

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE PA LICENSURE COMPACT; PROVIDING FOR A  
5 COMPACT PRIVILEGE FOR PHYSICIAN ASSISTANTS; PROVIDING DEFINITIONS; PROVIDING  
6 RULEMAKING AUTHORITY; REQUIRING CRIMINAL BACKGROUND CHECKS FOR LICENSURE; AND  
7 AMENDING SECTION 37-20-402, MCA."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10  
11 NEW SECTION. **Section 1. Enactment -- provisions.** The PA licensure compact is enacted into law  
12 and entered into with all jurisdictions legally joining the compact, in the form substantially as follows:

13 SECTION 1

14 PURPOSE

15 In order to strengthen access to medical services, and in recognition of the advances in the delivery of  
16 medical services, the participating states of the PA licensure compact have allied in common purpose to  
17 develop a comprehensive process that complements the existing authority of state licensing boards to license  
18 and discipline PAs and seeks to enhance the portability of a license to practice as a PA while safeguarding the  
19 safety of patients. This compact allows medical services to be provided by PAs, via the mutual recognition of  
20 the licensee's qualifying license by other compact participating states. This compact also adopts the prevailing  
21 standard for PA licensure and affirms that the practice and delivery of medical services by the PA occurs where  
22 the patient is located at the time of the patient encounter and therefore requires the PA to be under the  
23 jurisdiction of the state licensing board where the patient is located. State licensing boards that participate in  
24 this compact retain the jurisdiction to impose adverse action against a compact privilege in that state issued to  
25 a PA through the procedures of this compact. The PA licensure compact will alleviate burdens for military  
26 families by allowing active duty military personnel and their spouses to obtain a compact privilege based on  
27 having an unrestricted license in good standing from a participating state.

28 SECTION 2

## DEFINITIONS

(1) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a PA license or license application or compact privilege, such as license denial, censure, revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.

(2) "Compact privilege" means the authorization granted by a remote state to allow a licensee from another participating state to practice as a PA to provide medical services and other licensed activity to a patient located in the remote state under the remote state's laws and regulations.

(3) "Conviction" means a finding by a court that an individual is guilty of a felony or misdemeanor offense through adjudication or entry of a plea of guilt or no contest to the charge by the offender.

(4) "Criminal background check" means the submission of fingerprints or other biometric-based information for a license applicant for the purpose of obtaining that applicant's criminal history record information, as defined in 28 CFR 20.3(d), from the state's criminal history record repository as defined in 28 CFR 20.3(f).

(5) "Data system" means the repository of information about licensees, including but not limited to license status and adverse actions, which is created and administered under the terms of this compact.

(6) "Executive committee" means a group of directors and ex-officio individuals elected or appointed pursuant to section 7(6)(a).

(7) "Impaired practitioner" means a PA whose practice is adversely affected by one or more health-related conditions that impact the PA's ability to practice.

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

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

(10) "License" means current authorization by a state, other than authorization pursuant to a compact privilege, for a PA to provide medical services that would be unlawful without current authorization.

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

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

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

(14) "Model compact" means the model for the PA licensure compact on file with the council of state governments or other entity as designated by the commission.

(15) "Participating state" means a state that has enacted this compact.

(16) "PA" 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" must be deemed synonymous with "physician assistant" and must confer the same rights and responsibilities to the licensee under the provisions of this compact at the time of its enactment.

(17) "PA licensure compact commission," "compact commission," or "commission" means the national administrative body created pursuant to section 7(1) of this compact.

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

(19) "Remote state" means a participating state where a licensee who is not licensed as a PA is exercising or seeking to exercise the compact privilege.

