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Date: (Filing No. H-)

HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1305, L.D. 2043, “An Act to Add the State of Maine to the Compact for Licensing Physician Assistants”

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 32 MRSA c. 145-A is enacted to read:

CHAPTER 145-A

PHYSICIAN ASSISTANTS LICENSURE COMPACT

§18531. 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 Assistants Licensure Compact, referred to in this chapter as "the 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 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 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 boards that participate in this compact retain the jurisdiction to impose adverse action against a compact privilege in that state issued to a physician assistant through the procedures of this compact. The 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.

COMMITTEE AMENDMENT

1 **§18532. Definitions**

2 As used in this chapter, unless the context otherwise indicates, the following terms
3 have the following meanings.

4 **1. Adverse action.** "Adverse action" means any administrative, civil, equitable or
5 criminal action permitted by a state's laws that is imposed by a licensing board or other
6 authority against a physician assistant's license, license application or privilege to practice,
7 such as license denial, censure, revocation, suspension, probation, monitoring of the
8 licensee or restriction on the licensee's practice.

9 **2. Commission.** "Commission" means the Physician Assistants Licensure Compact
10 Commission created pursuant to section 18537.

11 **3. Compact privilege.** "Compact privilege" means the authorization granted by a
12 remote state to allow a licensee from another participating state to practice as a physician
13 assistant to provide medical services and other licensed activity to a patient located in the
14 remote state under the remote state's laws and regulations.

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

18 **5. Criminal background check.** "Criminal background check" means the submission
19 of fingerprints or other biometric-based information for a license applicant for the purpose
20 of obtaining that applicant's criminal history record information, as defined in 28 Code of
21 Federal Regulations, Section 20.3(d), from the state's criminal history record repository, as
22 defined in 28 Code of Federal Regulations, Section 20.3(f).

23 **6. Data system.** "Data system" means the repository of information about licensees,
24 including, but not limited to, license status and adverse actions, that is created and
25 administered under the terms of the compact.

26 **7. Executive committee.** "Executive committee" means a group of directors and ex
27 officio members elected or appointed pursuant to section 18537, subsection 6.

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

30 **9. Jurisprudence requirement.** "Jurisprudence requirement" means the assessment
31 of an individual's knowledge of the laws and rules governing the practice of a physician
32 assistant in a state.

33 **10. License.** "License" means the current authorization by a state, other than
34 authorization pursuant to a compact privilege, for a physician assistant to provide medical
35 services that would be unlawful without current authorization.

36 **11. Licensee.** "Licensee" means an individual who holds a license from a state to
37 provide medical services as a physician assistant.

38 **12. Licensing board.** "Licensing board" means any state entity authorized to license
39 and otherwise regulate physician assistants.

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

1 **14. Model compact.** "Model compact" means the model for the Physician Assistants
2 Licensure Compact on file with the Council of State Governments, or its successor
3 organization, or other entity designated by the commission.

4 **15. Participating state.** "Participating state" means a state that has enacted the
5 compact.

6 **16. Physician assistant.** "Physician assistant" means an individual who is licensed as
7 a physician assistant in a state. For purposes of this compact, any other title or status
8 adopted by a state to replace the term "physician assistant" is deemed synonymous with
9 "physician assistant" and confers the same rights and responsibilities to the licensee under
10 the provisions of this compact at the time of its enactment.

11 **17. Qualifying license.** "Qualifying license" means an unrestricted license issued by a
12 participating state to provide medical services as a physician assistant.

13 **18. Remote state.** "Remote state" means a participating state where a licensee who is
14 not licensed as a physician assistant is exercising or seeking to exercise the compact
15 privilege.

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

18 **20. Significant investigative information.** "Significant investigative information"
19 means investigative information that a licensing board, after an inquiry or investigation that
20 includes notification and an opportunity for the physician assistant to respond if required
21 by state law, has reason to believe is not groundless and, if proven true, would indicate
22 more than a minor infraction.

23 **21. State.** "State" means any state, commonwealth, district or territory of the United
24 States.

25 **§18533. State participation in compact**

26 **1. Participation requirements.** To participate in the compact, a state must:

27 A. License physician assistants;

28 B. Participate in the commission's data system;

29 C. Have a mechanism in place for receiving and investigating complaints against
30 licensees and license applicants;

31 D. Notify the commission, in compliance with the terms of this compact and
32 commission rules, of any adverse action against a licensee or license applicant and the
33 existence of significant investigative information regarding a licensee or license
34 applicant;

35 E. Fully implement, within a time frame established by commission rule, a criminal
36 background check requirement by its licensing board receiving the results of a criminal
37 background check and reporting to the commission whether the license applicant has
38 been granted a license;

39 F. Comply with the rules of the commission;

40 G. Use passage of a recognized national examination as a requirement for physician
41 assistant licensure; and

1 H. Grant the compact privilege to a holder of a qualifying license in a participating
2 state.

3 **2. No prohibition on fee for compact privilege.** Nothing in this compact prohibits a
4 participating state from charging a fee for granting the compact privilege.

