving and investigating complaints about licensees, among other things.**
- Requires a member state to grant the Compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with terms of the Compact and rules.**
- Requires a licensee, to exercise the Compact privilege under the terms and provisions of the Compact, to meet requirements prescribed by the bill, including holding a license in the home state.**
- Specifies that, if a licensee loses Compact privilege in any remote state, the individual loses the Compact privilege in any remote state until the individual meets certain requirements.**
- Provides a home state with the exclusive power to impose adverse action against a license issued by the home state.**
- Allows any member state to investigate actual or alleged violations of the statutes and rules authorizing the standards set forth for physician's assistants in any other member state in which a physician's assistant holds a license or Compact privilege.**
- Requires the Compact member states to create and establish the Commission, and prescribes the Commission's membership, powers, and duties.**
- Requires the Commission to provide for the development, maintenance, and use of a coordinated database and reporting system containing licensure, adverse action and investigative information on all licensed individuals in member states.**
- Requires the Commission to exercise its rulemaking powers under the Compact.**
- Requires the executive, legislative, and judicial branches of state government in each member state to enforce the Compact.**
- Requires the Commission to enforce all provisions and rules of the Compact and take all actions necessary and appropriate to effectuate its purposes and intent.**
- Prescribes the procedures for how a state may withdraw from the Compact.**

TABLE OF CONTENTS

Purpose	3
Definitions	3
State Participation in the Compact	5
Compact Privilege	5
Designation of the State from Which Licensee is Applying for a Compact Privilege	6
Adverse Actions	6
Joint Investigations	7
Establishment of the PA Licensure Compact Commission	7
Meetings of the Commission	8
Financing of the Commission	9
The Executive Committee	10
Qualified Immunity, Defense, and Indemnification	10
Data System	11
Rulemaking	12
Oversight, Dispute Resolution, and Enforcement	14

Enforcement	15
Legal Action Against the Commission	15
Date of Implementation of the PA Licensure Compact Commission	15
Construction and Severability	16
Binding Effect of Compact	17
Applicability to Michigan Law	17

Purpose

The bill would make the following statement:

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

Definitions

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

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

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

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

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

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

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

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

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

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

"Licensee" means an individual who holds a License from a state to provide Medical Services as a PA.

"Licensing Board" means any state entity authorized to license and otherwise regulate PAs.

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

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

"Participating State" means a State that has enacted this Compact.

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

"PA Licensure Compact Commission," "Compact Commission," or "Commission" means the national administrative body created pursuant to Section 7.A of this Compact.

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

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

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

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

"State" would mean any state, commonwealth, district, or territory of the United States.

State Participation in the Compact

To participate in the Compact, a Participating State must do the following:

- License PAs.
- Participate in the Compact Commission's Data System.
- Have a mechanism in place for receiving and investigating complaints against Licensees and License applicants.
- Notify the Commission, in compliance with the terms of this Compact and Commission Rules, of any Adverse Action against a Licensee or License applicant and the existence of Significant Investigative Information regarding a Licensee or License applicant.
- Fully implement a Criminal Background Check requirement, within a time frame established by Commission Rule, by its Licensing Board receiving the results of a Criminal Background Check and reporting to the Commission whether the License applicant has been granted a License.
- Comply with the Rules of the Compact Commission.
- Utilize passage of a recognized national exam such as the NCCPA PANCE as a requirement for PA licensure.
- Grant the Compact Privilege to a holder of a Qualifying License in a Participating State.

Nothing in the Compact prohibits a Participating State from charging a fee for granting the Compact Privilege.

