

*Amended: November 1, 2024*

**STATE OF OKLAHOMA  
PHYSICIAN ASSISTANT ACT  
Title 59 O.S., Sections 519 – 524 and 541**

**INDEX**

- 519. Repealed
- 519.1. Short title
- 519.2. Definitions
- 519.3. Physician Assistant Committee--Powers and duties
- 519.4. Licensure requirements
- 519.5. Repealed
- 519.6. Filing of application to practice--Services performed--Posting of public notice
- 519.7. Temporary approval of application to practice
- 519.7a. Temporary Critical Need Licenses
- 519.8. License renewal—Fees
- 519.8a. Physician Assistant Preceptor Tax Credit Revolving Fund
- 519.9. Preexisting certificates
- 519.10. Violations--Penalties
- 519.11. Construction of act
- 519.12. Unprofessional Conduct Includes Knowingly Providing Gender Transition Procedures to a Child
- 520. Repealed
- 521. Exceptions
- 522. Repealed
- 523. Repealed
- 524. Abortion--Infant prematurely born alive--Right to medical treatment
- 541. **PA Licensure Compact**
- 545.1. Creation of Comprehensive Process Complementing Existing State PA Licensing
- 545.2. Definitions
- 545.3. Participation in Compact – State Requirements
- 545.4. Exercising Compact Privilege – Licensee Requirements – Validity
- 545.5. Licensee Application for Compact Privilege – Requirements
- 545.6. Participating State Power to Impose Adverse Action – Remote State Authority – Joint Investigation
- 545.7. PA Licensure Compact Commission
- 545.8. Coordinated Data and Reporting System
- 545.9. Rulemaking – Process
- 545.10. Oversight – Default, Technical Assistance, and Termination – Dispute Resolution – Enforcement – Action Against Commission
- 545.11. Effective Date – Joining and Withdrawing – Amendment
- 545.12. Rule Construction – Severability – Denial and Termination
- 545.13. Enforcement of other State Law – Laws in Conflict - Agreements



## **Section 519. Repealed**

### **Section 519.1. Short title**

The provisions of this act shall be known and may be cited as the "Physician Assistant Act".

*Added by Laws 1993, c. 289, § 1, emerg. eff. June 3, 1993.*

### **Section 519.2. Definitions**

As used in the Physician Assistant Act:

1. "Board" means the State Board of Medical Licensure and Supervision;
2. "Committee" means the Physician Assistant Committee;
3. "Practice of medicine" means services which require training in the diagnosis, treatment and prevention of disease, including the use and administration of drugs, and which are performed by physician assistants so long as such services are within the physician assistants' skill, form a component of the physician's scope of practice, and are provided with physician supervision, including authenticating by signature any form that may be authenticated by the delegating physician's signature with prior delegation by the physician;
4. "Patient care setting" means and includes, but is not limited to, a physician's office, clinic, hospital, nursing home, extended care facility, patient's home, ambulatory surgical center, hospice facility or any other setting authorized by the delegating physician;
5. "Physician assistant" means a health care professional, qualified by academic and clinical education and licensed by the State Board of Medical Licensure and Supervision, to practice medicine with physician supervision;
6. "Delegating physician" means an individual holding a license in good standing as a physician from the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners, who supervises physician assistants and delegates decision making pursuant to the practice agreement;
7. "Supervision" means overseeing or delegating the activities of the medical services rendered by a physician assistant through a practice agreement between a medical doctor or osteopathic physician performing procedures or directly or indirectly involved with the treatment of a patient, and the physician assistant working jointly toward a common goal of providing services. Delegation shall be defined by the practice agreement. The physical presence of the delegating physician is not required as long as the delegating physician and physician assistant are or can be easily in contact with each other by telecommunication. At all

times a physician assistant shall be considered an agent of the delegating physician;

8. "Telecommunication" means the use of electronic technologies to transmit words, sounds or images for interpersonal communication, clinical care (telemedicine) and review of electronic health records; and

9. "Practice agreement" means a written agreement between a physician assistant and the delegating physician concerning the scope of practice of the physician assistant to only be determined by the delegating physician and the physician assistant based on the education, training, skills and experience of the physician assistant. The agreement shall involve the joint formulation, discussion and agreement on the methods of supervision and collaboration for diagnosis, consultation and treatment of medical conditions.

*Added by Laws 1993, c. 289, § 2, emerg. eff. June 3, 1993; Amended by Laws 1997, c. 47, § 1, emerg. eff. April 7, 1997; Amended by Laws 1998, c. 128, § 2, eff. November 1, 1998; Amended by Laws 2001, SB 32, c. 385, § 2, eff. November 1, 2001.*

### **Section 519.3. Physician Assistant Committee--Powers and duties**

A. There is hereby created the Physician Assistant Committee, which shall be composed of seven (7) members. Three members of the Committee shall be physician assistants appointed by the State Board of Medical Licensure and Supervision from a list of qualified individuals submitted by the Oklahoma Academy of Physician Assistants. One member shall be a physician appointed by the Board from its membership. One member shall be a physician appointed by the Board from a list of qualified individuals submitted by the Oklahoma State Medical Association and who is not a member of the Board. One member shall be a physician appointed by the State Board of Osteopathic Examiners from its membership. One member shall be a physician appointed by the State Board of Osteopathic Examiners from a list of qualified individuals submitted by the Oklahoma Osteopathic Association and who is not a member of said board.