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

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

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

### SECTION 3

#### STATE PARTICIPATION IN THIS COMPACT

(1) To participate in this compact, a participating state shall:

(a) license PAs;

(b) participate in the compact commission's data system;

(c) have a mechanism in place for receiving and investigating complaints against licensees and

1 license applicants;

2 (d) notify the commission, in compliance with the terms of this compact and commission rules, of  
3 any adverse action against a licensee or license applicant and the existence of significant investigative  
4 information regarding a licensee or license applicant;

5 (e) fully implement a criminal background check requirement, within a time frame established by  
6 commission rule, by its licensing board receiving the results of a criminal background check and reporting to the  
7 commission whether the license applicant has been granted a license;

8 (f) comply with the rules of the compact commission;

9 (g) utilize passage of a recognized national exam such as the physician assistant national  
10 certifying examination (PANCE) through the national commission on certification of physician assistants  
11 (NCCPA) as a requirement for PA licensure;

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

13 (2) Nothing in this compact prohibits a participating state from charging a fee for granting the  
14 compact privilege.

#### 15 SECTION 4

#### 16 COMPACT PRIVILEGE

17 (1) To exercise the compact privilege, a licensee:

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

20 (b) must hold a current NCCPA certification;

21 (c) must have had no felony or misdemeanor conviction;

22 (d) must have never had a controlled substance license, permit, or registration suspended or  
23 revoked by a state or by the United States drug enforcement administration;

24 (e) must have a unique identifier as determined by commission rule;

25 (f) must hold a qualifying license;

26 (g) must have had no revocation of a license or limitation or restriction on any license currently  
27 held due to an adverse action and:

28 (i) 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;

(ii) 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 may have the discretion not to consider the action as an adverse action requiring the denial or removal of a compact privilege in that state;

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

(i) must 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) shall report to the commission any adverse action taken by a nonparticipating state within 30 days after the action is taken.

(2) The compact privilege is valid until the expiration or revocation of the qualifying license unless terminated pursuant to an adverse action. The licensee must also comply with all of the requirements of subsection (1) above to maintain the compact privilege in a remote state. If the participating state takes adverse action against a qualifying license, the licensee must lose 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) 2 years have elapsed from the date on which the license is no longer limited or restricted due to the adverse action.

(3) Once a restricted or limited license satisfies the requirements of subsections (2)(a) and (2)(b), the licensee must meet the requirements of subsection (1) to obtain a compact privilege in any remote state.

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

## SECTION 5

### DESIGNATION OF THE STATE FROM WHICH LICENSEE IS APPLYING FOR A COMPACT PRIVILEGE

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

(1) When applying for a compact privilege, the licensee shall provide the commission with the address of the licensee's primary residence and thereafter shall immediately report to the commission any change in the address of the licensee's primary residence.

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

## SECTION 6

## ADVERSE ACTIONS

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

(2) (a) 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 do all of the following:

(i) take adverse action against a PA's compact privilege within that state to remove a licensee's compact privilege or take other action necessary under applicable law to protect the health and safety of its citizens;

(ii) 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 latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(b) Notwithstanding subsection (2)(a)(ii), 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

1 action against a licensee's compact privilege or application for a compact privilege in that participating state.

2 (3) Nothing in this compact authorizes a participating state to impose discipline against a PA's  
3 compact privilege or to deny an application for a compact privilege in that participating state for the individual's  
4 otherwise lawful practice in another state.

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

9 (5) A participating state, if otherwise permitted by state law, may recover from the affected PA the  
10 costs of investigations and disposition of cases resulting from any adverse action taken against that PA.

11 (6) A participating state may take adverse action based on the factual findings of a remote state,  
12 provided that the participating state follows its own procedures for taking the adverse action.

13 (7) Joint investigations:

14 (a) In addition to the authority granted to a participating state by its respective state PA laws and  
15 regulations or other applicable state law, any participating state may participate with other participating states in  
16 joint investigations of licensees.

17 (b) Participating states must share any investigative, litigation, or compliance materials in  
18 furtherance of any joint or individual investigation initiated under this compact.

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

24 (9) If any participating state takes adverse action, it shall promptly notify the administrator of the  
25 data system.

## 26 SECTION 7

### 27 ESTABLISHMENT OF THE PA LICENSURE COMPACT COMMISSION

28 (1) The participating states hereby create and establish a joint government agency and national

1 administrative body known as the PA licensure compact commission. The commission is an instrumentality of  
2 the compact states acting jointly and not an instrumentality of any one state. The commission shall come into  
3 existence on or after the effective date of the compact as set forth in section 11(1).

