

OCCUPATIONS AND PROFESSIONS

CHAPTER 655

SENATE BILL NO. 2402

(Legislative Management)
(Joint Policy Committee)

AN ACT to create and enact two new sections to chapter 43-15 and a new subsection to section 43-48-03 of the North Dakota Century Code, relating to the prescriptive authority of pharmacists and therapeutic substitution; to amend and reenact subsection 1 of section 26.1-36.11-01 and section 43-15-01 of the North Dakota Century Code, relating to the scope of practice of pharmacists; to repeal section 43-15-25.3 of the North Dakota Century Code, relating to approved laboratory tests; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 26.1-36.11-01 of the North Dakota Century Code is amended and reenacted as follows:

1. a. "Comprehensive medication management" means medication management pursuant to a standard of care that ensures each enrollee's medications, both prescription and nonprescription, are individually assessed to determine each medication is appropriate for the enrollee, effective for the medical condition, and safe, given the comorbidities and other medications being taken and able to be taken by the enrollee as intended. Services provided in comprehensive medication management are, as follows:
 - (1) Performing or obtaining necessary assessments of the enrollee's health status;
 - (2) Formulating a medication treatment plan;
 - (3) Monitoring and evaluating the enrollee's response to therapy, including safety and effectiveness;
 - (4) Performing a comprehensive medication review to identify, resolve, and prevent medication-related problems, including adverse drug events;
 - (5) Providing verbal or written, or both, counseling, education, and training designed to enhance enrollee understanding and appropriate use of the enrollee's medications;
 - (6) Providing information, support services, and resources designed to enhance enrollee adherence with the enrollee's therapeutic regimens;

- (7) Coordinating and integrating medication therapy management services within the broader health care management services being provided to the enrollee;
 - (8) Initiating or modifying drug therapy under a collaborative agreement with a practitioner in accordance with section 43-15-31.4;
 - (9) Prescribing medications pursuant to protocols approved by the state board of pharmacy in accordance with subsection 24 of section 43-15-10;
 - (10) Administering medications in accordance with requirements in section 43-15-31.5; and
 - (11) Ordering, performing, and interpreting laboratory tests authorized by ~~section 43-15-25.3~~ under chapter 43-15 and North Dakota Administrative Code section 61-04-10-06.
- b. This subsection may not be construed to expand or modify pharmacist scope of practice.

SECTION 2. AMENDMENT. Section 43-15-01 of the North Dakota Century Code is amended and reenacted as follows:

43-15-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Administration" means the direct application of a drug to the body of a patient. The term includes:
 - a. The emergency maintenance of a drug delivery device used in home infusion therapy by a qualified home pharmacist if nursing service is not available;
 - b. Immunization and vaccination by injection of an individual who is at least three years of age upon an order by a practitioner authorized to prescribe such a drug or by written protocol with a physician or nurse practitioner and subsequently reported as a childhood immunization and other information if required to the state's immunization information system pursuant to section 23-01-05.3;
 - c. Provision of other drugs to an individual who is at least three years of age upon the order of a practitioner authorized to prescribe such a drug; and
 - d. Provision of drugs to an individual receiving emergency services in a health care facility upon an order or by established written protocol.
2. "Automated dispensing system" means a mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, packaging, counting, labeling, and dispensing of medications and which collects, controls, and monitors all transaction information.
3. "Board" means the state board of pharmacy.

4. "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug or device:
 - a. As the result of a practitioner's prescription drug order or initiative based on the practitioner, patient, and pharmacist relationship in the course of professional practice; or
 - b. For the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing.

Compounding also includes the preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

5. "Confidential information" means individually identifiable health information maintained by the pharmacist in the patient's records or which is communicated to the patient as part of a patient counseling.
6. "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for a consideration.
7. "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, which is required under federal or North Dakota law to be prescribed by a practitioner and dispensed by a pharmacist.
8. "Dispense" or "dispensing" means the preparation and delivery of a prescription drug, pursuant to a lawful order of a practitioner or a nurse licensed under chapter 43-12.1 who is authorized by the practitioner to orally transmit the order that has been reduced to writing in the patient's record, in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug.
9. "Distribute" means the delivery of a drug other than by dispensing or administering.
10. "Drug" or "drugs" means:
 - a. Articles recognized as drugs in the official United States pharmacopeia, official national formulary, official homeopathic pharmacopeia, other drug compendium, or any supplement to any of them;
 - b. Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animal;
 - c. Articles other than food intended to affect the structure or any function of the body of man or other animals; and
 - d. Articles intended for use as a component of any articles specified in subdivision a, b, or c.
11. "Drug regimen review" includes the following activities:
 - a. Evaluation of the prescription drug orders and patient records for:

