

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 10

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO INTERGOVERNMENTAL AGREEMENTS; ENACTING THE  
PHYSICIAN ASSISTANT LICENSURE INTERSTATE COMPACT; AMENDING THE  
MEDICAL PRACTICE ACT TO PROVIDE FOR STATE AND FEDERAL CRIMINAL  
HISTORY BACKGROUND CHECKS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 15 of this act may be cited as the "Physician Assistant

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Licensure Interstate Compact".

**SECTION 2.** [NEW MATERIAL] PHYSICIAN ASSISTANT LICENSURE INTERSTATE COMPACT ENTERED INTO.--The "Physician Assistant Licensure Interstate Compact" is enacted into law and entered into on behalf of New Mexico with any and all other states legally joining therein in a form substantially as follows.

**SECTION 3.** [NEW MATERIAL] PURPOSE.--In order to strengthen access to medical services, and in recognition of the advances in the delivery of medical services, the participating states of the Physician Assistant Licensure Interstate 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 and seeks to enhance the portability of a license to practice as a physician assistant while safeguarding the safety of patients. This compact allows medical services to be provided by physician assistants via the mutual recognition of the licensee's qualifying license by other compact-participating states. This compact also adopts the prevailing standard for physician assistant licensure and affirms that the practice and delivery of medical services by a licensed physician assistant occurs where the patient is located at the time of the patient encounter and therefore requires the physician assistant to be under the jurisdiction of the state licensing board where the patient is located. State licensing

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boards that participate in this compact retain the jurisdiction to impose adverse actions against a compact privilege in that state issued to a physician assistant through the procedures of this compact. The Physician Assistant Licensure Interstate 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.

**SECTION 4. [NEW MATERIAL] DEFINITIONS.--**As used in the Physician Assistant Licensure Interstate Compact:

A. "adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws that is imposed by a licensing board or other authority against a physician assistant license or license application or compact privilege, including license denial, censure, revocation, suspension, probation, monitoring of the licensee or restriction on the licensee's practice;

B. "commission", "physician assistant licensure compact commission" or "compact commission" means the national administrative body created pursuant to Section 9 of this compact;

C. "compact" means the Physician Assistant Licensure Interstate Compact;

D. "compact privilege" means the authorization granted by a remote state to allow a licensee from another

participating state to practice as a physician assistant to provide medical services and other licensed activity to a patient located in the remote state under the remote state's laws and regulations;

E. "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;

F. "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);

G. "data system" means the repository of information about licensees, including license status and adverse actions, that is created and administered under the terms of this compact;

H. "executive committee" means a group of directors and ex-officio individuals elected or appointed pursuant to Section 9 of this compact;

I. "impaired practitioner" means a physician assistant whose practice is adversely affected by health-related conditions that impact the physician assistant's ability to practice;

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

K. "jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of a physician assistant in a state;

L. "license" means current authorization by a state, other than authorization pursuant to a compact privilege, for a physician assistant to provide medical services that would be unlawful without current authorization;

M. "licensee" means an individual who holds a license from a state to provide medical services as a physician assistant;

N. "licensing board" means any state entity authorized to license and otherwise regulate physician assistants;

O. "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;

P. "model compact" means the model for the Physician Assistant Licensure Interstate Compact on file with the council of state governments or other entity as designated by the commission;

Q. "participating state" means a state that has

enacted this compact;

R. "physician assistant" 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;

S. "qualifying license" means an unrestricted license issued by a participating state to provide medical services as a physician assistant;

T. "remote state" means a participating state where a licensee who is not licensed as a physician assistant is exercising or seeking to exercise the compact privilege;

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

V. "significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the physician assistant 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

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

#### SECTION 5. [NEW MATERIAL] STATE PARTICIPATION IN

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COMPACT.--

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

- (1) license physician assistants;
- (2) participate in the 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 requiring the state's licensing board to receive the results of a criminal background check and report to the commission whether the license applicant has been granted a license;
- (6) comply with the rules of the compact commission;
- (7) use passage of a recognized national exam, such as the national commission on certification of physician assistants' physician assistant national certifying

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examination, as a requirement for physician assistant licensure; and

(8) grant the compact privilege to a holder of a qualifying license in a participating state.