4 (2) Membership, voting, and meetings:

5 (a) Each participating state must have and be limited to one delegate selected by that participating  
6 state's licensing board or, if the state has more than one licensing board, selected collectively by the  
7 participating state's licensing boards.

8 (b) The delegate must be either:

9 (i) a current PA, physician or public member of a licensing board or PA council or committee; or

10 (ii) an administrator of a licensing board.

11 (c) Any delegate may be removed or suspended from office as provided by the laws of the state  
12 from which the delegate is appointed.

13 (d) The participating state licensing board shall fill any vacancy occurring in the commission within  
14 60 days.

15 (e) Each delegate is entitled to one vote on all matters voted on by the commission and may  
16 otherwise have an opportunity to participate in the business and affairs of the commission. A delegate shall  
17 vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates'  
18 participation in meetings by telecommunications, videoconference, or other means of communication.

19 (f) The commission shall meet at least once during each calendar year. Additional meetings may  
20 be held as set forth in this compact and the bylaws.

21 (g) The commission shall establish by rule a term of office for delegates.

22 (3) The commission has the following powers and duties:

23 (a) establish a code of ethics for the commission;

24 (b) establish the fiscal year of the commission;

25 (c) establish fees;

26 (d) establish bylaws;

27 (e) maintain its financial records in accordance with the bylaws;

28 (f) meet and take such actions as are consistent with the provisions of this compact and the



1 bylaws;

2 (g) promulgate rules to facilitate and coordinate implementation and administration of this compact.

3 The rules have the force and effect of law and are binding in all participating states.

4 (h) bring and prosecute legal proceedings or actions in the name of the commission, provided that  
5 the standing of any state licensing board to sue or be sued under applicable law is not affected;

6 (i) purchase and maintain insurance and bonds;

7 (j) borrow, accept, or contract for services of personnel, including but not limited to employees of a  
8 participating state;

9 (k) hire employees and engage contractors, elect or appoint officers, fix compensation, define  
10 duties, grant such individuals appropriate authority to carry out the purposes of this compact, and establish the  
11 commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and  
12 other related personnel matters;

13 (l) accept any and all appropriate donations and grants of money, equipment, supplies, materials  
14 and services, and receive, utilize, and dispose of the same, provided that at all times the commission shall  
15 avoid any appearance of impropriety or conflict of interest;

16 (m) lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or  
17 use, any property, real, personal or mixed, provided that at all times the commission shall avoid any  
18 appearance of impropriety;

19 (n) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any  
20 property that is real, personal, or mixed;

21 (o) establish a budget and make expenditures;

22 (p) borrow money;

23 (q) appoint committees, including standing committees composed of members, state regulators,  
24 state legislators or their representatives, and consumer representatives, and such other interested persons as  
25 may be designated in this compact and the bylaws;

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

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

1 (t) reserve for itself, in addition to those reserved exclusively to the commission under the  
2 compact, powers that the executive committee may not exercise;

3 (u) approve or disapprove a state's participation in the compact based upon its determination as to  
4 whether the state's compact legislation departs in a material manner from the model compact language;

5 (v) prepare and provide to the participating states an annual report; and

6 (w) perform such other functions as may be necessary or appropriate to achieve the purposes of  
7 this compact consistent with the state regulation of PA licensure and practice.

8 (4) Meetings of the commission:

9 (a) All meetings of the commission that are not closed pursuant to this subsection (4) must be  
10 open to the public. Notice of public meetings must be posted on the commission's website at least 30 days prior  
11 to the public meeting.

12 (b) Notwithstanding subsection (4)(a) of this section, the commission may convene a public  
13 meeting by providing at least 24 hours' prior notice on the commission's website, and any other means as  
14 provided in the commission's rules, for any of the reasons it may dispense with notice of proposed rulemaking  
15 under section 9(12).