B. The term of office for each member of the Committee shall be five (5) years.

C. The Committee shall meet at least quarterly. At the initial meeting of each calendar year, the Committee members shall elect a chair. The chair or his or her designee shall represent the Committee at all meetings of the Board. Four members shall constitute a quorum for the purpose of conducting official business of the Committee.

D. The State Board of Medical Licensure and Supervision is hereby granted the power and authority to promulgate rules, which are in accordance with the provisions of Section 519.1 et seq. of this title, governing the requirements for licensure as a physician assistant, as well as to establish standards for training, approve institutions for training, and regulate the standards of practice of a physician assistant after licensure, including the power of revocation of a license.

E. The State Board of Medical Licensure and Supervision is hereby granted the power and authority to investigate all complaints, hold hearings, subpoena witnesses and initiate prosecution concerning violations of Section 519.1 et seq of this title. When such complaints involve physicians licensed by the State Board of Osteopathic Examiners, the State Board of Osteopathic Examiners shall be officially notified of such complaints.

F.1. The Committee shall advise the Board on all matters pertaining to the practice of physician assistants.

2. The Committee shall review and make recommendations to the Board on all applications for licensure as a physician assistant and all applications to practice which shall be approved by the Board. When considering applicants for licensure, to establish standards of training or approve institutions for training, the Committee shall include the Director, or designee, of all Physician Assistant educational programs conducted by institutions of higher education in the state as members.

3. The Committee shall assist and advise the Board in all hearings involving physician assistants who are deemed to be in violation of Section 519.1 et seq. of this title or the rules of the Board.

*Added by Laws 1993, c. 289, § 3, emerg. eff. June 3, 1993; Amended by Laws 1997, c. 47, § 2, emerg. eff. April 07, 1997; Amended by Laws 1998, c. 128, § 3, eff. November 01, 1998.*

#### **Section 519.4. Licensure requirements**

To be eligible for licensure as a physician assistant pursuant to the provisions of Section 519.1 et seq. of this title an applicant shall:

1. Be of good moral character;
2. Have graduated from an accredited physician assistant program recognized by the State Board of Medical Licensure and Supervision; and
3. Successfully pass an examination for physician assistants recognized by the Board.

*Added by Laws 1993, c. 289, § 4, emerg. eff. June 3, 1993; Amended by Laws 1997, c. 47, § 3, emerg. eff. April 07, 1997.*

#### **Section 519.5. Repealed**

#### **Section 519.6. Filing of application to practice--Services performed--Posting of public notice**

- A. No health care services may be performed by a physician assistant unless a

current license is on file with and approved by the State Board of Medical Licensure and Supervision. All practice agreements and any amendments shall be filed with the State Board of Medical Licensure and Supervision within ten (10) business days of being executed. Practice agreements may be filed electronically. The State Board of Medical Licensure and Supervision shall not charge a fee for filing or amendments of practice agreements.

B. A physician assistant may have practice agreements with multiple allopathic or osteopathic physicians. Each physician shall be in good standing with the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners.

C. The delegating physician need not be physically present nor be specifically consulted before each delegated patient care service is performed by a physician assistant, so long as the delegating physician and physician assistant are or can be easily in contact with one another by means of telecommunication. In all patient care settings, the delegating physician shall provide appropriate methods of participating in health care services provided by the physician assistant including:

a. being responsible for the formulation or approval of all orders and protocols, whether standing orders, direct orders or any other orders or protocols, which direct the delivery of health care services provided by a physician assistant, and periodically reviewing such orders and protocols,

b. regularly reviewing the health care services provided by the physician assistant and any problems or complications encountered,

c. being available physically or through telemedicine or direct telecommunications for consultation, assistance with medical emergencies or patient referral,

d. reviewing a sample of outpatient medical records. Such reviews shall take place at a site agreed upon between the delegating physician and physician assistant in the practice agreement which may also occur using electronic or virtual conferencing; and

e. that it remains clear that the physician assistant is an agent of the delegating physician; but, in no event shall the delegating physician be an employee of the physician assistant.

D. In patients with newly diagnosed complex illnesses, the physician assistant shall contact the delegating physician within forty-eight (48) hours of the physician assistant's initial examination or treatment and schedule the patient for appropriate evaluation by the delegating physician as directed by the physician. This delegating physician shall determine which conditions qualify as complex illnesses based on the clinical setting and the skill and experience of the physician assistant.

E. 1. A physician assistant under the direction of a delegating physician may prescribe written and oral prescriptions and orders. The physician assistant may prescribe drugs,

including controlled medications in Schedules II through V pursuant to Section 2-312 of Title 63 of the Oklahoma Statutes, and medical supplies and services as delegated by the delegating physician and as approved by the State Board of Medical Licensure and Supervision after consultation with the State Board of Pharmacy on the Physician Assistant Drug Formulary.