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

**SECTION 6. [NEW MATERIAL] COMPACT PRIVILEGE.--**

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

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

(2) hold current national commission on certification of physician assistants 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 the licensee has had a limitation or restriction on a license or compact privilege due to an adverse action, not exercise the compact privilege until two years have elapsed from the date on which the license or compact privilege is no longer limited or restricted due to the adverse action;

(9) notify the compact commission that the licensee is seeking the compact privilege in a remote state;

(10) 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

(11) report to the commission any adverse action taken by a nonparticipating state within thirty 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 shall 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

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restricted; and

(2) two 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 Subsection B of this section, the licensee shall meet the requirements of Subsection A of this section to re-obtain a compact privilege in any remote state.

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

E. 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.

SECTION 7. [NEW MATERIAL] DESIGNATION OF THE STATE FROM WHICH A LICENSEE IS APPLYING FOR A COMPACT PRIVILEGE.--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 be subject to the following requirements:

A. 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

B. 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, or investigation conducted, by the commission or a participating state, including a subpoena.

#### SECTION 8. [NEW MATERIAL] ADVERSE ACTIONS.--

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 state due process law, to do all of the following:

(1) take adverse action against a physician assistant's compact privilege within that state to remove a licensee's compact privilege or take other action necessary

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under applicable law to protect the health and safety of the state's residents; and

(2) issue subpoenas for 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 that court. 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.

C. Notwithstanding Paragraph (2) of Subsection B of this section, subpoenas shall 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 this compact authorizes a participating state to impose discipline against a physician assistant'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.

D. For purposes of taking adverse action, the participating state that 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 that issued the qualifying license. In so doing, that participating state shall apply the state's own laws to determine appropriate action.

E. A participating state, if otherwise permitted by state law, may recover from the affected physician assistant the costs of investigations and disposition of cases resulting from any adverse action taken against that physician assistant.

F. 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.

G. In addition to the authority granted to a participating state by the state's physician assistant laws and regulations or other applicable state law, any participating state may participate with other participating states in joint investigations of licensees. Participating states shall share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under this compact.

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

I. A SHPAC→New Mexico licensee's←SHPAC license, certification or authorization that is automatically suspended or revoked pursuant to this section shall be immediately reinstated if the suspension or revocation is solely on the basis that a physician assistant performed, recommended or provided reproductive health services or gender-affirming care.

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

**SECTION 9. [NEW MATERIAL] PHYSICIAN ASSISTANT LICENSURE COMPACT COMMISSION.--**

A. The participating states hereby create and establish a joint government agency and national administrative body known as "the physician assistant licensure compact commission". The commission is an instrumentality of the

participating 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 Section 13 of this compact.

B. Membership, voting and meetings of the commission shall proceed as follows:

(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) a delegate shall be either:

(a) a current physician assistant, physician or public member of a licensing board or physician assistant council or committee; or

(b) an administrator of a licensing board;

(3) a delegate may be removed or suspended from office as provided by the laws of the state from which the delegate is appointed;

(4) a participating state's licensing board shall fill any vacancy occurring in the commission within sixty days;

(5) each delegate shall be entitled to one vote on all matters voted on by the commission and shall

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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 commission's 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 per each calendar year. Additional meetings shall be held as set forth in this compact and the commission's bylaws; and

(7) the commission shall establish by rule a term of office for delegates.

C. The commission has the powers and duties to:

(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 the commission's financial records in accordance with the commission's bylaws;

(6) meet and take actions that are consistent with the provisions of this compact and the commission's bylaws;

(7) promulgate rules to facilitate and coordinate implementation and administration of this 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 employees of a participating state;

(11) hire employees and engage contractors, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of this 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, use 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;

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(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, consumer representatives and other interested persons as may be designated in this compact and the commission's bylaws;

(18) provide and receive information from, and cooperate with, law enforcement agencies;

(19) elect a chair, vice chair, secretary, treasurer and other officers of the commission as provided in the commission's bylaws;

(20) in addition to powers reserved exclusively to the commission under this compact, reserve powers for the commission that the executive committee may not exercise;

(21) approve or disapprove a state's participation in this compact based on the commission's 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 other functions as may be necessary or appropriate to achieve purposes of this compact that are consistent with state regulation of physician assistant licensure and practice.