16 (c) The commission may convene in a closed, nonpublic meeting or nonpublic part of a public  
17 meeting to receive legal advice or to discuss:

18 (i) noncompliance of a participating state with its obligations under this compact;

19 (ii) the employment, compensation, discipline, or other matters, practices, or procedures related to  
20 specific employees or other matters related to the commission's internal personnel practices and procedures;

21 (iii) current, threatened, or reasonably anticipated litigation;

22 (iv) negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

23 (v) accusing any person of a crime or formally censuring any person;

24 (vi) disclosure of trade secrets or commercial or financial information that is privileged or  
25 confidential;

26 (vii) disclosure of information of a personal nature when disclosure would constitute a clearly  
27 unwarranted invasion of personal privacy;

28 (viii) disclosure of investigative records compiled for law enforcement purposes;

(ix) 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 this compact;

(x) legal advice; or

(xi) matters specifically exempted from disclosure by federal or participating states' statutes.

(d) If a meeting or portion of a meeting is closed pursuant to this provision, the chairperson of the meeting or the chairperson's designee shall certify that the meeting or portion of 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, including a description of the views expressed. All documents considered in connection with an action must be identified in such 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 the commission:

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

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

(ii) If the licensee terminates the qualifying license through which the licensee applied for the compact privilege before its scheduled expiration and the licensee has a qualifying license in another

1 participating state, the licensee shall inform the commission that it is changing to that participating state the  
2 participating state through which it applies for a compact privilege and pay to the commission any compact  
3 privilege fee required by commission rule.

4 (d) The commission may not incur obligations of any kind prior to securing the funds adequate to  
5 meet the same, and the commission may not pledge the credit of any of the participating states except by and  
6 with the authority of the participating state.

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

12 (6) The executive committee:

13 (a) The executive committee has the power to act on behalf of the commission according to the  
14 terms of this compact and commission rules.

15 (b) The executive committee must be composed of nine members:

16 (i) seven voting members who are elected by the commission from the current membership of the  
17 commission;

18 (ii) one ex-officio, nonvoting member from a recognized national PA professional association; and

19 (iii) one ex-officio, nonvoting member from a recognized national PA certification organization.

20 (c) The ex-officio members will be selected by their respective organizations.

21 (d) The commission may remove any member of the executive committee as provided in its  
22 bylaws.

23 (e) The executive committee shall meet at least annually.

24 (f) The executive committee has the following duties and responsibilities:

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

28 (ii) ensure compact administration services are appropriately provided, contractual or otherwise;

- 1 (iii) prepare and recommend the budget;
- 2 (iv) maintain financial records on behalf of the commission;
- 3 (v) monitor compact compliance of participating states and provide compliance reports to the
- 4 commission;
- 5 (vi) establish additional committees as necessary;
- 6 (vii) exercise the powers and duties of the commission during the interim between commission
- 7 meetings, except for issuing proposed rulemaking or adopting commission rules or bylaws, or exercising any
- 8 other powers and duties exclusively reserved to the commission by the commission's rules; and
- 9 (viii) perform other duties as provided in the commission's rules or bylaws.
- 10 (g) All meetings of the executive committee at which it votes or plans to vote on matters in
- 11 exercising the powers and duties of the commission must be open to the public, and public notice of such
- 12 meetings must be given as public meetings of the commission are given.
- 13 (h) The executive committee may convene in a closed, nonpublic meeting for the same reasons
- 14 that the commission may convene in a nonpublic meeting as set forth in section 7(4)(c) and shall announce the
- 15 closed meeting as the commission is required to under section 7(4)(d) and keep minutes of the closed meeting
- 16 as the commission is required to under section 7(4)(e).
- 17 (7) Qualified immunity, defense, and indemnification:
- 18 (a) The members, officers, executive director, employees, and representatives of the commission
- 19 are immune from suit and liability, both personally and in their official capacity, for any claim for damage to or
- 20 loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act,
- 21 error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for
- 22 believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing
- 23 in this paragraph may be construed to protect any such person from suit or liability for any damage, loss, injury,
- 24 or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of
- 25 insurance of any type by the commission may not in any way compromise or limit the immunity granted
- 26 hereunder.
- 27 (b) The commission shall defend any member, officer, executive director, employee, or
- 28 representative of the commission in any civil action seeking to impose liability arising out of any actual or

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

7 (c) The commission shall indemnify and hold harmless any member, officer, executive director,  
8 employee, or representative of the commission for the amount of any settlement or judgment obtained against  
9 that person arising out of any actual or alleged act, error, or omission that occurred within the scope of  
10 commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing  
11 occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or  
12 alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

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

17 (e) Nothing herein may be construed as a limitation on the liability of any licensee for professional  
18 malpractice or misconduct, which must be governed solely by any other applicable state laws.