5 **§18534. Compact privilege**

6 **1. Requirements.** To exercise the compact privilege, a licensee must:

7 A. Have graduated from a physician assistant program accredited by the Accreditation
8 Review Commission on Education for the Physician Assistant, or its successor
9 organization, or other programs authorized by commission rule;

10 B. Hold a current certification from the National Commission on Certification of
11 Physician Assistants, or its successor organization;

12 C. Have no felony or misdemeanor conviction;

13 D. Have never had a controlled substance license, permit or registration suspended or
14 revoked by a state or by the United States Department of Justice, Drug Enforcement
15 Administration;

16 E. Have a unique identifier as determined by commission rule;

17 F. Hold a qualifying license;

18 G. Have not had a revocation of a license or a limitation or restriction on any license
19 currently held due to an adverse action. If a licensee has had a limitation or restriction
20 on a license or compact privilege due to an adverse action, 2 years must have elapsed
21 from the date on which the license or compact privilege is no longer limited or
22 restricted due to the adverse action. If a compact privilege has been revoked or is
23 limited or restricted in a participating state for conduct that would not be a basis for
24 disciplinary action in a participating state in which the licensee is practicing or applying
25 to practice under a compact privilege, that participating state has the discretion not to
26 consider such action as an adverse action requiring the denial or removal of a compact
27 privilege in that state;

28 H. Notify the commission that the licensee is seeking the compact privilege in a remote
29 state;

30 I. Meet any jurisprudence requirement of a remote state in which the licensee is seeking
31 to practice under the compact privilege and pay any fees applicable to satisfying the
32 jurisprudence requirement; and

33 J. Report to the commission any adverse action taken by a nonparticipating state within
34 30 days after the action is taken.

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

41 A. The license is no longer limited or restricted; and

1 B. Two years have elapsed from the date on which the license is no longer limited or
2 restricted due to the adverse action.

3 **3. Compact privilege; restricted or limited license.** Once a restricted or limited
4 license satisfies the requirements of subsection 2, a licensee must meet the requirements of
5 subsection 1 to obtain a compact privilege in any remote state.

6 **4. Authority to prescribe controlled substances.** For each remote state in which a
7 physician assistant seeks authority to prescribe controlled substances, the physician
8 assistant must satisfy all requirements imposed by that state in granting or renewing that
9 authority.

10 **§18535. Designation of state from which licensee is applying for compact privilege**

11 Upon a licensee's application for a compact privilege, the licensee shall identify to the
12 commission the participating state from which the licensee is applying, in accordance with
13 applicable rules adopted by the commission and subject to the following requirements.

14 **1. Primary residence.** When applying for a compact privilege, the licensee shall
15 provide the commission with the address of the licensee's primary residence and thereafter
16 shall immediately report to the commission any change in the address of the licensee's
17 primary residence.

18 **2. Consent to service of process.** When applying for a compact privilege, the licensee
19 shall consent to accept service of process by mail at the licensee's primary residence on file
20 with the commission with respect to any action brought against the licensee by the
21 commission or a participating state, including a subpoena, related to any action brought or
22 investigation conducted by the commission or a participating state.

23 **§18536. Adverse actions**

24 **1. Participating state authority.** A participating state in which a licensee is licensed
25 has exclusive power to impose an adverse action against the qualifying license issued by
26 that participating state.

27 **2. Remote state authority.** In addition to the other powers conferred by state law, a
28 remote state has the authority, in accordance with existing state due process law, to:

29 A. Take adverse action against a physician assistant's compact privilege within that
30 state to remove a licensee's compact privilege or take any other action necessary under
31 applicable law to protect the health and safety of its citizens; and

32 B. Issue subpoenas for both hearings and investigations that require the attendance and
33 testimony of witnesses as well as the production of evidence. Subpoenas issued by a
34 licensing board in a participating state for the attendance and testimony of witnesses or
35 the production of evidence from another participating state must be enforced in the
36 other state by any court of competent jurisdiction, according to the practice and
37 procedure of that court applicable to subpoenas issued in proceedings pending before
38 it. The issuing authority shall pay any witness fees, travel expenses, mileage and other
39 fees required by the service statutes of the state in which the witnesses or evidence is
40 located.

41 **3. Lawful conduct; subpoenas.** Notwithstanding subsection 2, subpoenas may not be
42 issued by a participating state to gather evidence of conduct in another state that is lawful

1 in that other state for the purpose of taking adverse action against a licensee's compact
2 privilege or application for a compact privilege in that participating state.

3 **4. Lawful conduct; disciplinary action.** Nothing in this compact authorizes a
4 participating state to impose discipline against a physician assistant's compact privilege or
5 to deny an application for a compact privilege in that participating state for the individual's
6 otherwise lawful practice in another state.

7 **5. Reported conduct.** For purposes of taking adverse action, the participating state
8 that issued the qualifying license shall give the same priority and effect to reported conduct
9 received from any other participating state as it would if the conduct had occurred within
10 the participating state that issued the qualifying license. In so doing, the participating state
11 shall apply its own state laws to determine appropriate action.

12 **6. Recovery.** A participating state, if otherwise permitted by state law, may recover
13 from the affected physician assistant the costs of investigations and dispositions of cases
14 resulting from any adverse action taken against that physician assistant.

15 **7. Remote state findings.** A participating state may take adverse action based on the
16 factual findings of a remote state as long as the participating state follows its own
17 procedures for taking the adverse action.

18 **8. Joint investigations.** In addition to the authority granted to a participating state by
19 its respective state physician assistant laws or regulations or other applicable state law, any
20 participating state may participate with other participating states in a joint investigation of
21 a licensee.