D. Meetings of the commission shall proceed as follows:

(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 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 hours' prior notice on the commission's website, and by any other means as provided in the commission's rules, for any of the reasons that the commission may dispense with notice of proposed rulemaking under Subsection R of Section 11 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 the state's obligations under this compact;

(b) the employment, compensation, discipline or other matters, practices or procedures related to

specific employees or 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 by the commission or other committee charged with the responsibility of investigation or determination of compliance issues pursuant to this 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 the 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. The commission shall be financed as follows:

(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;

(3) the commission may levy 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,

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which shall 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 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 in the participating state from 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 the licensee is changing to that participating state for the purposes of applying for a compact privilege and paying 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; and

(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

the commission's 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 shall function as follows:

(1) the executive committee has the power to act on behalf of the commission according to the provisions of this compact and commission rules;

(2) the executive committee is composed of the following nine 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 physician assistant professional association; and

(c) one ex-officio, nonvoting member from a recognized national physician assistant certification organization;

(3) the ex-officio members of the executive committee shall be selected by their respective organizations;

(4) the commission may remove any member of the executive committee as provided in the commission's bylaws;

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(5) the executive committee shall meet at least annually;

(6) the executive committee has the following duties and responsibilities:

(a) recommending to the commission changes to the commission's rules or bylaws, changes to the compact legislation, fees to be paid by participating states, such as annual dues, and any commission fee charged to licensees for a compact privilege;

(b) ensuring compact administration services are appropriately provided, contractual or otherwise;

(c) preparing and recommending the commission's budget;

(d) maintaining financial records on behalf of the commission;

(e) monitoring compact compliance of participating states and providing compliance reports to the commission;

(f) establishing additional committees as necessary;

(g) exercising 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) performing other duties as provided by the commission's rules or bylaws;

(7) all meetings of the executive committee at which the executive committee votes or plans to vote on matters of exercising the powers and duties of the commission shall be open to the public, and public notice of such meetings shall be given in the same manner as notice of public meetings; 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 provided in this section and shall announce the closed meeting and keep minutes of the closed meeting as the commission is required pursuant to this section.

G. With respect to qualified immunity, defense and indemnification:

SHPAC → ~~(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 from 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 occurred within the scope of commission employment, duties or responsibilities;~~

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~~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 by this compact;~~

~~(2) the liability of the commission within any member state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. The commission is considered to be an instrumentality of the states for the purpose of any such action;~~

~~(3) 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 in this paragraph shall be construed to prohibit that person from retaining counsel at the person's 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;~~

~~(4) 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 the 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;~~

~~(5) 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;~~ ←SHPAC

SHPAC→(1) the officers and employees of the commission shall not be liable or subject to suit, either personally or in their official capacity, when acting within the scope of that person's employment or duties for acts, errors or omissions occurring within that person's state. Nothing in this subsection shall be construed to protect a person from suit or liability for damage, loss, injury or

liability caused by the intentional or willful and wanton misconduct of the person;

(2) the liability of the commission within any member state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. The commission is considered to be an instrumentality of the states for the purpose of any such action;

(3) the commission shall defend, indemnify and hold harmless the executive director and the director's employees according to the commission's rules and bylaws. The executive director and employees of the commission shall be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against that person arising out of an actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the 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 intentional or willful and wanton misconduct on the part of that person;←SHPAC

SHPAC→(6)←SHPAC SHPAC→(4)←SHPAC nothing in this compact 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;

SHPAC→(7)←SHPAC SHPAC→(5)←SHPAC nothing in this compact shall be construed to designate the venue or jurisdiction to bring actions for alleged acts of malpractice, professional misconduct, negligence or other civil action pertaining to the practice of a physician assistant. All such matters shall be determined exclusively by state law other than this compact;

SHPAC→(8)←SHPAC SHPAC→(6)←SHPAC nothing in this 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 federal Sherman Act, as amended, the federal Clayton Act, as amended, or any other state or federal antitrust or anticompetitive law or regulation; and

SHPAC→(9)←SHPAC SHPAC→(7)←SHPAC nothing in this compact shall be construed to be a waiver of sovereign immunity by the participating states or by the commission.