19 (f) Nothing herein may be construed to designate the venue or jurisdiction to bring actions for  
20 alleged acts of malpractice, professional misconduct, negligence, or other such civil action pertaining to the  
21 practice of a PA. All such matters must be determined exclusively by state law other than this compact.

22 (g) Nothing in this compact may be interpreted to waive or otherwise abrogate a participating  
23 state's state action immunity or state action affirmative defense with respect to antitrust claims under the  
24 Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.

25 (h) Nothing in this compact may be construed to be a waiver of sovereign immunity by the  
26 participating states or by the commission.

27 SECTION 8

28 DATA SYSTEM

1           (1)     The commission shall provide for the development, maintenance, operation, and utilization of a  
2     coordinated data and reporting system containing licensure, adverse action, and the reporting of the existence  
3     of significant investigative information on all licensed PAs and applicants denied a license in participating  
4     states.

5           (2)     Notwithstanding any other state law to the contrary, a participating state shall submit a uniform  
6     data set to the data system on all PAs to whom this compact is applicable, utilizing a unique identifier, as  
7     required by the rules of the commission, including:

8           (a)     identifying information;

9           (b)     licensure data;

10          (c)     adverse actions against a license or compact privilege;

11          (d)     any denial of application for licensure, and the reason or reasons for such denial, excluding the  
12     reporting of any criminal history record information where prohibited by law;

13          (e)     the existence of significant investigative information; and

14          (f)     other information that may facilitate the administration of this compact, as determined by the  
15     rules of the commission.

16          (3)     Significant investigative information pertaining to a licensee in any participating state may only  
17     be available to other participating states.

18          (4)     The commission shall promptly notify all participating states of any adverse action taken  
19     against a licensee or an individual applying for a license that has been reported to it. This adverse action  
20     information may be available to any other participating state.

21          (5)     Participating states contributing information to the data system may, in accordance with state or  
22     federal law, designate information that may not be shared with the public without the express permission of the  
23     contributing state. Notwithstanding any such designation, such information may be reported to the commission  
24     through the data system.

25          (6)     Any information submitted to the data system that is subsequently expunged pursuant to  
26     federal law or the laws of the participating state contributing the information must be removed from the data  
27     system upon the reporting of such by the participating state to the commission.

28          (7)     The records and information provided to a participating state pursuant to this compact or

1 through the data system, when certified by the commission or an agent thereof, constitute the authenticated  
2 business records of the commission and are entitled to any associated hearsay exception in any relevant  
3 judicial, quasi-judicial, or administrative proceedings in a participating state.

#### 4 SECTION 9

#### 5 RULEMAKING

6 (1) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this  
7 section and the rules adopted thereunder. Commission rules are binding as of the date specified by the  
8 commission for each rule.

9 (2) The commission shall promulgate reasonable rules in order to effectively and efficiently  
10 implement and administer this compact and achieve its purposes. A commission rule is invalid and does not  
11 have force or effect only if a court of competent jurisdiction holds that the rule is invalid because the  
12 commission exercised its rulemaking authority in a manner that is beyond the scope of the purposes of this  
13 compact, or the powers granted hereunder, or based upon another applicable standard of review.

14 (3) The rules of the commission have the force of law in each participating state, provided however  
15 that where the rules of the commission conflict with the laws of the participating state that establish the medical  
16 services a PA may perform in the participating state, as held by a court of competent jurisdiction, the rules of  
17 the commission are ineffective in that state to the extent of the conflict.