2. A physician assistant may write an order for a Schedule II drug for immediate or ongoing administration on site. Prescriptions and orders for Schedule II drugs written by a physician assistant must be included on a written protocol determined by the delegating physician and approved by the medical staff committee of the facility or by direct verbal order of the delegating physician. Physician assistants may not dispense drugs, but may request, receive, and sign for professional samples and may distribute professional samples to patients.

F. A physician assistant may perform health care services in patient care settings as authorized by the delegating physician.

G. Each physician assistant licensed under the Physician Assistant Act shall keep his or her license available for inspection at the primary place of business and shall, when engaged in professional activities, identify himself or herself as a physician assistant.

H. A physician assistant shall be bound by the provisions contained in Sections 725.1 through 725.5 of Title 59 of the Oklahoma Statutes.

*Added by Laws 1993, c. 289, § 6, emerg. eff. June 3, 1993; Amended by Laws 1998, c. 128, § 4, eff. November 1, 1998; Amended by Laws 2001, SB 32, c. 385, § 3, eff. November 1, 2001.*

### **Section 519.7. Temporary approval of application to practice**

A. The Secretary of the State Board of Medical Licensure and Supervision is authorized to grant temporary approval of a license to any physician assistant who has filed a license which meets the requirements set forth by the Board. Such temporary licensure approval shall be reviewed at the next regularly scheduled meeting of the Board. The temporary approval may be approved, extended or rejected by the Board. If rejected, the temporary approval shall expire immediately.

B. The State Board of Medical Licensure and Supervision will collect the following data and publish a report compiling such data on an annual basis:

1. Whether the physician assistant practices at the same location as the delegating physician;
2. The type of facility in which the physician assistant practices;
3. Number of physicians the physician assistant has a practice agreement with;

4. Number of physician assistants physicians have a practice agreement with;
5. Number of years a physician assistant has been practicing; and
6. Number of licensed physician assistants in Oklahoma.

*Added by Laws 1993, c. 289, § 7, emerg. eff. June 3, 1993; Amended by Laws 2001, SB 32, c. 385, § 4, eff. November 1, 2001.*

#### **Section 519.7a. Temporary Critical Need Licenses**

The State Board of Medical Licensure and Supervision may issue temporary critical need licenses for physician assistant under Section 1 of this act. (See: Title 59 O.S. Sec. 6011)

#### **Section 519.8. License renewal--Fees**

A. Licenses issued to physician assistants shall be renewed annually on a date determined by the State Board of Medical Licensure and Supervision. Each application for renewal shall document that the physician assistant has earned at least twenty (20) hours of continuing medical education during the preceding calendar year. Such continuing medical education shall include not less than one (1) hour of education in pain management or one (1) hour of education in opioid use or addiction.

B. The Board shall promulgate, in the manner established by its rules, fees for the following:

1. Initial licensure;
2. License renewal;
3. Late license renewal; and
4. Disciplinary hearing.

*Added by Laws 1993, c. 289, § 8, emerg. eff. June 3, 1993; Amended by Laws 1997, c. 47, § 5, eff. April 07, 1997.*

#### **519.8a. Physician Assistant Preceptor Tax Credit Revolving Fund**

There is hereby created in the State Treasury a revolving fund for the State Board of Medical Licensure and Supervision to be designated the "Physician Assistant Preceptor Tax Credit Revolving Fund." The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of the monies received by the Board from a portion of licensure fees received from physician assistants under subsection I of Section I of this act. All monies accruing to the credit of the fund are hereby appropriated and the fund shall be used to make a transfer payment to the Oklahoma Tax Commission in an amount equal to the amount of tax credits awarded pursuant to this act. The Oklahoma Tax Commission shall apportion monies transferred from the fund in the same manner as provided by Section 2352 of Title 68 of the



Oklahoma Statutes. Monies in the fund which are not required for payment of administrative expenses to the Health Care Workforce Training Commission, which shall not exceed five percent (5%) of monies apportioned to the fund, or which are not required to be transferred to the Oklahoma Tax Commission as otherwise required by this act to offset the revenue impacted by the use of the income tax credits awarded pursuant to Section I of this act may be used to implement programs required or authorized by law.

### **Section 519.9. Preexisting certificates**

Any person who holds a certificate as a physician assistant from the State Board of Medical Licensure and Supervision prior to June 3, 1993, shall be granted licensure as a physician assistant under the provisions of Section 519.1 et seq. of this title.

*Added by Laws 1993, c. 289, § 9, emerg. eff. June 3, 1993; Amended by Laws 1997, c. 47, § 6, eff. April 07, 1997; Laws 1997, c. 47, § 6 Repealed by Laws 1997, c. 250, § 15, eff. November 1, 1997; Amended by Laws 1997, c. 250, § 14, eff. November 01, 1997.*

### **Section 519.10. Violations--Penalties**

Any person not licensed under the Physician Assistant Act is guilty of a misdemeanor and is subject to penalties applicable to the unlicensed practice of medicine if he or she:

1. Holds himself or herself out as a physician assistant;
2. Uses any combination or abbreviation of the term "physician assistant" to indicate or imply that he or she is a physician assistant; or
3. Acts as a physician assistant without being licensed by the State Board of Medical Licensure and Supervision.