#### SECTION 10. [NEW MATERIAL] DATA SYSTEM.--

A. The commission shall provide for the development, maintenance, operation and utilization of a coordinated data and reporting system containing licensure, adverse actions and data on the existence of significant investigative information on all licensed physician assistants

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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 physician assistants to whom this compact is applicable, using 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;
- (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 this 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 license or a person applying for a license that has been reported to the commission. Adverse action information shall

be available to any participating state.

E. All information provided to the commission or distributed by member boards SHPAC→**pertaining to New Mexico licensees**←SHPAC shall be confidential, filed under seal and used only for investigatory or disciplinary matters; provided that information submitted to the New Mexico medical board is subject to the confidentiality and transparency requirements imposed by New Mexico law or court order.

F. 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, the information shall be reported to the commission through the data system.

G. 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 the expungement by the participating state to the commission.

H. The records and information provided to a participating state pursuant to this compact or through the data system, when certified by the commission or an agent of the commission, shall constitute the authenticated business records of the commission and shall be entitled to any associated hearsay exception in any relevant judicial,

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quasi-judicial or administrative proceedings in a participating state.

**SECTION 11. [NEW MATERIAL] RULEMAKING.--**

A. The commission shall exercise rulemaking powers pursuant to the criteria set forth in this section and the rules promulgated pursuant to this section. 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 this compact and achieve the compact's 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 or the powers granted by this compact 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 that when the rules of the commission conflict with the laws of the participating state that establish the medical services a physician assistant 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 this compact within four years of the date of adoption of the rule, the 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 by the commission, and at least thirty 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 other ways that the commission may specify by rule.

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;

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(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 written comments.

H. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which the commission shall make 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.

J. A person wishing to be heard at the hearing shall, as directed in the notice of proposed rulemaking, no less than five business days before the scheduled date of the hearing, notify the commission of the person's desire to appear and testify at the hearing. Hearings shall be conducted in a manner that provides each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

K. 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

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be made available upon request.

L. 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.

M. Following a public hearing, the commission shall consider all written and oral comments timely received.

N. The commission shall, by majority vote of all delegates, take final action on a 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. If adopted, the rule shall be posted on the commission's website.

O. The commission may adopt changes to a proposed rule; provided that the changes do not enlarge the original purpose of the proposed rule.

P. The commission shall provide on the commission's website an explanation of the reasons for substantive changes made to a proposed rule as well as reasons for substantive changes not made that were recommended by commenters.

Q. The commission shall determine a reasonable effective date for a rule. Except for an emergency as provided in Subsection R of this section, the effective date of a rule shall be no sooner than thirty days after the commission issued the notice that the commission adopted the rule.

R. Upon determination that an emergency exists, the

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commission may consider and adopt an emergency rule with twenty-four hours' prior notice, without the opportunity for comment or hearing; provided that the usual rulemaking procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, but in no event later than ninety days after the effective date of the rule. For the purposes of this compact, an emergency rule is a rule 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.

S. 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 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 shall take effect without further action. If the revision is challenged, the revision shall not take effect without the approval of the commission.

T. No participating state's rulemaking requirements shall apply under this compact.

**SECTION 12. [NEW MATERIAL] OVERSIGHT--DISPUTE  
RESOLUTION--ENFORCEMENT.--**

A. The executive and judicial branches of government in each participating state shall enforce this compact and take all actions necessary and appropriate to implement the compact. The provisions of this compact and the rules promulgated pursuant to this compact shall have standing as law but shall not override existing state authority to regulate the practice of physician assistants.

B. 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 the commission adopts or consents to participate in alternative dispute resolution proceedings. Nothing in this compact shall affect or limit the selection or propriety of venue in any action against a

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licensee for professional malpractice, misconduct or any similar matter.