18 (4) If a majority of the legislatures of the participating states rejects a commission rule, by  
19 enactment of a statute or resolution in the same manner used to adopt this compact within 4 years of the date  
20 of adoption of the rule, then such rule has no further force and effect in any participating state or to any state  
21 applying to participate in the compact.

22 (5) Commission rules must be adopted at a regular or special meeting of the commission.

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

26 (a) on the website of the commission or other publicly accessible platform;

27 (b) to persons who have requested notice of the commission's notices of proposed rulemaking;

28 and



1 (c) in such other ways as the commission may by rule specify.

2 (7) The notice of proposed rulemaking must include:

3 (a) the time, date, and location of the public hearing on the proposed rule and the proposed time,  
4 date, and location of the meeting in which the proposed rule will be considered and voted upon;

5 (b) the text of the proposed rule and the reason for the proposed rule;

6 (c) a request for comments on the proposed rule from any interested person and the date by which  
7 written comments must be received; and

8 (d) the manner in which interested persons may submit notice to the commission of their intention  
9 to attend the public hearing or provide any written comments.

10 (8) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data,  
11 facts, opinions, and arguments, which must be made available to the public.

12 (9) If the hearing is to be held via electronic means, the commission shall publish the mechanism  
13 for access to the electronic hearing.

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

17 (b) Hearings must be conducted in a manner providing each person who wishes to comment a fair  
18 and reasonable opportunity to comment orally or in writing.

19 (c) All hearings must be recorded. A copy of the recording and the written comments, data, facts,  
20 opinions, and arguments received in response to the proposed rulemaking must be made available to a person  
21 upon request.

22 (d) Nothing in this section may be construed as requiring a separate hearing on each proposed  
23 rule. Proposed rules may be grouped for the convenience of the commission at hearings required by this  
24 section.

25 (10) Following the public hearing, the commission shall consider all written and oral comments  
26 timely received.

27 (11) The commission shall, by majority vote of all delegates, take final action on the proposed rule  
28 and shall determine the effective date of the rule, if adopted, based on the rulemaking record and the full text of

1 the rule.

2 (a) If adopted, the rule must be posted on the commission's website.

3 (b) The commission may adopt changes to the proposed rule provided the changes do not enlarge  
4 the original purpose of the proposed rule.

5 (c) The commission shall provide on its website an explanation of the reasons for substantive  
6 changes made to the proposed rule as well as reasons for substantive changes not made that were  
7 recommended by commenters.

8 (d) The commission shall determine a reasonable effective date for the rule. Except for an  
9 emergency as provided in subsection (12), the effective date of the rule must be no sooner than 30 days after  
10 the commission issued the notice that it adopted the rule.

11 (12) Upon determination that an emergency exists, the commission may consider and adopt an  
12 emergency rule with 24 hours' prior notice, without the opportunity for comment or hearing, provided that the  
13 usual rulemaking procedures provided in this compact and in this section are retroactively applied to the rule as  
14 soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes  
15 of this provision, an emergency rule is one that must be adopted immediately by the commission in order to:

16 (a) meet an imminent threat to public health, safety, or welfare;

17 (b) prevent a loss of commission or participating state funds;

18 (c) meet a deadline for the promulgation of a commission rule that is established by federal law or  
19 rule; or

20 (d) protect public health and safety.

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

1 (14) No participating state's rulemaking requirements may apply under this compact.

2 SECTION 10

3 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

4 (1) Oversight:

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

7 (b) Venue is proper and judicial proceedings by or against the commission must be brought solely  
8 and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The  
9 commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in  
10 alternative dispute resolution proceedings. Nothing herein may affect or limit the selection or propriety of venue  
11 in any action against a licensee for professional malpractice, misconduct, or any such similar matter.

12 (c) The commission is entitled to receive service of process in any proceeding regarding the  
13 enforcement or interpretation of the compact or the commission's rules and shall have standing to intervene in  
14 such a proceeding for all purposes. Failure to provide the commission with service of process renders a  
15 judgment or order in such proceeding void as to the commission, this compact, or commission rules.