Any unlicensed physician shall not be permitted to use the title "physician assistant" or to practice as a physician assistant unless he or she fulfills the requirements of Section 419.1 et seq. of this title.

*Added by Laws 1993, c. 289, § 10, emerg. eff. June 3, 1993; Amended by Laws 1997, c. 47, § 7, emerg. eff. April 07, 1997.*

### **Section 519.11. Construction of act**

A. Nothing in the Physician Assistant Act shall be construed to prevent or restrict the practice, services or activities of any persons of other licensed professions or personnel supervised by licensed professions in this state from performing work incidental to the practice of their profession or occupation, if that person does not represent himself as a physician assistant.

B. Nothing stated in the Physician Assistant Act shall prevent any hospital from requiring the physician assistant or the delegating physician to meet and maintain certain staff appointment and credentialing qualifications for the privilege of practicing as, or utilizing, a physician assistant in the hospital.

C. Nothing in the Physician Assistant Act shall be construed to permit a physician assistant to practice medicine or prescribe drugs and medical supplies in this state except when such actions are performed under the supervision and at the direction of a physician or physicians approved by the State Board of Medical Licensure and Supervision.

D. Nothing herein shall be construed to require licensure under the Physician Assistant Act of a physician assistant student enrolled in a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant.

E. Notwithstanding any other provision of law, no one who is not a physician licensed to practice medicine in this state may perform acts restricted to such physicians pursuant to the provisions of Section 1-731 of Title 63 of the Oklahoma Statutes. This paragraph is inseverable.

F. Nothing in the Physician Assistant Act shall limit the activities of a physician assistant in the performance of their duties if the physician assistant is employed by or under contract with the United States Department of Veterans Affairs or if the physician assistant is employed by, under contract with, or commissioned by one of the uniformed services; provided, the physician assistant must be currently licensed in this state or any other state or currently credentialed as a physician assistant by the United States Department of Veterans Affairs or the applicable uniformed service. Any physician assistant who is employed by or under contract with the United States Department of Veterans Affairs or is employed by, under contract with, or commissioned by one of the uniformed services and practices outside of such employment, contract, or commission shall be subject to the Physician Assistant Act while practicing outside of such employment, contract, or commission. As used in this subsection, "uniformed services" shall have the same meaning as provided by Title 10 of the U.S. Code.

### **Section 519.12. Unprofessional Conduct Includes Knowingly Providing Gender Transition Procedures to a Child**

Unprofessional conduct by a physician assistant shall include, but not be limited to, knowingly providing gender transition procedures as defined in Section I of this act (*See: Title 63 O.S. Sec. 2607.1*) to a child.

*Added by Laws 1993, c. 289, § 11, emerg. eff. June 3, 1993.*

### **Section 520. Repealed**

## **Section 521. Exceptions**

No health care services may be performed under this act in any of the following areas:

(a) The measurement of the powers or range of human vision, or the determination of the accommodation and refractive states of the human eye or the scope of its functions in general, or the fitting or adaptation of lenses or frames for the aid thereof.

(b) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training or orthoptics.

(c) The prescribing of contact lenses for, or the fitting or adaptation of contact lenses to, the human eye. Nothing in this section shall preclude the performance of routine visual screening.

### **Section 521.1**

Notwithstanding any other provision of law or regulation, a physician assistant shall be considered to be a primary care provider when the physician assistant is practicing in the medical specialties required for a physician to be a primary care provider.

### **Section 521.2**

A. Payment for services within the physician assistant's scope of practice by a health insurance plan shall be made when ordered or performed by the physician assistant, if the same service would have been covered if ordered or performed by a physician. An in-network physician assistant shall be authorized to bill for and receive direct payment for the medically necessary services the physician assistant delivers.

B. To ensure accountability and transparency for patients, payers and the health care system, an in-network physician assistant shall be identified as the rendering professional in the billing and claims process when the physician assistant delivers medical or surgical services to patients.

C. No insurance company or third-party payer shall impose a practice, education, or collaboration requirement that is inconsistent with or more restrictive than existing physician assistant state laws or regulations.

### **Section 521.3**

A. A physician assistant licensed in this state or licensed or authorized to practice in any other U.S. jurisdiction or who is credentialed as a physician assistant by a federal employer who is responding to a need for medical care created by an emergency or a state or local disaster may render such care that the physician assistant is able to provide.

B. A physician assistant so responding who voluntarily and gratuitously, and other than in the ordinary course of employment or practice, renders emergency medical assistance shall not be liable for civil damages for any personal injuries that result from acts or omissions which may constitute ordinary negligence. The immunity granted by this section shall not apply to acts or omissions constituting gross, willful or wanton negligence.