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

24 **9. Deactivation.** If adverse action is taken against a physician assistant's qualifying
25 license, the physician assistant's compact privilege in all remote states must be deactivated
26 until 2 years have elapsed after all restrictions have been removed from the state license.
27 All disciplinary orders by the participating state that has issued the physician assistant's
28 qualifying license that impose adverse action against the physician assistant's license must
29 include a statement that the physician assistant's compact privilege is deactivated in all
30 participating states during the pendency of the order.

31 **10. Notification.** If a participating state takes adverse action, it shall promptly notify
32 the administrator of the commission's data system.

33 **§18537. Establishment of Physician Assistants Licensure Compact Commission**

34 **1. Commission established.** The participating states hereby create and establish a
35 joint government agency and national administrative body known as the Physician
36 Assistants Licensure Compact Commission.

37 A. The commission is an instrumentality of the compact states acting jointly and is not
38 an instrumentality of any one state.

39 B. The commission comes into existence on or after the effective date of the compact
40 as set forth in section 18541.

41 **2. Membership, voting and meetings.** Membership, voting and meetings are
42 governed by this subsection.

- 1 A. Each participating state has and is limited to one delegate selected by that
2 participating state's licensing board or, if the state has more than one licensing board,
3 selected collectively by the participating state's licensing boards.
- 4 B. The delegate must be either:
- 5 (1) A current physician assistant, physician or public member of a licensing board
6 or physician assistant council or committee; or
- 7 (2) An administrator of a licensing board.
- 8 C. Any delegate may be removed or suspended from office as provided by the law of
9 the state from which the delegate is appointed.
- 10 D. The participating state licensing board shall fill any vacancy occurring on the
11 commission within 60 days.
- 12 E. Each delegate is entitled to one vote with regard to the promulgation of rules and
13 creation of bylaws and must otherwise have an opportunity to participate in the
14 business and affairs of the commission.
- 15 F. A delegate shall vote in person or by such other means as provided in the bylaws.
16 The bylaws may provide for delegates' participation in meetings by
17 telecommunications, videoconference or other means of communication.
- 18 G. The commission shall meet at least once during each calendar year. Additional
19 meetings must be held as set forth in this compact and the bylaws.
- 20 H. The commission shall by rule establish a term of office for delegates.
- 21 **3. Powers and duties.** The commission has the following powers and duties:
- 22 A. To establish a code of ethics for the commission;
- 23 B. To establish the fiscal year of the commission;
- 24 C. To establish fees;
- 25 D. To establish bylaws;
- 26 E. To maintain the commission's financial records in accordance with the bylaws;
- 27 F. To meet and take such actions as are consistent with the provisions of this compact
28 and the bylaws;
- 29 G. To promulgate rules to facilitate and coordinate implementation and administration
30 of this compact. Rules have the force and effect of law and are binding in all
31 participating states;
- 32 H. To bring and prosecute legal proceedings or actions in the name of the commission,
33 as long as the standing of any state licensing board to sue or be sued under applicable
34 law is not affected;
- 35 I. To purchase and maintain insurance and bonds;
- 36 J. To borrow, accept or contract for services of personnel, including, but not limited
37 to, employees of a participating state;
- 38 K. To hire employees and engage contractors, elect or appoint officers, fix
39 compensation, define duties and grant such individuals appropriate authority to carry

- 1 out the purposes of the compact and establish the commission's personnel policies and
2 programs relating to conflicts of interest, qualifications of personnel and other related
3 personnel matters;
- 4 L. To accept appropriate donations and grants of money, equipment, supplies,
5 materials and services and receive, use and dispose of the same, as long as at all times
6 the commission avoids any appearance of impropriety or conflict of interest;
- 7 M. To lease, purchase, accept appropriate gifts or donations of or otherwise own, hold,
8 improve or use any property, real, personal or mixed, as long as at all times the
9 commission avoids any appearance of impropriety;
- 10 N. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose
11 of any property, real, personal or mixed;
- 12 O. To establish a budget and make expenditures;
- 13 P. To borrow money;
- 14 Q. To appoint committees, including standing committees composed of members, state
15 regulators, state legislators or their representatives and consumer representatives and
16 such other interested persons as may be designated in this compact and the bylaws;
- 17 R. To provide information to, receive information from and cooperate with law
18 enforcement agencies;
- 19 S. To elect a chair, vice-chair, secretary and treasurer and such other officers of the
20 commission as provided in the bylaws;
- 21 T. To reserve for itself, in addition to those reserved exclusively to the commission
22 under the compact, powers that the executive committee may not exercise;
- 23 U. To approve or disapprove a state's participation in the compact based upon the
24 commission's determination as to whether the state's compact legislation departs in a
25 material manner from the model compact language;
- 26 V. To prepare and provide to the participating states an annual report; and
- 27 W. To perform such other functions as may be necessary or appropriate to achieve the
28 purposes of this compact consistent with the state regulation of physician assistant
29 licensure and practice.
- 30 **4. Meetings of commission.** Meetings of the commission are governed by this
31 subsection.
- 32 A. Except as provided in paragraphs B and C, all meetings must be open to the public
33 and public notice of meetings must be posted on the commission's publicly accessible
34 website at least 30 days prior to a public meeting.
- 35 B. The commission may convene a public meeting for any of the reasons it may
36 dispense with notice of proposed rulemaking under section 18539, subsection 12 by
37 providing at least 24 hours' notice on the commission's publicly accessible website and
38 by any other means described in the commission's rules.
- 39 C. The commission may convene in a closed, nonpublic meeting or convene in a closed
40 meeting for part of an otherwise public meeting to receive legal advice or to discuss:
- 41 (1) Noncompliance of a participating state with its obligations under the compact;

