

**ONE HUNDRED EIGHTH LEGISLATURE - SECOND SESSION - 2024**  
**COMMITTEE STATEMENT**  
**LB823**

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**Hearing Date:** Thursday February 22, 2024  
**Committee On:** Health and Human Services  
**Introducer:** Blood  
**One Liner:** Adopt the Physician Assistant (PA) Licensure Compact and change provisions relating to criminal background checks

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**  
**Aye:** 7 Senators Ballard, Cavanaugh, M., Day, Hansen, Hardin, Riepe, Walz  
**Nay:**  
**Absent:**  
**Present Not Voting:**

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**Testimony:**

**Proponents:**

Senator Carol Blood  
Nicole Schwensow  
Joyce Beck

**Representing:**

Opening Presenter  
Nebraska Academy of PAs  
AARP

**Opponents:**

**Representing:**

**Neutral:**

Daniel Rosenquist  
Isabel Eliassen

**Representing:**

Nebraska Medical Association  
The Council of State Governments

\* ADA Accommodation Written Testimony

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**Summary of purpose and/or changes:**

LB 823 creates the Physician Assistant (PA) Licensure Compact.

The Compact consists of 14 Articles: purpose; definitions; state participation; compact privilege; designation of the state from which the licensee is applying for a compact privilege; adverse actions; establishment of the PA licensure compact commission; data system; rulemaking; oversight, dispute resolution, and enforcement; date of implementation of the PA licensure compact; construction and severability; and binding effect of compact.

In addition, this bill changes provisions relating to criminal background checks under the Uniform Credentialing Act and requires criminal background checks for physician assistants under the Medicine and Surgery Practice Act.

The Compact shall come into effect on the date on which the Compact statute is enacted into law in the seventh



Member State.

Sec. 1 (the following sections are capitalized to show they are sections of the Compact and not the bill):

SECTION 1 contains the purpose of the compact: The participating states of the PA Licensure Compact have allied in common purpose to develop a comprehensive purpose that complements the existing authority of state licensing boards relating to licensure, discipline, safety of patients, and adverse actions. The Compact allows medical services to be provided by PAs and adopts the prevailing standard for PA licensure. The Compact will alleviate burdens for military families by allowing active duty military personnel and their spouses to obtain a Compact Privilege.

SECTION 2 provides definitions. A physician assistant is defined as an individual who is licensed as a physician assistant in a State. Remote State is defined as participating state where a licensee who is not licensed as a PA is exercising or seeking to exercise the Compact Privilege. Compact Privilege is defined as 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 license activity to a patient located in the Remote State under the Remote State's laws and regulations. Definitions are also provided for adverse action, conviction, criminal background check, data system, executive committee, impaired practitioner, investigative information, jurisprudence requirement, license, licensee, licensing board, medical services, model compact, participating state, qualified license, rule, significant investigative information, and state.

SECTION 3 outlines the requirements of the state participation in This Compact: To participate in this Compact, a Participating State is required to license PAs, participate in the Compact Commission's Data System, have a mechanism in place for receiving and investigating complaints, notify the Commission of any adverse action and significant investigative information, fully implement a criminal background check, comply with the rules of the Compact Commission, utilize passage of a recognized national exam and grant the Compact Privilege to a holder of a qualifying license in a participating State. Nothing in this Compact prohibits a Participating State from charging a fee for granting the Compact Privilege.

SECTION 4 provides requirements for the Compact Privilege. To exercise the Compact Privilege, a licensee must fulfill requirements consisting of graduation from a PA program, holding a nationally recognized PA certification, having no convictions, no revocations, having a unique identifier, a qualifying license, limitation from an adverse action, notification of seeking privilege in a remote state, meeting jurisprudence requirements and reporting of an adverse action.

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 the Compact Privilege requirements in a remote state.

SECTION 5 provides the designation of the state from which the licensee is applying for a Compact Privilege. Upon a licensee's application for a Compact Privilege, the licensee shall identify to the Commission the addresses of primary residence and consent to service of process by mail.

SECTION 6 outlines the state's powers regarding Adverse Actions. A participating state in which a Licensee is licensed shall have exclusive power to impose an Adverse Action against the qualifying license issued by that participating state. In addition, each remote state's licensing authority shall have the authority to take adverse action against a PA's Compact Privilege and issue subpoenas.



The participating state which issued the qualifying license shall give the same priority and effect to conduct received from any other participating state, may recover the costs of investigations, take adverse actions based on factual findings of a remote state and may participate in joint investigations.

If an adverse action is taken against a PA's qualifying license, the PA's Compact Privilege in all remote states shall be deactivated until two years have elapsed after all restrictions have been removed from the qualifying license. Also, if any Participating State takes adverse action, it promptly shall notify the administrator of the Data System.