#### **Section 521.4**

Nothing in the Physician Assistant Act shall be construed to permit a physician assistant to:

1. Provide health care services independent of physician supervision; or
2. Maintain or operate an independent practice without a practice agreement between a physician assistant and a delegating physician.

*Laws 1972, c. 220, § 3, emerg. eff. April 7, 1972.*

#### **Section 522. Repealed**

#### **Section 523. Repealed**

#### **Section 524. Abortion - Infant prematurely born alive – Right to medical treatment**

The rights to medical treatment of an infant prematurely born alive in the course of an abortion shall be the same as the rights of an infant of similar medical status prematurely born.

*Laws 1977, c. 10, § 1, emerg. eff. March 11, 1977.*

### **545. PA LICENSURE COMPACT**

#### **545.1. Creation of Comprehensive Process Complementing Existing State PA Licensing**

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 physician assistants, or PAs, and seeks to enhance the portability of a license to practice as a PA while safeguarding the safety of patients. The Compact allows medical services to be provided by PAs via the mutual recognition of the licensee's qualifying license by other Compact participating states. The 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 the Compact retain the jurisdiction to impose adverse action against a Compact privilege in that state issued to a PA through the procedures of the 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.

#### **545.2. Definitions**

As used in the Compact:

1. "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;

2. "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;

3. "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;

4. "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., Section 20.3(d), from the state's criminal history record repository as defined in 28 C.F.R., Section 20.3(f);

5. "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 the Compact;

6. "Executive committee" means a group of directors and ex officio individuals elected or appointed pursuant to paragraph 2 of subsection F of Section 7 of this Compact;

7. "Impaired practitioner" means a PA whose practice is adversely affected by health-related conditions that impact his or her ability to practice;

8. "Investigative information" means information, records, or documents received or generated by a licensing board pursuant to an investigation;

9. "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of a PA in a state;

10. "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;

11. "Licensee" means an individual who holds a license from a state to provide medical services as a PA;

12. "Licensing board" means any state entity authorized to license and otherwise regulate PAs;

13. "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;

14. "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;

15. "Participating state" means a state that has enacted the Compact;

16. "PA" means an individual who is licensed as a physician assistant in a state. For purposes of the 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 the Compact at the time of its enactment;

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

18. "Qualifying license" means an unrestricted license issued by a participating state to provide medical services as a PA;

19. "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;

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

21. "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; and

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

### **545.3. Participation in Compact – State Requirements**

A. To participate in the Compact, a participating state shall:

1. License PAs;
2. Participate in the Compact Commission's data system;
3. Have a mechanism in place for receiving and investigating complaints against licensees and license applicants;
4. Notify the Commission, in compliance with the terms of the 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;
5. 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;
6. Comply with the rules of the Compact Commission;
7. Utilize passage of a recognized national exam such as the NCCPA PANCE as a requirement for PA licensure; and
8. Grant the Compact privilege to a holder of a qualifying license in a participating state.

B. Nothing in the Compact prohibits a participating state from charging a fee for granting the Compact privilege.

**545.4. Exercising Compact Privilege – Licensee Requirements – Validity**

A. To exercise the Compact privilege, a licensee shall:

1. 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;
2. Hold current NCCPA certification;
3. Have no felony or misdemeanor conviction;
4. Have never had a controlled substance license, permit, or registration suspended or revoked by a state or by the United States Drug Enforcement Administration;
5. Have a unique identifier as determined by Commission rule;
6. Hold a qualifying license;
7. Have had no revocation of a license or limitation or restriction on any license currently held due to an adverse action;
8. If a licensee has had a limitation or restriction on a license or Compact privilege due to an adverse action, two (2) 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;
9. 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 shall have the discretion not to consider such action as an adverse action requiring the denial or removal of a Compact privilege in that state;
10. Notify the Compact Commission that the licensee is seeking the Compact privilege in a remote state;
11. 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; and

12. Report to the Commission any adverse action taken by a nonparticipating state within thirty (30) days after the action is taken.

B. The Compact privilege is valid until the expiration or revocation of the qualifying license unless terminated pursuant to an adverse action. The licensee must also comply with all of the requirements of subsection A of this section to maintain the Compact privilege in a remote state. If the participating state takes adverse action against a qualifying license, the licensee shall lose the Compact privilege in any remote state in which the licensee has a Compact privilege until all of the following occur:

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

C. Once a restricted or limited license satisfies the requirements of paragraphs 1 and 2 of subsection B of this section, the licensee must meet the requirements of subsection A of this section to obtain a Compact privilege in any remote state.

D. For each remote state in which a PA seeks authority to prescribe controlled substances, the PA shall satisfy all requirements imposed by such state in granting or renewing such authority.

#### **545.5. Licensee Application for Compact Privilege – Requirements**

Upon a licensee's application for a Compact privilege, the licensee shall 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:

1. When applying for a Compact privilege, the licensee shall provide the Commission with the address of the licensee's primary residence and thereafter shall immediately report to the Commission any change in the address of the licensee's primary residence; and
2. When applying for a Compact privilege, the licensee is required to 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.