- 1 (2) Employment, compensation, discipline or other matters, practices or
2 procedures related to specific employees or other matters related to the
3 commission's internal personnel practices and procedures;
- 4 (3) Current, threatened or reasonably anticipated litigation;
- 5 (4) Negotiation of contracts for the purchase, lease or sale of goods, services or
6 real estate;
- 7 (5) Accusing any person of a crime or formally censuring any person;
- 8 (6) Disclosure of trade secrets or commercial or financial information that is
9 privileged or confidential;
- 10 (7) Disclosure of information of a personal nature when disclosure would
11 constitute a clearly unwarranted invasion of personal privacy;
- 12 (8) Disclosure of investigative records compiled for law enforcement purposes;
- 13 (9) Disclosure of information related to any investigative reports prepared by or
14 on behalf of or for use of the commission or other committee charged with
15 responsibility of investigation or determination of compliance issues pursuant to
16 the compact;
- 17 (10) Legal advice; or
- 18 (11) Matters specifically exempted from disclosure by federal or participating state
19 statute.

20 D. If a meeting, or portion of a meeting, is closed pursuant to paragraph C, the chair
21 of the meeting or the chair's designee shall certify that the meeting may be closed and
22 shall reference each relevant exempting provision.

23 E. The commission shall keep minutes that fully and clearly describe all matters
24 discussed in a meeting and shall provide a full and accurate summary of actions taken
25 and the reasons for those actions, including a description of the views expressed. All
26 documents considered in connection with an action must be identified in the minutes.
27 All minutes and documents of a closed meeting must remain under seal, subject to
28 release by a majority vote of the commission or order of a court of competent
29 jurisdiction.

30 **5. Financing of commission.** Financing of the commission is governed by this
31 subsection.

32 A. The commission shall pay, or provide for the payment of, the reasonable expenses
33 of its establishment, organization and ongoing activities.

34 B. The commission may accept any appropriate revenue sources, donations and grants
35 of money, equipment, supplies, materials and services.

36 C. The commission may levy on and collect an annual assessment from each
37 participating state or impose compact privilege fees on licensees of participating states
38 to whom a compact privilege is granted to cover the cost of the operations and activities
39 of the commission and its staff, which must be in a total amount sufficient to cover its
40 annual budget as approved each year for which revenue is not provided by other
41 sources. The aggregate annual assessment amount levied on participating states must
42 be allocated based upon a formula to be determined by commission rule.

COMMITTEE AMENDMENT

1 (1) A compact privilege expires when the licensee's qualifying license in the
2 participating state from which the licensee applied for the compact privilege
3 expires.

4 (2) If the licensee terminates the qualifying license through which the licensee
5 applied for the compact privilege before the license's scheduled expiration, and the
6 licensee has a qualifying license in another participating state, the licensee shall
7 inform the commission that the licensee is changing to that participating state the
8 participating state through which the licensee applies for a compact privilege and
9 pay to the commission any compact privilege fee required by commission rule.

10 D. The commission may not incur obligations of any kind prior to securing the funds
11 adequate to meet the obligations, and the commission may not pledge the credit of any
12 of the participating states, except by and with the authority of the participating state.

13 E. The commission shall keep accurate accounts of all receipts and disbursements.
14 The receipts and disbursements of the commission are subject to the financial review
15 and accounting procedures established under its bylaws. All receipts and disbursements
16 of funds handled by the commission are subject to an annual financial review by a
17 certified or licensed public accountant, and the report of the financial review must be
18 included in and become part of the annual report of the commission.

19 **6. Executive committee.** The establishment of an executive committee is governed
20 by this subsection.

21 A. The executive committee has the power to act on behalf of the commission
22 according to the terms of this compact and commission rules.

23 B. The executive committee is composed of up to 9 members:

24 (1) Seven voting members who are elected by the commission from the current
25 membership of the commission;

26 (2) One ex officio, nonvoting member from a recognized national professional
27 association of physician assistants; and

28 (3) One ex officio, nonvoting member from a recognized national organization that
29 certifies physician assistants.

30 The ex officio members must be selected by their respective organizations.

31 C. The commission may remove any member of the executive committee as provided
32 in bylaws.

33 D. The executive committee shall meet at least annually.

34 E. The executive committee shall:

35 (1) Recommend to the entire commission changes to the rules or bylaws, changes
36 to this compact, fees paid by participating states such as annual dues and any
37 commission compact fee charged to licensees for the compact privilege;

38 (2) Ensure compact administration services are appropriately provided, by contract
39 or otherwise;

40 (3) Prepare and recommend the commission's budget;

41 (4) Maintain financial records on behalf of the commission;

1 (5) Monitor compact compliance of participating states and provide compliance
2 reports to the commission;

3 (6) Establish additional committees as necessary;

4 (7) Exercise the powers and duties of the commission during the interim between
5 commission meetings, except for issuing proposed rulemaking or adopting
6 commission rules or bylaws or exercising any other powers and duties exclusively
7 reserved to the commission by the commission's rules; and

8 (8) Perform other duties as provided in rules or bylaws.

