

§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. [PL 2023, c. 670, §1 (NEW).]

B. The commission comes into existence on or after the effective date of the compact as set forth in section 18541. [PL 2023, c. 670, §1 (NEW).]
[PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

C. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. [PL 2023, c. 670, §1 (NEW).]

D. The participating state licensing board shall fill any vacancy occurring on the commission within 60 days. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

H. The commission shall by rule establish a term of office for delegates. [PL 2023, c. 670, §1 (NEW).]
[PL 2023, c. 670, §1 (NEW).]

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

A. To establish a code of ethics for the commission; [PL 2023, c. 670, §1 (NEW).]

B. To establish the fiscal year of the commission; [PL 2023, c. 670, §1 (NEW).]

C. To establish fees; [PL 2023, c. 670, §1 (NEW).]

D. To establish bylaws; [PL 2023, c. 670, §1 (NEW).]

E. To maintain the commission's financial records in accordance with the bylaws; [PL 2023, c. 670, §1 (NEW).]

F. To meet and take such actions as are consistent with the provisions of this compact and the bylaws; [PL 2023, c. 670, §1 (NEW).]

- 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; [PL 2023, c. 670, §1 (NEW).]
- 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; [PL 2023, c. 670, §1 (NEW).]
- I. To purchase and maintain insurance and bonds; [PL 2023, c. 670, §1 (NEW).]
- J. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a participating state; [PL 2023, c. 670, §1 (NEW).]
- 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; [PL 2023, c. 670, §1 (NEW).]
- 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; [PL 2023, c. 670, §1 (NEW).]
- 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; [PL 2023, c. 670, §1 (NEW).]
- N. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed; [PL 2023, c. 670, §1 (NEW).]
- O. To establish a budget and make expenditures; [PL 2023, c. 670, §1 (NEW).]
- P. To borrow money; [PL 2023, c. 670, §1 (NEW).]
- 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; [PL 2023, c. 670, §1 (NEW).]
- R. To provide information to, receive information from and cooperate with law enforcement agencies; [PL 2023, c. 670, §1 (NEW).]
- S. To elect a chair, vice-chair, secretary and treasurer and such other officers of the commission as provided in the bylaws; [PL 2023, c. 670, §1 (NEW).]
- 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; [PL 2023, c. 670, §1 (NEW).]
- 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; [PL 2023, c. 670, §1 (NEW).]
- V. To prepare and provide to the participating states an annual report; and [PL 2023, c. 670, §1 (NEW).]
- 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. [PL 2023, c. 670, §1 (NEW).]
[PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

[PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

B. The commission may accept any appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

[PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

C. The commission may remove any member of the executive committee as provided in bylaws. [PL 2023, c. 670, §1 (NEW).]

D. The executive committee shall meet at least annually. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]
[PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

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. [PL 2023, c. 670, §1 (NEW).]

H. This subsection may not be construed to be a waiver of sovereign immunity by the participating states or by the commission. [PL 2023, c. 670, §1 (NEW).]
[PL 2023, c. 670, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 670, §1 (NEW).

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