C. All courts shall give deference and take judicial notice of the Physician Assistant Licensure Interstate Compact and rules promulgated pursuant to that compact in any judicial or administrative proceeding in a member state pertaining to the subject matter of that compact that may affect the powers, responsibilities or actions of the commission.

D. The commission is entitled to receive service of process in any proceeding regarding the enforcement or interpretation of this compact or the commission's rules and has standing to intervene in the proceeding for all purposes. Failure to provide the commission with service of process shall render a judgment or order void as to the commission, this compact or commission rules.

E. If the commission determines that a participating state has defaulted in the performance of the state's obligations or responsibilities under this compact or 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.

F. If a state in default fails to cure the default, the defaulting state may be terminated from this compact upon an affirmative vote of a majority of the delegates of the participating states, and all rights, privileges and benefits conferred by this compact upon the 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.

G. Termination of participation in this 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 the licensing boards of each of the participating states.

H. 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.

I. The commission shall not bear any cost 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.

J. The defaulting state may appeal the state's

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termination from this 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 party shall be awarded all costs of the litigation, including reasonable attorney fees.

K. Upon the termination of a state's participation in this compact, the state shall immediately provide notice to all licensees within that state of the termination. Licensees who:

(1) have been granted a compact privilege in that state shall retain the compact privilege for one hundred eighty days following the effective date of the termination; and

(2) 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 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.

L. Upon request by a participating state, the commission shall attempt to resolve disputes related to this compact that arise among participating states and between participating and nonparticipating states. The commission shall promulgate a rule providing for both mediation and

binding dispute resolution for disputes as appropriate.

M. The commission, in the reasonable exercise of the commission's discretion, shall 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 this compact and the commission's promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event that judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

N. The remedies provided in this compact shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

O. 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 this compact and the commission's rules. The relief sought may include both injunctive relief and damages.

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In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees. No entity other than a participating state shall enforce this compact against the commission.

**SECTION 13. [NEW MATERIAL] EFFECTIVE DATE OF THE PHYSICIAN ASSISTANT LICENSURE INTERSTATE COMPACT COMMISSION.--**

A. This compact shall come into effect on the date on which this compact statute is enacted into law in the seventh participating state.

B. On or after the effective date of this compact, the commission shall convene and review the enactment of each of the participating state statutes that enacted the compact prior to the commission convening to determine if the statute enacted by each SHPAC→"←SHPAC charter participating state SHPAC→"←SHPAC is materially different than the model compact.

C. 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 Section 12 of this compact. If any participating state later withdraws from this 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 is fewer than seven. Participating states enacting this compact subsequent to the commission convening shall be subject to the process set forth in Paragraph (21) of Subsection C of Section 9 of this



compact to determine if the enactments are materially different from the model compact and whether those states qualify for participation in the compact.

D. Participating states enacting this 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 9 of this compact to determine if the enactments are materially different from the model compact and whether the states qualify for participation in the compact.

E. All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of this 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.

F. Any state that joins this 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.

G. Any participating state may withdraw from this compact by enacting a statute repealing the same. Legislation enacted in New Mexico for the purposes of withdrawing from the compact shall provide for a wind-up period that lasts at least

one year after the effective date of the legislation to allow the member board of the withdrawing state to wind up its affairs with the commission and provide written notice of the withdrawal to the governor of each other member state.

H. A participating state's withdrawal shall not take effect until one hundred eighty 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-day period, the licensee's compact privileges in other participating states shall not be affected.

I. Withdrawal of a participating state shall not affect the continuing requirement of the state licensing board or 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.

J. Upon the enactment of a statute withdrawing a participating state from this compact, the withdrawing state shall immediately provide notice of the withdrawal to all licensees within that state. The withdrawing state shall continue to recognize all licenses granted pursuant to this

compact for a minimum of one hundred eighty days after the date of the notice of withdrawal.

K. Nothing contained in this compact shall be construed to invalidate or prevent any physician assistant 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 this compact.

L. This compact may be amended by the participating states. No amendment to this 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.