9 **7. Qualified immunity, defense and indemnification.** Qualified immunity, defense
10 and indemnification are governed by this subsection.

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

22 B. The commission shall defend any member, officer, executive director, employee or
23 representative of the commission in any civil action seeking to impose liability arising
24 out of any actual or alleged act, error or omission that occurred within the scope of
25 commission employment, duties or responsibilities, or as determined by the
26 commission that the person against whom the claim is made had a reasonable basis for
27 believing occurred within the scope of commission employment, duties or
28 responsibilities, except that nothing in this paragraph may be construed to prohibit that
29 person from retaining that person's own counsel, and as long as the actual or alleged
30 act, error or omission did not result from that person's intentional or willful or wanton
31 misconduct.

32 C. The commission shall indemnify and hold harmless any member, officer, executive
33 director, employee or representative of the commission for the amount of any
34 settlement or judgment obtained against that person arising out of any actual or alleged
35 act, error or omission that occurred within the scope of commission employment, duties
36 or responsibilities, or that the person had a reasonable basis for believing occurred
37 within the scope of commission employment, duties or responsibilities, as long as the
38 actual or alleged act, error or omission did not result from the intentional or willful or
39 wanton misconduct of that person.

40 D. Venue is proper and judicial proceedings by or against the commission must be
41 brought solely and exclusively in a court of competent jurisdiction where the principal
42 office of the commission is located. The commission may waive venue and
43 jurisdictional defenses in any proceedings as authorized by commission rules.

1 E. This subsection may not be construed as a limitation on the liability of any licensee
2 for professional malpractice or misconduct, which is governed solely by any other
3 applicable state laws.

4 F. This subsection may not be construed to designate the venue or jurisdiction to bring
5 actions for alleged acts of malpractice, professional misconduct, negligence or other
6 such civil action pertaining to the practice of a physician assistant. All such matters
7 must be determined exclusively by state law other than this compact.

8 G. This subsection may not be interpreted to waive or otherwise abrogate a
9 participating state's state action immunity or state action affirmative defense with
10 respect to antitrust claims under the federal Sherman Act, the federal Clayton Act or
11 any other state or federal antitrust or anticompetitive law or regulation.

12 H. This subsection may not be construed to be a waiver of sovereign immunity by the
13 participating states or by the commission.

14 **§18538. Data system**

15 **1. Data and reporting system.** The commission shall provide for the development,
16 maintenance, operation and use of a coordinated data and reporting system containing
17 licensure information, adverse action information and the reporting of any significant
18 investigative information on all licensed physician assistants and applicants denied a
19 license in participating states.

20 **2. Uniform data set submission.** Notwithstanding any provision of state law to the
21 contrary, a participating state shall submit a uniform data set to the data system on all
22 physician assistants to whom this compact is applicable, using a unique identifier, as
23 required by the rules of the commission, including:

24 A. Identifying information;

25 B. Licensure data;

26 C. Adverse actions against a license or compact privilege;

27 D. Any denial of application for licensure and the reasons for that denial, excluding
28 the reporting of any criminal history record information where prohibited by law;

29 E. The existence of significant investigative information; and

30 F. Other information that may facilitate the administration of this compact, as
31 determined by the rules of the commission.

32 **3. Significant investigative information availability.** Significant investigative
33 information pertaining to a licensee in any participating state may be made available only
34 to other participating states.

35 **4. Adverse action information.** The commission shall promptly notify all
36 participating states of any adverse action taken against a licensee or an individual applying
37 for a license. Adverse action information pertaining to a licensee in any participating state
38 must be available to any other participating state.

39 **5. Confidential information.** Participating states contributing information to the data
40 system may, in accordance with state or federal law, designate information that may not be
41 shared with the public without the express permission of the contributing state.

1 Notwithstanding any such designation, such information must be reported to the
2 commission through the data system.

3 **6. Information expungement.** Any information submitted to the data system that is
4 subsequently required to be expunged pursuant to federal law or by the laws of the
5 participating state contributing the information must be removed from the data system upon
6 reporting of such by the participating state to the commission.

7 **§18539. Rulemaking**

8 **1. Powers.** The commission shall exercise its rule-making powers pursuant to the
9 criteria set forth in this section and the rules adopted under this section. Rules and
10 amendments become binding as of the date specified in each rule or amendment.

11 **2. Promulgation.** The commission shall promulgate reasonable rules in order to
12 effectively and efficiently implement and administer this compact and achieve its purpose.
13 A commission rule is invalid and has no force or effect only if a court of competent
14 jurisdiction holds that the rule is invalid because the commission exercised its rule-making
15 authority in a manner that is beyond the scope of the purposes of the compact, or the powers
16 granted under the compact, or based upon another applicable standard of review.

17 **3. Rule conflict with law.** The rules of the commission have the force of law in each
18 participating state, except that where the rules of the commission conflict with the laws of
19 the participating state that establish the medical services a physician assistant may perform
20 in the participating state, as held by a court of competent jurisdiction, the rules of the
21 commission are ineffective in that state to the extent of the conflict.

22 **4. Rule rejection.** If a majority of the legislatures of the participating states rejects a
23 rule, by enactment of a statute or resolution in the same manner used to adopt the compact
24 within 4 years of the date of adoption of the rule, that rule has no further force and effect
25 in any participating state or in any state applying to participate in the compact.