Compact Privilege

To exercise the Compact Privilege, a Licensee must do the following:

- Have graduated from a PA program accredited by the Accreditation Review Commission on Education for the Physician Assistant, Inc. or other programs authorized by Commission Rule.
- Hold current NCCPA certification.
- Have no felony or misdemeanor Conviction.
- Have never had a controlled substance license, permit, or registration suspended or revoked by a State or by the United States Drug Enforcement Administration.
- Have a unique identifier as determined by Commission Rule.
- Hold a Qualifying License.
- Have had no revocation of a License or limitation or restriction on any License currently held due to an adverse action.
- If a Licensee has had a limitation or restriction on a License or Compact Privilege due to an Adverse Action, two years must have elapsed from the date on which the License or Compact Privilege is no longer limited or restricted due to the Adverse Action.
- If a Compact Privilege has been revoked or is limited or restricted in a Participating State for conduct that would not be a basis for disciplinary action in a Participating State in which the Licensee is practicing or applying to practice under a Compact Privilege, that Participating State must have the discretion not to consider such action as an Adverse Action requiring the denial or removal of a Compact Privilege in that State.
- Notify the Compact Commission that the Licensee was seeking the Compact Privilege in a Remote State.
- Meet any Jurisprudence Requirement of a Remote State in which the Licensee is seeking to practice under the Compact Privilege and pay any fees applicable to satisfying the Jurisprudence Requirement.
- Report to the Commission any Adverse Action taken by a non-participating State within 30 days after the action is taken.

The Compact Privilege is valid until the expiration or revocation of the Qualifying License unless terminated pursuant to an Adverse Action. The Licensee also must comply with all the requirements above to maintain the Compact Privilege in a Remote State. If the Participating State takes Adverse Action against a Qualifying License, the Licensee must lose the Compact Privilege in any Remote State in which the Licensee has a Compact Privilege until the License is no longer limited or restricted and two years have elapsed from the date on which the License is no longer limited or restricted due to the Adverse Action.

Once a restricted or limited License satisfies the requirements above, the Licensee must meet the requirements of the Compact Privilege above to obtain a Compact Privilege in any Remote State.

For each Remote State in which a PA sought authority to prescribe controlled substances, the PA must satisfy all requirements imposed by such State in granting or renewing authority.

Designation of the State from Which Licensee is Applying for a Compact Privilege

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

- When applying for a Compact Privilege, the Licensee must provide the Commission with the address of the Licensee's primary residence and must immediately report to the Commission any change in the address of the Licensee's primary residence.
- When applying for a Compact Privilege, the Licensee must consent to accept service of process by mail at the Licensee's primary residence on file with the Commission with respect to any action brought against the Licensee by the Commission or a Participating State, including a subpoena, with respect to any action brought or investigation conducted by the Commission or a Participating State.

Adverse Actions

A Participating State in which a Licensee is licensed would have exclusive power to impose Adverse Action against the Qualifying License issued by that Participating State. In addition to the other powers conferred by State law, a Remote State must have the authority, in accordance with existing State due process law, to do the following:

- Take Adverse Action against a PA's Compact Privilege within that State to remove a Licensee's Compact Privilege or take other action necessary under applicable law to protect the health and safety of its citizens.
- Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence.
- Notwithstanding the above requirement, subpoenas must not be issued by a Participating State to gather evidence of conduct in another State that is lawful in that other State for the purpose of taking Adverse Action against a Licensee's Compact Privilege or application for a Compact Privilege in that Participating State.
- Nothing in the Compact authorizes a Participating State to impose discipline against a PA's Compact Privilege or to deny an application for a Compact Privilege in that Participating State for the individual's otherwise lawful practice in another State.

For purposes of taking Adverse Action, the Participating State which issued the Qualifying License must give the same priority and effect to reported conduct received from any other Participating State as it would if the conduct had occurred within the Participating State which

issued the Qualifying License. In so doing, that Participating State must apply its own State laws to determine appropriate action.

A Participating State, if otherwise permitted by State law, may recover from the affected PA the costs of investigations and disposition of cases resulting from any Adverse Action taken against that PA. A Participating State could take Adverse Action based on the factual findings of a Remote State, provided that the Participating State follows its own procedures for taking the Adverse Action.