16 (2) Default, technical assistance, and termination:

17 (a) If the commission determines that a participating state has defaulted in the performance of its  
18 obligations or responsibilities under this compact or the commission rules, the commission shall provide written  
19 notice to the defaulting state and other participating states. The notice must describe the default, the proposed  
20 means of curing the default, and any other action that the commission may take and must offer remedial  
21 training and specific technical assistance regarding the default.

22 (b) If a state in default fails to cure the default, the defaulting state may be terminated from this  
23 compact upon an affirmative vote of a majority of the delegates of the participating states, and all rights,  
24 privileges and benefits conferred by this compact upon such state may be terminated on the effective date of  
25 termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during  
26 the period of default.

27 (c) Termination of participation in this compact may be imposed only after all other means of  
28 securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the

1 commission to the governor, to the majority and minority leaders of the defaulting state's legislature, and to the  
2 licensing board or boards of each of the participating states.

3 (d) A state that has been terminated is responsible for all assessments, obligations, and liabilities  
4 incurred through the effective date of termination, including obligations that extend beyond the effective date of  
5 termination.

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

9 (f) The defaulting state may appeal its termination from the compact by the commission by  
10 petitioning the U.S. district court for the District of Columbia or the federal district where the commission has its  
11 principal offices. The prevailing member must be awarded all costs of such litigation, including reasonable  
12 attorney fees.

13 (g) Upon the termination of a state's participation in the compact, the state shall immediately  
14 provide notice to all licensees within that state of such termination:

15 (i) Licensees who have been granted a compact privilege in that state must retain the compact  
16 privilege for 180 days following the effective date of such termination.

17 (ii) Licensees who are licensed in that state who have been granted a compact privilege in a  
18 participating state must retain the compact privilege for 180 days unless the licensee also has a qualifying  
19 license in a participating state or obtains a qualifying license in a participating state before the 180-day period  
20 ends, in which case the compact privilege must continue.

21 (3) Dispute resolution:

22 (a) Upon request by a participating state, the commission shall attempt to resolve disputes related  
23 to this compact that arise among participating states and between participating and nonparticipating states.

24 (b) The commission shall promulgate a rule providing for both mediation and binding dispute  
25 resolution for disputes as appropriate.

26 (4) Enforcement:

27 (a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions of this  
28 compact and rules of the commission.

(b) If compliance is not secured after all means to secure compliance have been exhausted, by majority vote, the commission may initiate legal action, in the U.S. district court for the District of Columbia or the federal district where the commission has its principal offices, against a participating state in default to enforce compliance with the provisions of this compact and the commission's promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party must be awarded all costs of such litigation, including reasonable attorney fees.

(c) The remedies herein may not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

(5) Legal action against the commission:

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

(b) No person other than a participating state may enforce this compact against the commission.

#### SECTION 11

##### DATE OF IMPLEMENTATION OF THE PA LICENSURE COMPACT COMMISSION

(1) This compact comes into effect on the date on which this compact statute is enacted into law in the seventh 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 ("charter participating states") to determine if the statute enacted by each such charter participating state is materially different than the model compact.

(i) 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 10(2).

(ii) If any 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 fewer than seven. Participating states enacting the compact subsequent to the commission convening are

1 subject to the process set forth in section 7(3)(u) to determine if their enactments are materially different from  
2 the model compact and whether they qualify for participation in the compact.

3 (b) Participating states enacting the compact subsequent to the seven initial charter participating  
4 states are subject to the process set forth in section 7(3)(u) to determine if their enactments are materially  
5 different from the model compact and whether they qualify for participation in the compact.

6 (c) All actions taken for the benefit of the commission or in furtherance of the purposes of the  
7 administration of the compact prior to the effective date of the compact or the commission coming into  
8 existence are considered to be actions of the commission unless specifically repudiated by the commission.

9 (2) Any state that joins this compact is subject to the commission's rules and bylaws as they exist  
10 on the date on which this compact becomes law in that state. Any rule that has been previously adopted by the  
11 commission has the full force and effect of law on the day this compact becomes law in that state.