SECTION 7 establishes the PA Licensure Compact Commission. The participating states create and establish a joint government agency and national administrative body known as the PA Licensure Compact Commission. The Commission is an instrumentality of the Compact States acting jointly and not an instrumentality of any one State. The Commission shall come into existence on or after the effective date of the Compact.

Membership, voting, and meetings requirements are provided as well as powers and duties and financing responsibilities.

The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact and Commission Rules. Powers and duties are provided for the Executive Commission.

Qualified Immunity, Defense, and Indemnification regarding the Commission are provided. The members, officers, executive director, employees, and representatives shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury. No such person is protected from liability caused by intentional or willful/wanton misconduct. Provisions involving the defense of the members, indemnification, venue and anti-trust claims are provided. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the Participating States or by the Commission.

SECTION 8 outlines requirements for the Data System: The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system.

A Participating State shall submit a uniform data set to the Data System on all PAs to whom this Compact is applicable. The data includes identifying information; licensure data; adverse actions; any denial of application for licensure, and the reasons; existence of significant investigative information; and other information that may facilitate the administration of this Compact. Requirements relating expungement, notice of adverse actions, and designation of information to not be shared with the public are provided.

The records and information provided to a participating state shall constitute the authenticated business records of the Commission, and shall be entitled to any associated hearsay exception in any relevant, judicial, quasi-judicial, or administrative proceedings in a participating state.

SECTION 9 outlines the rulemaking process for the Commission. The process includes notice of meetings, public hearings and criteria for adoption of an emergency rule. In addition, this section addresses the force and effect of the Commission Rules.

SECTION 10 outlines the oversight, dispute resolution, and enforcement of the Compact. 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. Venue requirements are provided. Legal action may be initiated in federal district court.



If the Commission determines that a Participating State has defaulted in the performance of its obligations or responsibilities under this Compact or rules, the Commission shall provide written notice to the defaulting State. If the defaulting State fails to cure the default, this State may be terminated from the Compact upon a majority vote of the delegates of the Participating States. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice requirements are provided. The defaulting State is responsible for all assessment, obligations, and liabilities incurred through the effective date of termination and may appeal the action in federal district court. Dispute resolution may be attempted upon request by a member state.

SECTION 11 provides the date of implementation of the PA Licensure Compact. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the seventh Participating State. On or after the effective date of the Compact, the Commission shall convene and review the enactment of each of the Charter Member States to determine if the statute enacted by each Charter Participating State is materially different than the model Compact statute. Any Participating State may withdraw from this Compact by enacting a statute repealing that State's enactment of the Compact and shall take effect 180 days after enactment of the repealing statute. Withdrawal shall not affect investigative and Adverse Action reporting requirements. Notice of withdrawal to all licensees in that State is required and these licenses shall be recognized 180 days after date of the withdrawal notice.

SECTION 12 contains provisions on construction and severability. This Compact and the Commission's rulemaking authority shall be liberally construed so as to effectuate the purpose, and implementation and administration of the Compact. Provisions of the Compact expressly authorizing or requiring promulgation of rules shall not be construed to limit the Commission's rulemaking authority solely for those purposes. The purposes of this Compact shall be severable. If any phrase, clause, sentence, or provision of this Compact is held by a court to be unconstitutional, the validity of the remainder of this Compact shall not be affected.

SECTION 13 contains provisions relating to the binding effect of the Compact. Nothing herein shall prevent or inhibit the enforcement of any other law of a Participating State that is not inconsistent with the Compact. Any laws, statutes, regulations, or other legal requirements in a Participating State in conflict with the Compact are superseded to the extent of the conflict. All permissible agreements between the Commission and the Member States are binding in accordance with their terms.

Sec. 2: Criminal background check language is added to licensing application process.

Sec. 3: New physician assistant language in Sections 4 and 5 are added to the Medicine and Surgery Practice Act.

Sec. 4: An applicant for licensure as a physician assistant shall be subject to a criminal background check.

Sec. 5: A person holding a compact privilege to practice in Nebraska under the Compact may act as a physician assistant as authorized pursuant to such compact.

Sec. 6: This act becomes operative on January 1, 2025.

Sec. 7: Repealer

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### **Explanation of amendments:**

Standing Committee AM 2726 adds language to the Compact section relating to Qualified Immunity, Defense, and Indemnification. Specifically, this bill adds the term "as determined by the commission" before the person against whom the claim is made had a reasonable basis for believing occurred within the scope of employment.



Language is added to the Compact section relating to the Date of Implementation of the PA Licensure Compact. Specifically, this bill adds “Licenses and” before Compact Privileges as it relates to notice of State’s withdrawal from the Compact.

Also, this amendment adds physician assistant to the list of health professions required to have background checks and harmonizes language relating to background checks.

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Ben Hansen, Chairperson