**SECTION 14. [NEW MATERIAL] CONSTRUCTION AND SEVERABILITY.--**

A. This 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 this 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 this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is held by a court of competent jurisdiction to be

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contrary to the constitution of any participating state, a state seeking participation in the compact or the United States, or if the applicability of the compact 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.

C. Notwithstanding Subsection B of this section, the commission may deny a state's participation in this compact or, in accordance with the requirements of Section 12 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 this 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.

#### SECTION 15. [NEW MATERIAL] BINDING EFFECT OF COMPACT.--

A. Nothing in this compact prevents the enforcement of any other law of a participating state that is not inconsistent with this compact.

B. Any laws in a participating state in conflict with this 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.

D. If any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

SECTION 16. A new section of the Physician Assistant Act is enacted to read:

"[NEW MATERIAL] PARTICIPATION IN PHYSICIAN ASSISTANT LICENSURE INTERSTATE COMPACT AS CONDITION OF EMPLOYMENT PROHIBITED.--An employer shall not require a physician assistant licensed in this state pursuant to the Physician Assistant Act to seek licensure through the Physician Assistant Licensure Interstate Compact as a condition of initial or continued employment as a physician assistant in this state. An employer may require that a physician assistant obtain and maintain a license to practice as a physician assistant in multiple states if the physician assistant is free to obtain and maintain the licenses by any means authorized by the laws of the respective states."

SECTION 17. A new section of the Physician Assistant Act

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is enacted to read:

"[NEW MATERIAL] PHYSICIAN ASSISTANT LICENSURE COMPACT  
COMMISSION--COMMISSIONER DUTIES.--

A. If a meeting, or a portion of a meeting, of the physician assistant licensure compact commission is closed pursuant to Paragraph (3) of Subsection D of Section 9 of the Physician Assistant Licensure Interstate Compact, commissioners appointed to represent New Mexico on the commission shall request the commission's legal counsel or designee to certify that the meeting may be closed by citing each provision of that paragraph that is applicable. Commissioners may satisfy this section by making a motion, or voting in the affirmative on a motion, to have the commission's legal counsel or designee certify that the meeting may be closed.

B. Any time the physician assistant licensure compact commission is voting on what to include in the commission's minutes, commissioners appointed to represent New Mexico on the commission shall vote to include in the minutes:

(1) all actions taken by the commission and the reasons for each action, including a description of the views expressed; and

(2) identification of all documents considered by the commission that relate to an action taken by the commission."

SECTION 18. A new section of the Physician Assistant Act

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is enacted to read:

"[NEW MATERIAL] BOARD OBLIGATIONS--PUBLIC POSTING.--The board shall post on the board's public website:

A. copies of the physician assistant licensure compact commission's current bylaws and rules;

B. notice of any physician assistant licensure compact commission action that may affect the license of a physician assistant in this state within thirty days of the commission's action being taken; and

C. any minutes or documents of the physician assistant licensure compact commission that are released pursuant to a vote of the commission. All minutes and documents of a closed meeting of the physician assistant licensure compact commission shall remain under seal, subject to release by a majority vote of the commission or an order of a court of competent jurisdiction."

SECTION 19. A new section of the Physician Assistant Act is enacted to read:

"[NEW MATERIAL] JOINT INVESTIGATIONS--INVESTIGATIVE SUBPOENAS.--The board may enter into joint investigations with other state physician assistant or medical boards pursuant to the Physician Assistant Licensure Interstate Compact; provided that participation in the joint investigation is governed by a written agreement among the board and the other participating physician assistant or medical boards. When participating in a

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joint investigation, the board shall not issue an investigative subpoena that conflicts with the Reproductive and Gender-Affirming Health Care Protection Act SHPAC→, if determined unlawful by a court of competent jurisdiction in New Mexico←SHPAC ."