12 (3) Any participating state may withdraw from this compact by enacting a statute repealing the  
13 same.

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

20 (b) Withdrawal does not affect the continuing requirement of the state licensing board or boards of  
21 the withdrawing state to comply with the investigative and adverse action reporting requirements of this  
22 compact prior to the effective date of withdrawal.

23 (c) Upon the enactment of a statute withdrawing a state from this compact, the state shall  
24 immediately provide notice of such withdrawal to all licensees within that state. Such withdrawing state shall  
25 continue to recognize all licenses granted pursuant to this compact for a minimum of 180 days after the date of  
26 such notice of withdrawal.

27 (4) Nothing contained in this compact may be construed to invalidate or prevent any PA licensure  
28 agreement or other cooperative arrangement between participating states and between a participating state

1 and nonparticipating state that does not conflict with the provisions of this compact.

2 (5) This compact may be amended by the participating states. No amendment to this compact may  
3 become effective and binding upon any participating state until it is enacted materially in the same manner into  
4 the laws of all participating states as determined by the commission.

## 5 SECTION 12

### 6 CONSTRUCTION AND SEVERABILITY

7 (1) This compact and the commission's rulemaking authority must be liberally construed so as to  
8 effectuate the purposes and the implementation and administration of the compact. Provisions of the compact  
9 expressly authorizing or requiring the promulgation of rules may not be construed to limit the commission's  
10 rulemaking authority solely for those purposes.

11 (2) The provisions of this compact are severable, and if any phrase, clause, sentence, or provision  
12 of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any participating  
13 state, of a state seeking participation in the compact, or of the United States, or the applicability thereof to any  
14 government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction,  
15 the validity of the remainder of this compact and the applicability thereof to any other government, agency,  
16 person, or circumstance is not affected thereby.

17 (3) Notwithstanding subsection (2) or this section, the commission may deny a state's participation  
18 in the compact or, in accordance with the requirements of section 10(2), terminate a participating state's  
19 participation in the compact if it determines that a constitutional requirement of a participating state is, or would  
20 be with respect to a state seeking to participate in the compact, a material departure from the compact.  
21 Otherwise, if this compact is held to be contrary to the constitution of any participating state, the compact  
22 remains in full force and effect as to the remaining participating states and in full force and effect as to the  
23 participating state affected as to all severable matters.

## 24 SECTION 13

### 25 BINDING EFFECT OF COMPACT

26 (1) Nothing herein prevents the enforcement of any other law of a participating state that is not  
27 inconsistent with this compact.

28 (2) Any laws in a participating state in conflict with this compact are superseded to the extent of the

1 conflict.

2 (3) All agreements between the commission and the participating states are binding in accordance  
3 with their terms.

4

5 **Section 2.** Section 37-20-402, MCA, is amended to read:

6 **"37-20-402. Criteria for licensing physician assistant -- criminal background checks. (1)** A

7 person may not be licensed as a physician assistant in this state unless the person:

8 (a) is of good moral character;

9 (b) is a graduate of a physician assistant training program accredited by the accreditation review  
10 commission on education for the physician assistant or, if accreditation was granted before 2001, accredited by  
11 the American medical association's committee on allied health education and accreditation or the commission  
12 on accreditation of allied health education programs; and

13 (c) has taken and passed an examination administered by the national commission on the  
14 certification of physician assistants.

15 (2) (a) Each applicant for licensure as a physician assistant shall:

16 (i) submit a full set of the applicant's fingerprints to the board for the purpose of obtaining a state  
17 and federal criminal history background check; and

18 (ii) pay all fees charged for obtaining the state and federal criminal history background check.

19 (b) The board may require a licensee who is renewing a license to submit a full set of the  
20 licensee's fingerprints to the board for the purpose of obtaining a state and federal criminal history background  
21 check.

22 (c) The Montana department of justice may share the fingerprint data obtained under this  
23 subsection (2) with the federal bureau of investigation."

24

25 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an  
26 integral part of Title 37, chapter 20, and the provisions of Title 37, chapter 20, apply to [section 1].

27 - END -