Joint Investigations

In addition to the authority granted to a Participating State by its respective State PA laws and regulations or other applicable State law, any Participating State may participate with other Participating States in joint investigations of Licensees. Participating States must share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

If an Adverse Action is taken against a PA's Qualifying License, the PA's Compact Privilege in all Remote States must be deactivated until two years have elapsed after all restrictions had been removed from the State License. All disciplinary orders by the Participating State which issued the Qualifying License that imposed Adverse Action against a PA's License must include a Statement that the PA's Compact Privilege is deactivated in all Participating States during the pendency of the order. If any Participating State took Adverse Action, it promptly must notify the administrator of the Data System.

Establishment of the PA Licensure Compact Commission

The Participating States hereby create and establish a joint government agency and national administrative body known as the PA Licensure Compact Commission. The Commission must be an instrumentality of the Compact States acting jointly and not an instrumentality of any one State. The Commission must come exist on or after the effective date of the Compact.

Each Participating State must have and be limited to one delegate selected by that Participating State's Licensing Board or, if the State has more than one Licensing Board, selected collectively by the Participating State's Licensing Boards. The delegate must be either a current PA, physician, or public member of a Licensing Board or PA Council/Committee or an administrator of a Licensing Board. Any delegate may be removed or suspended from office as provided by the laws of the State from which the delegate is appointed. The Participating State Licensing Board must fill any vacancy occurring in the Commission within 60 days.

Each delegate is entitled to one vote on all matters voted on by the Commission and must otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate must vote in person or by such other means as provided in the bylaws. The bylaws could provide for delegates' participation in meetings by telecommunications, video conference, or other means of communication.

The Commission must meet at least once during each calendar year. Additional meetings must be held as set forth in this Compact and the bylaws. The Commission must establish by Rule a term of office for delegates. The Commission must have the following powers and duties:

- Establish a code of ethics for the Commission.
- Establish the fiscal year of the Commission.

- Establish fees.
- Establish bylaws.
- Maintain its financial records in accordance with the Bylaws.
- Meet and take such actions as are consistent with the provisions of the Compact and the bylaws.
- Promulgate Rules to facilitate and coordinate implementation and administration of this
- Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Board to sue or be sued under applicable law is not affected.
- Purchase and maintain insurance and bonds.
- Borrow, accept, or contract for services of personnel, including employees of a Participating State.
- Hire employees and engage contractors, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.
- Accept appropriate donations and grants of money, equipment, supplies, materials and services, and receive, utilize and dispose of the same provided that at all times the Commission avoids any appearance of impropriety or conflict of interest.
- Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed, provided that always the Commission avoids any appearance of impropriety.
- Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed.
- Establish a budget and make expenditures.
- Borrow money.
- Appoint committees, including standing committees composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as designated in the Compact and the bylaws.
- Provide and receive information from, and cooperate with, law enforcement agencies.
- Elect a Chair, Vice Chair, Secretary and Treasurer and such other officers of the Commission as provided in the Commission's bylaws.
- Reserve for itself, in addition to those reserved exclusively to the Commission under the Compact, powers that the Executive Committee must not exercise.
- Approve or disapprove a State's participation in the Compact based upon its determination as to whether the State's Compact legislation departed in a material manner from the Model Compact language.
- Prepare and provide to the Participating States an annual report.
- Perform such other functions as could be necessary or appropriate to achieve the purposes of the Compact consistent with the State regulation of PA licensure and practice.

Meetings of the Commission

All meetings of the Commission that are not closed must be open to the public. Notice of public meetings must be posted on the Commission's website at least 30 days prior to the public meeting. Notwithstanding these requirements, the Commission may convene a public meeting by providing at least 24 hours prior notice on the Commission's website, and any other means as provided in the Commission's Rules, for any of the reasons it may dispense with notice of proposed rulemaking.

The Commission may convene in a closed, non-public meeting or non-public part of a public meeting to receive legal advice or to discuss the following:

- Non-compliance of a Participating State with its obligations under the Compact.

- The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures.
- Current, threatened, or reasonably anticipated litigation.
- Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate.
- Accusing any person of a crime or formally censuring any person.
- Disclosure of trade secrets or commercial or financial information privileged or confidential.
- Disclosure of information of a personal nature where disclosure constitute a clearly unwarranted invasion of personal privacy.
- Disclosure of investigative records compiled for law enforcement purposes.
- Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to this Compact.
- Legal advice.
- Matters specifically exempted from disclosure by federal or Participating States' statutes.

