

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-FOUR

—  
H.P. 1305 - L.D. 2043

**An Act to Add the State of Maine to the Compact for Licensing Physician Assistants**

Be it enacted by the People of the State of Maine as follows:

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.

**§18532. Definitions**

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

**1. Adverse action.** "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's license, license application or privilege to practice, such as license denial, censure, revocation, suspension, probation, monitoring of the licensee or restriction on the licensee's practice.

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

**3. Compact privilege.** "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.

**4. Conviction.** "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 guilty or no contest to the charge by the offender.

**5. Criminal background check.** "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 Code of Federal Regulations, Section 20.3(d), from the state's criminal history record repository, as defined in 28 Code of Federal Regulations, Section 20.3(f).

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

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

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

**9. Jurisprudence requirement.** "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.

**10. License.** "License" means the 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.

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

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

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

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

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

**16. Physician assistant.** "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" is deemed synonymous with "physician assistant" and confers the same rights and responsibilities to the licensee under the provisions of this compact at the time of its enactment.

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

**18. Remote state.** "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.

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

**20. Significant investigative information.** "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.

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

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

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

A. License physician assistants;

B. Participate in the commission's data system;

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

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

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

F. Comply with the rules of the commission;

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

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

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

**§18534. Compact privilege**

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

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

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

C. Have no felony or misdemeanor conviction;

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

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

F. Hold a qualifying license;

G. Have not had a revocation of a license or a limitation or restriction on any license currently held due to an adverse action. If a licensee has had a limitation or restriction on a license or compact privilege due to an adverse action, 2 years must have elapsed from the date on which the license or compact privilege is no longer limited or restricted due to the adverse action. 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 has the discretion not to consider such action as an adverse action requiring the denial or removal of a compact privilege in that state;

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

I. 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

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

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

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

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

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

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

**§18535. Designation of state from which licensee is applying for 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 subject to the following requirements.

**1. Primary residence.** 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.

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

**§18536. Adverse actions**

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

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

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

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

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

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

**4. Lawful conduct; disciplinary action.** 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.

**5. Reported conduct.** 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, the participating state shall apply its own state laws to determine appropriate action.

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

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

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

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

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

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

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

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

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

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

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

A. Each participating state has and is 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.

B. The delegate must be either:

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

(2) An administrator of a licensing board.

C. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

D. The participating state licensing board shall fill any vacancy occurring on the commission within 60 days.

E. Each delegate is entitled to one vote with regard to the promulgation of rules and creation of bylaws and must otherwise have an opportunity to participate in the business and affairs of the commission.

F. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telecommunications, videoconference or other means of communication.

G. The commission shall meet at least once during each calendar year. Additional meetings must be held as set forth in this compact and the bylaws.

H. The commission shall by rule establish a term of office for delegates.

**3. Powers and duties.** The commission has the following powers and duties:

A. To establish a code of ethics for the commission;

B. To establish the fiscal year of the commission;

C. To establish fees;

D. To establish bylaws;

E. To maintain the commission's financial records in accordance with the bylaws;

F. To meet and take such actions as are consistent with the provisions of this compact and the bylaws;

G. To promulgate rules to facilitate and coordinate implementation and administration of this compact. Rules have the force and effect of law and are binding in all participating states;

H. To bring and prosecute legal proceedings or actions in the name of the commission, as long as the standing of any state licensing board to sue or be sued under applicable law is not affected;

I. To purchase and maintain insurance and bonds;

J. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a participating state;

K. To hire employees and engage contractors, elect or appoint officers, fix compensation, define duties and grant such individuals appropriate authority to carry

out the purposes of the compact and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

L. To accept appropriate donations and grants of money, equipment, supplies, materials and services and receive, use and dispose of the same, as long as at all times the commission avoids any appearance of impropriety or conflict of interest;

M. To lease, purchase, accept appropriate gifts or donations of or otherwise own, hold, improve or use any property, real, personal or mixed, as long as at all times the commission avoids any appearance of impropriety;

N. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

O. To establish a budget and make expenditures;

P. To borrow money;

Q. To appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives and consumer representatives and such other interested persons as may be designated in this compact and the bylaws;

R. To provide information to, receive information from and cooperate with law enforcement agencies;

S. To elect a chair, vice-chair, secretary and treasurer and such other officers of the commission as provided in the bylaws;