26 **5. Rule adoption procedure.** Rules or amendments to the rules must be adopted at a
27 regular or special meeting of the commission.

28 **6. Notice.** Prior to promulgation and adoption of a final rule or rules by the
29 commission, and at least 30 days in advance of the meeting at which the rule will be
30 considered and voted upon, the commission shall file a notice of proposed rulemaking:

31 A. On the publicly accessible website of the commission or other publicly accessible
32 platform;

33 B. To persons who have requested notice of the commission's notices of proposed
34 rulemaking; and

35 C. In such other ways as the commission may specify by rule.

36 **7. Notice requirements.** The notice of proposed rulemaking must include:

37 A. The proposed time, date and location of the public hearing on the proposed rule and
38 the proposed time, date and location of the meeting at which the rule will be considered
39 and voted upon;

40 B. The text of the proposed rule and the reason for the proposed rule;

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

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

3 **8. Public comment.** Prior to adoption of a proposed rule, the commission shall allow
4 interested persons to submit written data, facts, opinions and arguments, which must be
5 made available to the public.

6 **9. Hearing by electronic means; notice.** If a hearing under this section is held via
7 electronic means, the commission shall publish the mechanism for access to the hearing.

8 A. All persons wishing to be heard at the hearing must notify the executive director of
9 the commission or other designated member in writing of their desire to appear and
10 testify at the hearing not less than 5 business days before the scheduled date of the
11 hearing.

12 B. Hearings must be conducted in a manner providing each person who wishes to
13 comment a fair and reasonable opportunity to comment orally or in writing.

14 C. All hearings must be recorded. A copy of the recording and the written data, facts,
15 opinions and arguments received in response to the proposed rulemaking must be made
16 available on request.

17 D. Nothing in this section may be construed as requiring a separate hearing on each
18 rule. Rules may be grouped for the convenience of the commission at hearings required
19 by this section.

20 **10. Consideration.** Following a public hearing under this section, the commission
21 shall consider all written and oral comments timely received.

22 **11. Final action.** The commission shall, by majority vote of all members, take final
23 action on the proposed rule and shall determine the effective date of the rule, if adopted,
24 based on the rule-making record and the full text of the rule.

25 A. If adopted, the rule must be posted on the commission's publicly accessible website.

26 B. The commission may adopt changes to the proposed rule as long as the changes do
27 not broaden the original purpose of the proposed rule.

28 C. The commission shall provide on its publicly accessible website an explanation of
29 the reasons for substantive changes made to the proposed rule as well as reasons for
30 substantive changes not made that were recommended by persons who submitted
31 comments described in subsection 10.

32 D. The commission shall determine a reasonable effective date for the rule. Except for
33 an emergency as provided in subsection 12, the effective date of the rule may not be
34 earlier than 30 days after the commission issues the notice that it has adopted the rule.

35 **12. Emergency rulemaking.** Upon determination that an emergency exists, the
36 commission may consider and adopt an emergency rule with 24 hours' notice, without the
37 opportunity for comment or hearing, as long as the usual rule-making procedures provided
38 in the compact and in this section are retroactively applied to the rule as soon as reasonably
39 possible, in no event later than 90 days after the effective date of the rule. For the purposes
40 of this subsection, "emergency rule" means a rule that must be adopted immediately in
41 order to:

42 A. Meet an imminent threat to public health, safety or welfare;

- 1 B. Prevent a loss of commission or participating state funds;
- 2 C. Meet a deadline for the promulgation of an administrative rule that is established
- 3 by federal law or rule; or
- 4 D. Protect public health and safety.

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

15 **14. Application of participating state requirements.** Notwithstanding any provision
16 of law to the contrary, a participating state's rule-making requirements do not apply under
17 this compact.

18 **§18540. Oversight, dispute resolution and enforcement**

19 **1. Oversight.** Oversight of the compact is governed by this subsection.

20 A. The executive and judicial branches of state government in each participating state
21 shall enforce this compact and take all actions necessary and appropriate to implement
22 the compact.

23 B. Venue is proper and judicial proceedings by or against the commission must be
24 brought solely and exclusively in a court of competent jurisdiction where the principal
25 office of the commission is located. The commission may waive venue and
26 jurisdictional defenses to the extent it adopts or consents to participate in alternative
27 dispute resolution proceedings. Nothing in this paragraph affects or limits the selection
28 or propriety of venue in any action against a licensee for professional malpractice,
29 misconduct or any such similar matter.

30 C. The commission is entitled to receive service of process in any proceeding regarding
31 the enforcement or interpretation of the compact or the commission's rules and has
32 standing to intervene in such a proceeding for all purposes. Failure to provide the
33 commission with service of process renders a judgment or order in such a proceeding
34 void as to the commission, this compact or commission rules.

35 **2. Default and technical assistance.** If the commission determines that a participating
36 state has defaulted in the performance of its obligations or responsibilities under this
37 compact or the commission rules, the commission shall:

38 A. Provide written notice to the defaulting state and other participating states. The
39 notice must describe the default, the proposed means of curing the default and any
40 other action that the commission may take; and

41 B. Provide remedial training and specific technical assistance regarding the default.

1 **3. Termination from compact.** If a state in default fails to cure the default, the
2 defaulting state may be terminated from the compact upon an affirmative vote of a majority
3 of the participating states, and all rights, privileges and benefits conferred by this compact
4 may be terminated on the effective date of termination. A cure of the default does not
5 relieve the offending state of obligations or liabilities incurred during the period of default.