## **545.6 Participating State Power to Impose Adverse Action – Remote State Authority – Joint Investigation**

A. A participating state in which a licensee is licensed shall have exclusive power to impose adverse action against the qualifying license issued by that participating state.

B. In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to do all of the following:

1. 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;

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

3. Notwithstanding paragraph 2 of this subsection, subpoenas may 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; and

4. 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.

C. For purposes of taking adverse action, the participating state which issued the qualifying license shall 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 shall apply its own state laws to determine appropriate action.

D. 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.

E. A participating state may 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.

F. Joint investigations:

1. 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; and

2. Participating states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

G. If an adverse action is taken against a PA's qualifying license, the PA's Compact privilege in all remote states shall be deactivated until two (2) years have elapsed after all restrictions have been removed from the state license. All disciplinary orders by the participating state which issued the qualifying license that impose adverse action against a PA's license shall include a statement that the PA's Compact privilege is deactivated in all participating states during the pendency of the order.

H. If any participating state takes adverse action, it promptly shall notify the administrator of the data system.

#### **545.7. PA Licensure Compact Commission**

A. The participating states hereby create and establish a joint government agency and national administrative body known as the PA Licensure Compact Commission. The Commission is an instrumentality of the Compact states acting jointly and not an instrumentality of any one state. The Commission shall come into existence on or after the effective date of the Compact as set forth in subsection A of Section 11.

B. Membership, voting, and meetings:

1. Each participating state shall 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;

2. The delegate shall be either:
    - a. a current PA, physician, or public member of a licensing board or PA council/committee, or
    - b. an administrator of a licensing board;
  3. Any delegate may be removed or suspended from office as provided by the laws of the state from which the delegate is appointed;
  4. The participating state licensing board shall fill any vacancy occurring in the Commission within sixty (60) days;
  5. Each delegate shall be entitled to one vote on all matters voted on by the Commission and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telecommunications, video conference, or other means of communication;
  6. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the Compact and the bylaws; and
  7. The Commission shall establish by rule a term of office for delegates.
- C. The Commission shall have the following powers and duties:
1. Establish a code of ethics for the Commission;
  2. Establish the fiscal year of the Commission;
  3. Establish fees;
  4. Establish bylaws;
  5. Maintain its financial records in accordance with the bylaws;
  6. Meet and take such actions as are consistent with the provisions of the Compact and the bylaws;
  7. Promulgate rules to facilitate and coordinate implementation and administration of the Compact. The rules shall have the force and effect of law and shall be binding in all participating states;

8. 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 shall not be affected;

9. Purchase and maintain insurance and bonds;

10. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a participating state;

11. 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;

12. Accept any and all 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 shall avoid any appearance of impropriety or conflict of interest;

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

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

15. Establish a budget and make expenditures;

16. Borrow money;

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

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

19. Elect a chair, vice-chair, secretary and treasurer, and such other officers of the Commission as provided in the Commission's bylaws;

20. Reserve for itself, in addition to those reserved exclusively to the Commission under the Compact, powers that the executive committee may not exercise;

21. Approve or disapprove a state's participation in the Compact based upon its determination as to whether the state's Compact legislation departs in a material manner from the model Compact language;

22. Prepare and provide to the participating states an annual report; and

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

D. Meetings of the Commission:

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

2. Notwithstanding paragraph 1 of this subsection, the Commission may convene a public meeting by providing at least twenty-four (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 under subsection L of Section 9 of this Compact;

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

- a. noncompliance of a participating state with its obligations under the Compact,
- b. 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,
- c. current, threatened, or reasonably anticipated litigation,
- d. negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate,
- e. accusing any person of a crime or formally censuring any person,

- f. disclosure of trade secrets or commercial or financial information that is privileged or confidential,
- g. disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy,
- h. disclosure of investigative records compiled for law enforcement purposes,
- i. 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 the Compact,
- j. legal advice, or
- k. matters specifically exempted from disclosure by federal or participating states' statutes;

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

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

E. Financing of the Commission:

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

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

3. 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 shall be allocated based upon a formula to be determined by Commission rule.

- a. a Compact privilege expires when the licensee's qualifying license in the participating state from which the licensee applied for the Compact privilege expires, and
- b. 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 shall inform the Commission that it is changing to that participating state through which it applies for a Compact privilege and pay to the Commission any Compact privilege fee required by Commission rule;

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same, nor shall the Commission pledge the credit of any of the participating states, except by and with the authority of the participating state;

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

F. The executive committee:

1. The executive committee shall have the power to act on behalf of the Commission according to the terms of the Compact and Commission rules;
2. The executive committee shall be composed of nine (9) members:
  - a. seven voting members who are elected by the Commission from the current membership of the Commission,
  - b. one *ex officio*, nonvoting member from a recognized national PA professional association, and