If a meeting, or portion of a meeting, is closed, the chair of the meeting or the chair's designee must certify that the meeting or portion of the meeting may be closed and must reference each relevant exempting provision. The Commission must keep minutes that fully and clearly described all matters discussed in a meeting and must provide a full and accurate summary of actions taken, including a description of the views expressed. All documents considered in connection with an action must be identified in such minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

Financing of the Commission

The Commission must pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities. The Commission may accept appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

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

A Compact Privilege expires when the Licensee's Qualifying License in the Participating State from which the Licensee applied for the Compact Privilege expires. If the Licensee terminates the Qualifying License through which the Licensee applied for the Compact Privilege before its scheduled expiration, and the Licensee has a Qualifying License in another Participating State, the Licensee must inform the Commission that it is changing to that Participating State the Participating State through which it applied for a Compact Privilege and pay to the Commission any Compact Privilege fee required by Commission Rule.

The Commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor may the Commission pledge the credit of any of the Participating States, except by and with the authority of the Participating State. The Commission must keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission must be subject to the financial review and accounting procedures

established under its bylaws. All receipts and disbursements of funds handled by the Commission must be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review must be included in and become part of the annual report of the Commission.

The Executive Committee

The Executive Committee must have the power to act on behalf of the Commission according to the terms of this Compact and Commission Rules.

The Executive Committee must be composed of the following nine members:

- Seven voting members who were elected by the Commission from the current membership of the Commission.
- One ex-officio, nonvoting member from a recognized national PA professional association.
- One ex-officio, nonvoting member from a recognized national PA certification organization.

The ex-officio members must be selected by their respective organizations. The Commission may remove any member of the Executive Committee as provided in its bylaws.

The Executive Committee must meet at least annually. The Executive Committee must have the following duties and responsibilities:

- Recommend to the Commission changes to the Commission's Rules or bylaws, changes to this Compact legislation, fees to be paid by Compact Participating States such as annual dues, and any Commission Compact fee charged to Licensees for the Compact Privilege.
- Ensure Compact administration services are appropriately provided, contractual or otherwise.
- Prepare and recommend the budget.
- Maintain financial records on behalf of the Commission.
- Monitor Compact compliance of Participating States and provide compliance reports to the Commission.
- Establish additional committees as necessary.
- Exercise the powers and duties of the Commission during the interim between Commission meetings, except for issuing proposed rulemaking or adopting Commission Rules or bylaws, or exercising any other powers and duties exclusively reserved to the Commission by the Commission's Rules.
- Perform other duties as provided in the Commission's Rules or bylaws.

All meetings of the Executive Committee at which it votes or plans to vote on matters in exercising the powers and duties of the Commission must be open to the public and public notice of such meetings must be given as public meetings of the Commission are given.

The Executive Committee may convene in a closed, non-public meeting for the same reasons that the Commission could convene in a non-public meeting and must to announce the closed meeting and keep minutes of the closed meeting.

Qualified Immunity, Defense, and Indemnification

The members, officers, executive director, employees and representatives of the Commission must be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made has a reasonable basis for believing occurred within the scope

of Commission employment, duties or responsibilities; provided that nothing is construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the Commission must not in any way compromise or limit the immunity granted above.

The Commission must defend any member, officer, executive director, employee, and representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurs within the scope of Commission employment, duties, or responsibilities, or as determined by the Commission that the person against whom the claim is made has a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing is construed to prohibit that person from retaining the person's own counsel at the person's own expense; and provided further that the actual or alleged act, error, or omission does not result from that person's intentional or willful or wanton misconduct.

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

Venue must be proper and judicial proceedings by or against the Commission must be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission must waive venue and jurisdictional defenses in any proceedings as authorized by Commission Rules.