6 **4. Termination regulation.** Termination of participation in the compact may be
7 imposed only after all other means of securing compliance have been exhausted. Notice
8 of intent to suspend or terminate must be given by the commission to the governor, the
9 majority and minority leaders of the defaulting state's legislature and to the licensing boards
10 of each of the participating states.

11 **5. Responsibilities after termination.** A state that has been terminated is responsible
12 for all assessments, obligations and liabilities incurred through the effective date of
13 termination, including obligations that extend beyond the effective date of termination.

14 **6. Costs.** The commission may not bear any costs related to a state that is found to be
15 in default or that has been terminated from the compact, unless agreed upon in writing
16 between the commission and the defaulting state.

17 **7. Appeal.** A defaulting state that has been terminated may appeal its termination
18 from the compact by the commission by petitioning the United States District Court for the
19 District of Columbia or the federal district where the commission has its principal offices.
20 The prevailing member must be awarded all costs of that litigation, including reasonable
21 attorney's fees.

22 **8. Notice of termination to licensees.** Upon the termination of a state's participation
23 in the compact, that state shall immediately provide notice to all licensees within that state
24 of the termination and that:

25 A. Licensees who have been granted a compact privilege in that state retain the compact
26 privilege for 180 days following the effective date of the termination; and

27 B. A licensee who is licensed in that state who has been granted a compact privilege in
28 a participating state retains the compact privilege for 180 days unless the licensee also
29 has a qualifying license in a participating state or obtains a qualifying license in a
30 participating state before the 180-day period ends, in which case the compact privilege
31 continues.

32 **9. Dispute resolution.** Dispute resolution is governed by this subsection.

33 A. Upon request by a participating state, the commission shall attempt to resolve
34 disputes related to the compact that arise among participating states and between
35 participating and nonparticipating states.

36 B. The commission shall promulgate a rule providing for both mediation and binding
37 dispute resolution for disputes as appropriate.

38 **10. Enforcement.** Enforcement of the compact is governed by this subsection.

39 A. The commission, in the reasonable exercise of its discretion, shall enforce the
40 provisions of the compact and the rules of the commission.

41 B. If compliance is not secured after all means to secure compliance have been
42 exhausted, the commission may, by majority vote, initiate legal action in the United

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

7 C. The remedies in this subsection are not the exclusive remedies of the commission.
8 The commission may pursue any other remedies available under federal or state law.

9 **11. Legal action against commission.** Legal action against the commission is
10 governed by this subsection.

11 A. A participating state may initiate legal action against the commission in the United
12 States District Court for the District of Columbia or the federal district where the
13 commission has its principal offices to enforce compliance with the provisions of the
14 compact and its rules. The relief sought may include both injunctive relief and
15 damages. If judicial enforcement is necessary, the prevailing party must be awarded all
16 costs of such litigation, including reasonable attorney's fees.

17 B. A person other than a participating state may not enforce this compact against the
18 commission.

19 **§18541. Date of implementation of compact; commission and associated rules,**
20 **withdrawal and amendment**

21 **1. Effective date.** The compact takes effect on the date on which the compact statute
22 is enacted into law in the 7th participating state.

23 A. On or after the effective date of the compact, the commission shall convene and
24 review the enactment of each of the states that enacted the compact prior to the
25 commission convening, referred to in this subsection as "a charter participating state,"
26 to determine whether the statute enacted by each charter participating state is materially
27 different from the model compact.

28 (1) A charter participating state whose enactment is found to be materially different
29 from the model compact is entitled to the default process set forth in section 18540,
30 subsection 2.

31 (2) If a participating state later withdraws from the compact or its participation is
32 terminated, the commission remains in existence and the compact remains in effect
33 even if the number of participating states is less than 7. Participating states enacting
34 the compact subsequent to the commission convening are subject to the process set
35 forth in section 18537, subsection 3, paragraph U to determine whether their
36 enactments are materially different from the model compact and whether they
37 qualify for participation in the compact.

38 B. Participating states enacting the compact subsequent to the 7 initial charter
39 participating states are subject to the process set forth in section 18537, subsection 3,
40 paragraph U to determine whether their enactments are materially different from the
41 model compact and whether they qualify for participation in the compact.

42 C. All actions taken for the benefit of the commission or in furtherance of the purposes
43 of the administration of the compact prior to the effective date of the compact or the

1 commission coming into existence must be considered to be actions of the commission
2 unless specifically repudiated by the commission.

3 **2. Subsequent participating states.** A state that joins the compact subsequent to the
4 commission's initial adoption of rules is subject to the rules as they exist on the date on
5 which the compact becomes law in that state. A rule that has been previously adopted by
6 the commission has the full force and effect of law on the date the compact becomes law
7 in that state.

8 **3. Withdrawal.** A participating state may withdraw from this compact by enacting a
9 statute repealing the compact.

10 A. A participating state's withdrawal does not take effect until 180 days after enactment
11 of the repealing statute. During this 180-day period, all compact privileges that were
12 in effect in the withdrawing state and were granted to licensees licensed in the
13 withdrawing state remain in effect. If a licensee licensed in the withdrawing state is
14 also licensed in another participating state or obtains a license in another participating
15 state within the 180 days, the licensee's compact privileges in other participating states
16 are not affected by the passage of the 180 days.