- (1) Known allergies;
 - (2) Rational therapy-contraindications;
 - (3) Reasonable dose and route of administration; and
 - (4) Reasonable directions for use.
- b. Evaluation of the prescription drug orders and patient records for duplication of therapy.
 - c. Evaluation of the prescription drug orders and patient records for interactions:
 - (1) Drug-drug;
 - (2) Drug-food;
 - (3) Drug-disease; and
 - (4) Adverse drug reactions.
 - d. Evaluation of the prescription drug orders and patient records for proper utilization, including overutilization or underutilization, and optimum therapeutic outcomes.
12. "Emergency pharmacy practice" means in the event a pharmacist receives a request for a prescription refill and the pharmacist is unable to obtain refill authorization from the prescriber, the pharmacist may dispense and bill using a pharmacist national provider identifier a one-time emergency refill of up to a thirty-day supply of the prescribed medication, provided that:
- a. The prescription is not for a controlled substance listed in schedule II;
 - b. The pharmaceutical is essential to the maintenance of life or to the continuation of therapy;
 - c. In the pharmacist's professional judgment, the interruption of therapy might reasonably produce undesirable health consequences or may cause physical or mental discomfort;
 - d. The pharmacist properly records the dispensing; and
 - e. The dispensing pharmacist notifies the prescriber of the emergency dispensing within a reasonable time after the one-time emergency refill dispensing.
13. "Labeling" means the process of preparing and affixing of a label to any drug container exclusive, however, of the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged legend drug or device. Any label shall include all information required by federal and North Dakota law or regulation.
14. "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of

chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substances or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a drug by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a drug:

- a. By a pharmacist or practitioner as an incident to dispensing or administering of a drug in the course of the person's professional practice; or
 - b. By a practitioner or by the practitioner's authorization under supervision for the purpose of or as an incident to research, teaching, or chemical analysis and not for sale.
15. "Manufacturer" means a person engaged in the manufacture of drugs in facilities located within North Dakota.
 16. "Medicine" means a drug or combination of drugs, used in treating disease in man or other animals.
 17. "Nonprescription drugs" means medicines or drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government.
 18. "Original package" means the original carton, case, can, box, vial, bottle, or other receptacle, put up by the manufacturer or wholesaler or distributor, with label attached, making one complete package of the drug article.
 19. "Patient-pharmacist relationship" means the required relationship between a patient and a pharmacist as defined under the rules of the board which authorizes the pharmacist to independently prescribe drugs, drug categories, and devices as limited by this chapter.
 20. "Person" means an individual, corporation, limited liability company, partnership, association, or any other legal entity.
 - ~~20-21.~~ "Pharmaceutical care" is the provision of drug therapy and other pharmaceutical patient care services intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process as defined in the rules of the board.
 - ~~21-22.~~ "Pharmacist" means a person to whom the board has issued a license to practice the profession of pharmacy whose license has not expired or been suspended.
 - ~~22-23.~~ "Pharmacy" or "drugstore" means every store or shop where drugs, medicines, or chemicals are dispensed, displayed for sale, or sold, at retail for medicinal purposes, or where prescriptions are compounded, and which is duly registered by the board.
 - ~~23-24.~~ "Pharmacy technician" means a person registered by the board who is employed by a pharmacy to assist licensed pharmacists in the practice of pharmacy by performing specific tasks delegated by and under the immediate personal supervision and control of a licensed pharmacist, as permitted by the board.