Nothing in the Compact may be construed as a limitation on the liability of any Licensee for professional malpractice or misconduct, which must be governed solely by any other applicable State laws. Nothing in the Compact may be construed to designate the venue or jurisdiction to bring actions for alleged acts of malpractice, professional misconduct, negligence, or other such civil action pertaining to the practice of a PA. All such matters must be determined exclusively by State law other than this Compact. Nothing in the Compact may be interpreted to waive or otherwise abrogate a Participating State's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other State or federal antitrust or anticompetitive law or regulation. Nothing in the Compact may be construed to be a waiver of sovereign immunity by the Participating States or by the Commission.

Data System

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

Notwithstanding any other State law to the contrary, a Participating State must submit a uniform data set to the Data System on all PAs to whom the Compact is applicable (utilizing a unique identifier) as required by the Rules of the Commission, including the following:

- Identifying information.

- Licensure data.
- Adverse Actions against a License or Compact Privilege.
- Any denial of application for licensure, and the reason(s) for such denial (excluding the reporting of any Criminal history record information where prohibited by law).
- The existence of Significant Investigative Information.
- Other information that may facilitate the administration of this Compact, as determined by the Rules of the Commission.

Significant Investigative Information pertaining to a Licensee in any Participating State must only be available to other Participating States.

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

Participating States contributing information to the Data System may, in accordance with State or Federal law, designate information that may not be shared with the public without the express permission of the contributing State. Notwithstanding any such designation, such information must be reported to the Commission through the Data System.

Any information submitted to the Data System that is subsequently expunged pursuant to Federal law or the laws of the Participating State contributing the information must be removed from the Data System upon reporting of such by the Participating State to the Commission.

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

Rulemaking

The Commission must exercise its Rulemaking powers pursuant to the criteria set forth in this Section and the Rules adopted thereunder. Commission Rules must become binding as of the date specified by the Commission for each Rule. The Commission must promulgate reasonable Rules in order to effectively and efficiently implement and administer the Compact and achieve its purposes. A Commission Rule must be invalid and have not force or effect only if a court of competent jurisdiction holds that the Rule is invalid because the Commission exercised its rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, or based upon another applicable standard of review.

The Rules of the Commission must have the force of law in each Participating State, provided however that where the Rules of the Commission conflict with the laws of the Participating State that established the medical services a PA may perform in the Participating State, as held by a court of competent jurisdiction, the Rules of the Commission must be ineffective in that State to the extent of the conflict.

If a majority of the legislatures of the Participating States reject a Commission Rule, by enactment of a statute or resolution in the same manner used to adopt this Compact within four years of the date of adoption of the Rule, then such Rule must have no further force and effect in any Participating State or to any State applying to participate in the Compact. Commission Rules must be adopted at a regular or special meeting of the Commission.

Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least 30 days in advance of the meeting at which the Rule is considered and voted upon, the Commission must file a Notice of Proposed Rulemaking on its website or other publicly accessible platform to persons who have requested notice of the Commission's notices of proposed rulemaking in such other ways as the Commission may by Rule specify.

The Notice of Proposed Rulemaking must include the following:

- The time, date, and location of the public hearing on the proposed Rule and the proposed time, date, and location of the meeting in which the proposed Rule must be considered and voted upon.
- The text of the proposed Rule and the reason for the proposed Rule.
- A request for comments on the proposed Rule from any interested person and the date by which written comments must be received.
- The manner in which interested persons could submit notice to the Commission of their intention to attend the public hearing or provide any written comments.

Prior to adoption of a proposed Rule, the Commission must allow persons to submit written data, facts, opinions, and arguments, which must be made available to the public. If the hearing is to be held via electronic means, the Commission must publish the mechanism for access to the electronic hearing. All persons wishing to be heard at the hearing must notify the Commission of their desire to appear and testify at the hearing. Hearings must be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings must be recorded. A copy of the recording and the written comments, data, facts, opinions, and arguments received in response to the proposed rulemaking must be made available to a person upon request. Nothing above may be construed as requiring a separate hearing on each proposed Rule. Proposed Rules may be grouped for the convenience of the Commission at hearings.