SECTION 20. Section 61-6-5 NMSA 1978 (being Laws 1973, Chapter 361, Section 2, as amended) is amended to read:

"61-6-5. MEDICAL BOARD DUTIES AND POWERS.--The board shall:

A. enforce and administer the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Impaired Health Care Provider Act, the Polysomnography Practice Act, the Naturopathic Doctors' Practice Act, the Podiatry Act and the Naprapathic Practice Act;

B. promulgate, in accordance with the State Rules Act, all rules for the implementation and enforcement of the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Impaired Health Care Provider Act, the Polysomnography Practice Act, the Naturopathic Doctors' Practice Act, the Podiatry Act and the Naprapathic Practice Act;

C. adopt and use a seal;

D. administer oaths to all applicants, witnesses



and others appearing before the board, as appropriate;

E. take testimony on matters within the board's jurisdiction;

F. keep an accurate record of all its meetings, receipts and disbursements;

G. maintain records in which the name, address and license number of all licensees shall be recorded, together with a record of all license renewals, suspensions, revocations, probations, stipulations, censures, reprimands and fines;

H. discipline licensees or deny, review, suspend and revoke licenses to practice medicine and censure, reprimand, fine and place on probation and stipulation licensees and applicants in accordance with the Uniform Licensing Act for any cause stated in the law that the board is charged with enforcing;

I. hire staff and administrators as necessary to carry out the provisions of the Medical Practice Act;

J. have the authority to hire or contract with investigators to investigate possible violations of the Medical Practice Act;

K. have the authority to hire a competent attorney to give advice and counsel in regard to any matter connected with the duties of the board, to represent the board in any legal proceedings and to aid in the enforcement of the laws in

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relation to a health care profession or occupation over which the board has authority and to fix the compensation to be paid to such attorney; provided, however, that such attorney shall be compensated from the funds of the board;

L. establish continuing education requirements for licensed practitioners over which the board has authority;

M. establish committees as it deems necessary for carrying on its business;

N. hire or contract with a licensed physician to serve as medical director and fulfill specified duties of the secretary-treasurer;

O. establish and maintain rules related to the management of pain based on review of national standards for pain management; ~~and~~

P. have the authority to waive licensure fees for the purpose of the recruitment and retention of health care practitioners over which the board has authority;

Q. prescribe procedures, forms and the manner of submitting an applicant's full set of fingerprints for state and federal criminal history background reports that the board uses to evaluate the applicant's qualification for licensure; and

R. require an applicant, as a condition of eligibility for initial licensure, to submit a full set of fingerprints to the department of public safety to obtain state

and national criminal history record information on the applicant. State and national criminal history record reports are confidential and not public records. The board shall not disseminate criminal history record information across state lines."

# SECTION 21. CONTINGENT REPEAL.--

A. Sections 1 through 19 of this act are repealed if a state or federal court of New Mexico finds that a rule or decision of the physician assistant licensure compact commission or a court order regarding a rule or decision relating to the Physician Assistant Licensure Interstate Compact would change the scope of practice of a physician assistant or the definition of "unprofessional conduct" for a physician assistant in a manner that is inconsistent with the Physician Assistant Act or any other state law relating to the practice of medicine. SHPAC→~~A person who is or may be affected by a rule or decision at issue under this subsection~~←SHPAC SHPAC→~~The attorney general~~←SHPAC shall have standing to seek a determination SHPAC→~~of the effect of a rule or decision at issue pursuant to this subsection~~←SHPAC by the district court.

B. The New Mexico medical board shall certify to the director of the legislative council service and the executive director of the New Mexico compilation commission the date on which the action described in Subsection A of this

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section occurs.

C. Repeal of the Physician Assistant Licensure Interstate Compact pursuant to this section constitutes this state's immediate withdrawal from the Physician Assistant Licensure Interstate Compact. The New Mexico medical board shall send written notification of withdrawal to the governor of each other state that has enacted the compact.

D. SHPAC→~~The~~←SHPAC SHPAC→A person who is or may be affected by a rule or decision at issue pursuant to Subsection A of this section, the←SHPAC New Mexico medical board SHPAC→,←SHPAC or a member of the legislature SHPAC→,←SHPAC may request in writing that the attorney general review the actions of the physician assistant licensure compact commission or a court ruling relating to the enforcement of the Physician Assistant Licensure Interstate Compact.

E. In the event of a repeal pursuant to this section, the provisions of Section 13 of the Physician Assistant Licensure Interstate Compact shall remain in effect and govern the withdrawal.

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