- c. one ex officio, nonvoting member from a recognized national PA certification organization;
3. The ex officio members will be selected by their respective organizations;
4. The Commission may remove any member of the executive committee as provided in its bylaws;
5. The executive committee shall meet at least annually;
6. The executive committee shall have the following duties and responsibilities:
  - a. recommend to the Commission changes to the Commission's rules or bylaws, changes to the 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,
  - b. ensure Compact administration services are appropriately provided, contractual or otherwise,
  - c. prepare and recommend the budget,
  - d. maintain financial records on behalf of the Commission,
  - e. monitor Compact compliance of participating states and provide compliance reports to the Commission,
  - f. establish additional committees as necessary,
  - g. 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, and
  - h. perform other duties as provided in the Commission's rules or bylaws;

7. 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 shall be open to the public, and public notice of such meetings shall be given as public meetings of the Commission are given; and

8. The executive committee may convene in a closed, nonpublic meeting for the same reasons that the Commission may convene in a nonpublic meeting as set forth in paragraph 3 of subsection D of this section and shall announce the closed meeting as the Commission is required to under paragraph 4 of subsection D of this section and keep minutes of the closed meeting as the Commission is required to under paragraph 5 of subsection D of this section.

G. Qualified immunity, defense, and indemnification:

1. The members, officers, executive director, employees, and representatives of the Commission shall 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 had a reasonable basis for believing it occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing in this paragraph shall be 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 shall not in any way compromise or limit the immunity granted hereunder;

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

3. The Commission shall 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;

4. Venue is proper and judicial proceedings by or against the Commission shall 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 in any proceedings as authorized by Commission rules;

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

6. Nothing herein shall 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 shall be determined exclusively by state law other than the Compact;

7. Nothing in the Compact shall 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; and

8. Nothing in the Compact shall be construed to be a waiver of sovereign immunity by the participating states or by the Commission.

#### **545.8. Coordinated Data and Reporting System**

A. The Commission shall 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.

B. Notwithstanding any other state law to the contrary, a participating state shall 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:

1. Identifying information;
2. Licensure data;
3. Adverse actions against a license or Compact privilege; and

4. Any denial of application for licensure and the reason for such denial, excluding the reporting of any criminal history record information where prohibited by law;

5. The existence of significant investigative information; and

6. Other information that may facilitate the administration of the Compact, as determined by the rules of the Commission.

C. Significant investigative information pertaining to a licensee in any participating state shall only be available to other participating states.

D. The Commission shall 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 shall be available to any other participating state.

E. 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 shall be reported to the Commission through the data system.

F. 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 shall be removed from the data system upon reporting of such by the participating state to the Commission.

G. 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, shall constitute the authenticated business records of the Commission and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a participating state.

#### **545.9. Rulemaking – Process**

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Commission rules shall become binding as of the date specified by the Commission for each rule.

B. The Commission shall promulgate reasonable rules in order to effectively and efficiently implement and administer the Compact and achieve its purposes. A

Commission rule shall be invalid and have no 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.

C. The rules of the Commission shall 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 establish the medical services a PA may perform in the participating state, as held by a court of competent jurisdiction, the rules of the Commission shall be ineffective in that state to the extent of the conflict.

D. If a majority of the legislatures of the participating states rejects a Commission rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of adoption of the rule, then such rule shall have no further force and effect in any participating state or to any state applying to participate in the Compact.

E. Commission rules shall be adopted at a regular or special meeting of the Commission.

F. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:

1. On the website of the Commission or other publicly accessible platform;
2. To persons who have requested notice of the Commission's notices of proposed rulemaking; and
3. In such other way(s) as the Commission may by rule specify.

G. The notice of proposed rulemaking shall include:

1. 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 will be considered and voted upon;
2. The text of the proposed rule and the reason for the proposed rule;

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

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

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

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

1. All persons wishing to be heard at the hearing shall, as directed in the notice of proposed rulemaking, not less than five (5) business days before the scheduled date of the hearing, notify the Commission of their desire to appear and testify at the hearing.

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

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

4. Nothing in this section shall be construed as requiring a separate hearing on each proposed rule. Proposed rules may be grouped for the convenience of the Commission at hearings required by this section.

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

K. The Commission shall, by majority vote of all delegates, take final action on the proposed rule and shall determine the effective date of the rule, if adopted, based on the rulemaking record and the full text of the rule.

1. If adopted, the rule shall be posted on the Commission's website.

2. The Commission may adopt changes to the proposed rule provided the changes do not enlarge the original purpose of the proposed rule.

3. The Commission shall 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 were recommended by commenters.

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

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

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or participating state funds;
3. Meet a deadline for the promulgation of a Commission rule that is established by federal law or rule; or
4. Protect public health and safety.