Following the public hearing the Commission must consider all written and oral comments timely received. The Commission must, by majority vote of all delegates, take final action on the proposed Rule and must determine the effective date of the Rule, if adopted, based on the Rulemaking record and the full text of the Rule. If adopted, the Rule must be posted on the Commission's website.

The Commission may adopt changes to the proposed Rule provided the changes do not enlarge the original purpose of the proposed Rule. The Commission must provide on its website an explanation of the reasons for substantive changes made to the proposed Rule as well as reasons for substantive changes not made that are recommended by commenters.

The Commission must determine a reasonable effective date for the Rule. Except for an emergency, the effective date of the Rule must be at least 30 days after the Commission issued the notice that it adopted the Rule.

Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule with 24 hours prior notice, without the opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this provision must be retroactively applied to the Rule as soon as reasonably possible, in no event later than 90 days after the effective date of the Rule. For the purposes of this provision, an emergency Rule must be one that must be adopted immediately by the Commission in order to meet an imminent threat to public health, safety, or Welfare, prevent a loss of Commission or Participating State funds, meet a deadline for the promulgation of a Commission Rule that is established by Federal law or Rule, or protect public health and safety.

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

Oversight, Dispute Resolution, and Enforcement

The executive and judicial branches of State government in each Participating State must enforce the Compact and take all actions necessary and appropriate to implement it.

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

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

If the Commission determines that a Participating State has defaulted in the performance of its obligations or responsibilities under the Compact or the Commission Rules, the Commission must provide written notice to the defaulting State and other Participating States. The notice must describe the default, the proposed means of curing the default and any other action that the Commission may take and must offer remedial training and specific technical assistance.

If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the delegates of the Participating States, and all rights, privileges and benefits conferred by the Compact upon the State may be terminated on the effective date of termination. A cure of the default must not relieve the offending State of obligations or liabilities incurred during the period of default.

Termination of participation in the Compact must be imposed only after all other means of securing compliance are exhausted. Notice of intent to suspend or terminate must be given by the Commission to the Governor, the majority and minority leaders of the defaulting State's legislature, and to the Licensing Board of each of the Participating States.

A State that has been terminated must be responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination. The Commission may not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

The defaulting State may appeal its termination from the Compact by the Commission by petitioning the United States District Court for the District of Columbia or the federal district

where the Commission has its principal offices. The prevailing member must be awarded all costs of such litigation, including reasonable attorney's fees.

Upon the termination of a State's participation in the Compact, the State must immediately provide notice to all Licensees within that State of such termination and the following:

- Licensees granted a Compact Privilege in that State retain the Compact Privilege for 180 days following the effective date of such termination.
- Licensees licensed in that State and granted a Compact Privilege in a Participating State retain the Compact Privilege for 180 days unless the Licensee also had a Qualifying License in a Participating State or obtained a Qualifying License in a Participating State before the 180-day period ended, in which case the Compact Privilege must continue.

Upon request by a Participating State, the Commission must attempt to resolve disputes related to the Compact that arose among Participating States and between participating and non-Participating States. The Commission must promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

Enforcement

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

The Compact's remedies may not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

Legal Action Against the Commission

A Participating State may initiate legal action against the Commission in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its Rules. The relief sought may include injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees. No person other than a Participating State may enforce this Compact against the Commission.

Date of Implementation of the PA Licensure Compact Commission

The Compact must come into effect on the date on which this Compact statute is enacted into law in the seventh Participating State. On or after the Compact's effective date, the Commission must convene and review the enactment of each of the States that enact the Compact prior to the Commission convening ("Charter Participating States") to determine if the statute enacted by each such Charter Participating State is materially different than the Model Compact.

A Charter Participating State whose enactment is found to be materially different from the Model Compact must be entitled to the default process. If any Participating State later

withdrew from the Compact or its participation is terminated, the Commission must remain in existence and the Compact must remain in effect even if the number of Participating States should have been less than seven. Participating States enacting the Compact subsequent to the Commission convening must be subject to the process set forth above to determine if their enactments are materially different from the Model Compact and whether they qualify for participation in the Compact.