17 B. Withdrawal does not affect the continuing requirement of the state licensing board
18 or boards of the withdrawing state to comply with the investigative and adverse action
19 reporting requirements of this compact prior to the effective date of withdrawal.

20 C. Upon the enactment of a statute withdrawing a state from this compact, that state
21 shall immediately provide notice of the withdrawal to all licensees within that state.
22 The withdrawing state shall continue to recognize all licenses granted pursuant to this
23 compact for a minimum of 180 days after the date of the notice of withdrawal.

24 **4. Other agreements or arrangements.** Nothing contained in this compact may be
25 construed to invalidate or prevent any physician assistant licensure agreement or other
26 cooperative arrangement between participating states or between a participating state and
27 a nonparticipating state that does not conflict with the provisions of this compact.

28 **5. Amendment.** This compact may be amended by the participating states. An
29 amendment to this compact does not become effective and binding upon any participating
30 state until it is enacted into the laws of all participating states as determined by the
31 commission.

32 **§18542. Construction and severability**

33 **1. Construction.** This compact and the commission's rule-making authority must be
34 liberally construed so as to effectuate the purposes of the compact. Provisions of the
35 compact expressly authorizing or requiring the promulgation of rules may not be construed
36 to limit the commission's rule-making authority solely for those purposes.

37 **2. Severability.** The provisions of this compact are severable and if any phrase, clause,
38 sentence or provision of this compact is held by a court of competent jurisdiction to be
39 contrary to the constitution of any participating state, a state seeking participation in the
40 compact or the United States, or the applicability of a phrase, clause, sentence or provision
41 of this compact to any government, agency, person or circumstance is held to be
42 unconstitutional by a court of competent jurisdiction, the validity of the remainder of this
43 compact and the applicability of the compact to any other government, agency, person or
44 circumstance may not be affected.

1 **3. Denial of participation.** Notwithstanding subsections 1 and 2, the commission
 2 may deny a state's participation in the compact or, in accordance with the requirements of
 3 section 18540, terminate a participating state's participation in the compact if it determines
 4 that a constitutional requirement of a participating state is, or would be with respect to a
 5 state seeking to participate in the compact, a material departure from the compact.
 6 Otherwise, if this compact is held to be contrary to the constitution of any participating
 7 state, the compact remains in full force and effect as to the remaining participating states
 8 and in full force and effect as to the participating state affected as to all severable matters.

9 **§18543. Binding effect of compact and other laws**

10 **1. Enforcement.** Nothing in this chapter prevents the enforcement of any other law
 11 of a participating state that is not inconsistent with the compact.

12 **2. Conflict.** Any laws in a participating state in conflict with the compact are
 13 superseded to the extent of the conflict.

14 **3. Binding agreements.** All permissible agreements between the commission and the
 15 participating states are binding in accordance with their terms.

16 **§18544. Legislative intent**

17 This compact is the Maine enactment of the Physician Assistants Licensure Compact.
 18 The form, format and text of the compact have been changed minimally so as to conform
 19 to Maine statutory conventions. The changes are technical in nature and it is the intent of
 20 the Legislature that this compact be interpreted as substantively the same as the compact
 21 that is enacted by other participating states.

22 **Sec. 2. Appropriations and allocations.** The following appropriations and
 23 allocations are made.

24 **PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**
 25 **Administrative Services - Professional and Financial Regulation 0094**

26 Initiative: Allocates one-time funds for the STA-CAP and technology costs associated with
 27 implementing the compact for licensing physician assistants.

28 OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
29 All Other	\$0	\$106,350
30		
31 OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$106,350

32 **Licensure in Medicine - Board of 0376**

33 Initiative: Allocates funds for one Comprehensive Health Planner II position and related
 34 All Other costs to manage increased responsibilities including application review for
 35 compact privilege, compact compliance, compact reporting, joint investigations and
 36 discipline reporting.

37 OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
38 POSITIONS - LEGISLATIVE COUNT	0.000	1.000
39 Personal Services	\$0	\$95,584
40 All Other	\$0	\$11,072
41		
42 OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$106,656

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Licensure in Medicine - Board of 0376

Initiative: Allocates funds for the STA-CAP and rule-making costs associated with implementing the compact for licensing physician assistants.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
All Other	\$0	\$2,660
	\$0	\$2,660

Osteopathic Licensure - Board of 0383

Initiative: Allocates funds for the STA-CAP and rule-making costs associated with implementing the compact for licensing physician assistants.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
All Other	\$0	\$1,962
	\$0	\$1,962

**PROFESSIONAL AND FINANCIAL
REGULATION, DEPARTMENT OF
DEPARTMENT TOTALS**

	2023-24	2024-25
OTHER SPECIAL REVENUE FUNDS	\$0	\$217,628
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$217,628

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill, which is a concept draft. The amendment enacts the Physician Assistants Licensure Compact, which provides a mechanism to facilitate interstate practice by licensed physician assistants in order to improve public access to the services of physician assistants. The form, format and text of the Physician Assistants Licensure Compact have been changed minimally so as to conform to Maine statutory conventions. The changes are technical in nature and it is the intent of the Legislature that this compact be interpreted as substantively the same as the Physician Assistants Licensure Compact that is enacted by other participating states.

FISCAL NOTE REQUIRED

(See attached)