M. 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 shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall 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 will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

N. No participating state's rulemaking requirements shall apply under the Compact.

**545.10. Oversight – Default, Technical Assistance, and Termination – Dispute Resolution – Enforcement – Action Against Commission**

A. Oversight:

1. The executive and judicial branches of state government in each participating state shall enforce the Compact and take all actions necessary and appropriate to implement the Compact;

2. Venue is proper and judicial proceedings by or against the Commission shall 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 herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any such similar matter; and

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

B. Default, technical assistance, and termination:

1. 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 shall provide written notice to the defaulting state and other participating states. The notice shall describe the default, the proposed means of curing the default, and any other action that the Commission may take and shall offer remedial training and specific technical assistance regarding the default;

2. 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 such state may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default;

3. Termination of participation in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and to the licensing boards of each of the participating states;

4. A state that has been terminated is responsible for all assessments,



obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination;

5. The Commission shall 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;

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

7. Upon the termination of a state's participation in the Compact, the state shall immediately provide notice to all licensees within that state of such termination:

- a. licensees who have been granted a Compact privilege in that state shall retain the Compact privilege for one hundred eighty (180) days following the effective date of such termination, and
- b. licensees who are licensed in that state who have been granted a Compact privilege in a participating state shall retain the Compact privilege for one hundred eighty (180) days unless the licensee also has a qualifying license in a participating state or obtains a qualifying license in a participating state before the one-hundred-eighty-day period ends, in which case the Compact privilege shall continue.

C. Dispute resolution:

1. Upon request by a participating state, the Commission shall attempt to resolve disputes related to the Compact that arise among participating states and between participating and nonparticipating states; and

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

D. Enforcement:

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions of the Compact and rules of the Commission;

2. 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 U.S. 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 both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees; and

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

E. Legal action against the Commission:

1. A participating state may initiate legal action against the Commission in the U.S. 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 both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

2. No person other than a participating state shall enforce the Compact against the Commission.

#### **545.11. Effective Date – Joining and Withdrawing – Amendment**

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the seventh participating state.

1. On or after the effective date of the Compact, the Commission shall convene and review the enactment of each of the states that enacted 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. A Charter Participating State whose enactment is found to be materially different from the model Compact shall be entitled to the default process set forth in subsection B of Section 10 of this Compact, and
- b. If any participating state later withdraws from the Compact or its participation is terminated, the Commission shall remain in existence and the Compact shall remain in effect even if the

number of participating states should be less than seven. Participating states enacting the Compact subsequent to the Commission convening shall be subject to the process set forth in paragraph 21 of subsection C of Section 7 of this Compact to determine if their enactments are materially different from the model Compact and whether they qualify for participation in the Compact;

2. Participating states enacting the Compact subsequent to the seven initial Charter Participating States shall be subject to the process set forth in paragraph 21 of subsection C of Section 7 of this Compact to determine if their enactments are materially different from the model Compact and whether they qualify for participation in the Compact; and

3. 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 shall be considered to be actions of the Commission unless specifically repudiated by the Commission.

B. Any state that joins the Compact shall be subject to the Commission's rules and bylaws as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any participating state may withdraw from the Compact by enacting a statute repealing the same.

1. A participating state's withdrawal shall not take effect until one hundred eighty (180) days after enactment of the repealing statute. During this one-hundred-eighty-day period, all Compact privileges that were in effect in the withdrawing state and were granted to licensees licensed in the withdrawing state shall remain in effect. If any licensee licensed in the withdrawing state is also licensed in another participating state or obtains a license in another participating state within the one hundred eighty (180) days, the licensee's Compact privileges in other participating states shall not be affected by the passage of the one hundred eighty (180) days.

2. Withdrawal shall not affect the continuing requirement of the state licensing boards of the withdrawing state to comply with the investigative and adverse action reporting requirements of the Compact prior to the effective date of withdrawal.

3. Upon the enactment of a statute withdrawing a state from the Compact, the state shall immediately provide notice of such withdrawal to all licensees within that

state. Such withdrawing state shall continue to recognize all licenses granted pursuant to the Compact for a minimum of one hundred eighty (180) days after the date of such notice of withdrawal.

D. Nothing contained in the Compact shall be construed to invalidate or prevent any PA licensure agreement or other cooperative arrangement between participating states and between a participating state and nonparticipating state that does not conflict with the provisions of the Compact.

E. The Compact may be amended by the participating states. No amendment to the Compact shall 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.

#### **545.12. Rule Construction – Severability – Denial and Termination**

A. The Compact and the Commission's rulemaking authority shall 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 shall not be construed to limit the Commission's rulemaking authority solely for those purposes.

B. The provisions of the Compact shall 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 thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of the Compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby.

C. Notwithstanding subsection B of this section, the Commission may deny a state's participation in the Compact or, in accordance with the requirements of subsection B of Section 10 of this Compact, terminate a participating state's participation in the Compact, if it determines that a constitutional requirement of a participating state is, or would be with respect to a state seeking to participate in the Compact, a material departure from the Compact. Otherwise, if the Compact shall be held to be contrary to the constitution of any participating state, the Compact shall 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.

#### **545.13. Enforcement of other State Law – Laws in Conflict - Agreements**

A. Nothing herein prevents the enforcement of any other law of a participating

state that is not inconsistent with the Compact.

B. Any laws in a participating state in conflict with the Compact are superseded to the extent of the conflict.

C. All agreements between the Commission and the participating states are binding in accordance with their terms.