Participating States enacting the Compact subsequent to the seven initial Charter Participating States must be subject to the process set forth above to determine if their enactments are materially different from the Model Compact and whether they qualify for participation in the Compact. All actions taken for the benefit of the Commission or in furtherance of the purposes of the administration of the Compact prior to the effective date of the Compact or the Commission coming into existence must be considered to be actions of the Commission unless specifically repudiated by the Commission.

Any State that joined the Compact must be subject to the Commission's Rules and bylaws as they existed on the date on which this Compact became law in that State. Any Rule that has been previously adopted by the Commission must have the full force and effect of law on the day this Compact becomes law in that State.

Any Participating State may withdraw from the Compact by enacting a statute repealing the same. A Participating State's withdrawal may not take effect until 180 days after enactment of the repealing statute. During this 180 day-period, all Compact Privileges that are in effect in the withdrawing State and are granted to Licensees licensed in the withdrawing State must remain in effect. If any Licensee licensed in the withdrawing State is also licensed in another Participating State or obtained a license in another Participating State within the 180 days, the Licensee's Compact Privileges in other Participating States must not be affected by the passage of the 180 days. Withdrawal could not affect the continuing requirement of the State Licensing Board of the withdrawing State to comply with the investigative and Adverse Action reporting requirements of the Compact prior to the effective date of withdrawal.

Upon the enactment of a statute withdrawing a State from this Compact, the State must immediately provide notice of such withdrawal to all Licensees within that State. Such withdrawing State must continue to recognize all licenses granted pursuant to the Compact for a minimum of 180 days after the date of such notice of withdrawal.

Nothing contained in the Compact may be construed to invalidate or prevent any PA licensure agreement or other cooperative arrangement between Participating States and between a Participating State and non-Participating State that did not conflict with the provisions of this Compact. The Compact may be amended by the Participating States. No amendment to this Compact may become effective and binding upon any Participating State until it is enacted materially in the same manner into the laws of all Participating States as determined by the Commission.

Construction and Severability

The Compact and the Commission's rulemaking authority must be liberally construed so as to effectuate the purposes and the implementation and administration of the Compact. Provisions of the Compact expressly authorizing or requiring the promulgation of Rules may not be construed to limit the Commission's rulemaking authority solely for those purposes.

The provisions of the Compact must be severable, and if any phrase, clause, sentence or provision of the Compact is held by a court of competent jurisdiction to be contrary to the constitution of any Participating State, a State seeking participation in the Compact, or of the

United States, or the applicability to any government, agency, person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability to any other government, agency, person or circumstance may not be affected thereby.

Notwithstanding the provisions above, the Commission may deny a State's participation in the Compact or, in accordance with the requirements above, terminate a Participating State's participation in the Compact, if it determines that a constitutional requirement of a Participating State is, or will be with respect to a State seeking to participate in the Compact, a material departure from the Compact. Otherwise, if the Compact may be held to be contrary to the constitution of any Participating State, the Compact must remain in full force and effect as to the remaining Participating States and in full force and effect as to the Participating State affected as to all severable matters.

Binding Effect of Compact

Nothing in the Compact prevents the enforcement of any other law of a Participating State that was not inconsistent with this Compact. Any laws in a Participating State in conflict with the Compact must be superseded to the extent of the conflict. All agreements between the Commission and the Participating States must be binding in accordance with their terms.

Applicability to Michigan Law

An individual who held a compact privilege under the PA Licensure Compact would be authorized to engage in the practice as a physician's assistant under Article 15 of the Public Health Code. For purposes of Article 15, including the obligations of an individual who is licensed to engage in the practice as a physician's assistant, an individual who held a compact privilege under the PA licensure compact would be considered a physician's assistant who was licensed under Part 170 (Medicine), Part 175 (Osteopathic Medicine and Surgery), and Part 180 (Podiatric Medicine and Surgery).

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.