T. To reserve for itself, in addition to those reserved exclusively to the commission under the compact, powers that the executive committee may not exercise;

U. To approve or disapprove a state's participation in the compact based upon the commission's determination as to whether the state's compact legislation departs in a material manner from the model compact language;

V. To prepare and provide to the participating states an annual report; and

W. To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of physician assistant licensure and practice.

**4. Meetings of commission.** Meetings of the commission are governed by this subsection.

A. Except as provided in paragraphs B and C, all meetings must be open to the public and public notice of meetings must be posted on the commission's publicly accessible website at least 30 days prior to a public meeting.

B. The commission may convene a public meeting for any of the reasons it may dispense with notice of proposed rulemaking under section 18539, subsection 12 by providing at least 24 hours' notice on the commission's publicly accessible website and by any other means described in the commission's rules.

C. The commission may convene in a closed, nonpublic meeting or convene in a closed meeting for part of an otherwise public meeting to receive legal advice or to discuss:

(1) Noncompliance of a participating state with its obligations under the compact;

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

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

E. 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 and the reasons for those actions, including a description of the views expressed. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

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

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

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

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

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

(2) If the licensee terminates the qualifying license through which the licensee applied for the compact privilege before the license's 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 the participating state through which the licensee applies for a compact privilege and pay to the commission any compact privilege fee required by commission rule.

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

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

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

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

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

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

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

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

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

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

D. The executive committee shall meet at least annually.

E. The executive committee shall:

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

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

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

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

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

(6) Establish additional committees as necessary;

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

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

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

A. The members, officers, executive director, employees and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties or responsibilities, except that nothing in this paragraph may 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 may not in any way compromise or limit the immunity granted under this subsection.

B. The commission shall defend any member, officer, executive director, employee or 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, except that nothing in this paragraph may be construed to prohibit that person from retaining that person's own counsel, and as long as the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct.

C. The commission shall indemnify and hold harmless any member, officer, executive director, employee or 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, as long as the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

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

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

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

G. This subsection may not 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, the federal Clayton Act or any other state or federal antitrust or anticompetitive law or regulation.

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

### **§18538. Data system**

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

**2. Uniform data set submission.** Notwithstanding any provision of 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:

A. Identifying information;

B. Licensure data;

C. Adverse actions against a license or compact privilege;

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

E. The existence of significant investigative information; and

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

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

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

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

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

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

### **§18539. Rulemaking**

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

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

**3. Rule conflict with law.** The rules of the commission have the force of law in each participating state, except that where 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 are ineffective in that state to the extent of the conflict.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**5. Responsibilities after termination.** 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.

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

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

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

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

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

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

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

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

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

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

**B.** If compliance is not secured after all means to secure compliance have been exhausted, the commission may, by majority vote, 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 rules and bylaws. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. Withdrawal does 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 this compact prior to the effective date of withdrawal.

C. Upon the enactment of a statute withdrawing a state from this compact, that 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 180 days after the date of the notice of withdrawal.

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

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

#### **§18542. Construction and severability**

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

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

**3. Denial of participation.** Notwithstanding subsections 1 and 2, the commission may deny a state's participation in the compact or, in accordance with the requirements of section 18540, 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 is held to be contrary to the constitution of any participating state, the compact remains 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.

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

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

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

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

**§18544. Legislative intent**

This compact is the Maine enactment of the Physician Assistants Licensure Compact. The form, format and text of the 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 compact that is enacted by other participating states.

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

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

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

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2023-24</b>	<b>2024-25</b>
All Other	\$0	\$106,350
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$106,350</b>

**Licensure in Medicine - Board of 0376**

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

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2023-24</b>	<b>2024-25</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$95,584
All Other	\$0	\$11,072
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$106,656</b>

**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.

	<b>2023-24</b>	<b>2024-25</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>		
All Other	\$0	\$2,660
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$0</u>	<u>\$2,660</u>

**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.

	<b>2023-24</b>	<b>2024-25</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>		
All Other	\$0	\$1,962
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$0</u>	<u>\$1,962</u>

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

	<b>2023-24</b>	<b>2024-25</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	\$0	\$217,628
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<u>\$0</u>	<u>\$217,628</u>