24-25. "Practice of pharmacy" means the:

- a. The interpretation, evaluation, and monitoring of prescription orders and patient drug therapy; ~~the~~
- b. The compounding, dispensing, and labeling of drugs and devices except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially packaged legend drugs and devices; ~~the~~
- c. The participation in drug selection, drug monitoring, drug administration, drug regimen review, the provision of these acts or services necessary as a primary health care provider of pharmaceutical care, and drug utilization evaluations; ~~the~~
- d. The proper and safe storage of drugs and devices and the maintenance of proper records for this storage; ~~the~~
- e. The responsibility for advising, consulting, and educating if necessary or if regulated, patients, the public, and other health care providers on the rational, safe, and cost-effective use of drugs including therapeutic values, content, hazards, and appropriate use of drugs and devices; ~~the~~
- f. The participation in interpreting and applying pharmacokinetic data and other pertinent laboratory data to design safe and effective drug dosage regimens; ~~if~~
- g. If appropriate and if regulated, the participation in scientific or clinical drug research ~~either scientific or clinical~~ as an investigator or in collaboration with other investigators for the purposes of studying the effects of drugs on animals or human subjects, with other drugs or chemicals, and with drug delivery devices; ~~emergency~~
- h. Emergency pharmacy practice; ~~prescriptive~~
- i. Prescriptive practices as limited under this chapter; ~~the~~
- j. The ordering of laboratory tests;
- k. The performance of laboratory tests to provide pharmaceutical care services which are waived under the Federal Clinical Laboratory Improvement Act of 1988 [Pub. L. 100-578, section 2; 102 Stat. 2903; 42 U.S.C. 263a et seq.], as amended; and ~~the~~
- l. The offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy.

25-26. "Practitioner" means an individual licensed, registered, or otherwise authorized by the jurisdiction in which the individual is practicing to prescribe drugs in the course of professional practice.

26-27. "Prescription" means any order for drugs or medical supplies, if such order is written or signed or transmitted by word of mouth, telephone, telegram, or other means of communication by a duly licensed physician, optometrist, dentist, veterinarian, or other practitioner, licensed by law to prescribe and

administer such drugs or medical supplies intended to be filled, compounded, or dispensed by a pharmacist or any order for drugs or medical supplies transmitted orally by a nurse licensed under chapter 43-12.1 as written and signed by such a duly licensed physician, optometrist, dentist, veterinarian, or other practitioner.

27-28. "Prescription drug or legend drug" means a drug which, under federal law is required, prior to being dispensed or delivered, to be labeled with one of the following:

- a. "Caution: Federal law prohibits dispensing without prescription";
- b. "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian"; or
- c. Rx only;

or a drug which is required by any applicable federal or North Dakota law or rule to be dispensed on prescription only or is restricted to use by practitioners only.

28-29. "Public health issues" include immunizations, tobacco cessation, and other issues deemed appropriate by the board.

29-30. "Radiopharmaceutical service" means, but is not limited to, the compounding, dispensing, labeling, and delivery of radiopharmaceuticals; the participation in radiopharmaceutical selection and radiopharmaceutical utilization reviews; the proper and safe storage and distribution of radiopharmaceuticals; the maintenance of radiopharmaceutical quality assurance; the responsibility for advising, where necessary or where regulated, of therapeutic values, hazards, and use of radiopharmaceuticals; and the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of radiopharmaceuticals.

30-31. "Wholesaler" means a person with facilities located in this state who buys for resale and distribution to persons other than consumers.

SECTION 3. A new section to chapter 43-15 of the North Dakota Century Code is created and enacted as follows:

Prescriptive authority.

1. A pharmacist whose practice is physically located within this state, acting in good faith and exercising reasonable care, may independently prescribe drugs, drug categories, and devices as provided in this section if each of the following requirements are met:
 - a. A pharmacist may prescribe drugs or devices only for conditions for which the pharmacist is educationally prepared and competence has been achieved and maintained.
 - b. A pharmacist may issue a prescription only for a legitimate medical purpose arising from a patient-pharmacist relationship.

- c. A pharmacist shall obtain adequate information about the patient's health status to make appropriate decisions based on the applicable standard of care.
 - d. For each drug or drug category a pharmacist intends to prescribe, the pharmacist shall maintain a patient assessment protocol based on current clinical guidelines, when available, or evidence-based research findings that specify the following:
 - (1) Patient inclusion and exclusion criteria; and
 - (2) Explicit medical referral criteria.
 - e. A pharmacist shall revise the patient assessment protocol when necessary to ensure continued compliance with clinical guidelines or evidence-based research findings. The pharmacist's patient assessment protocol, and any related forms, must be made available to the board upon request.
 - f. A pharmacist shall consult with and refer to other health care professionals as appropriate, including in situations where the pharmacist's knowledge or experience is limited.
 - g. A pharmacist shall develop and implement an appropriate followup care plan, including any monitoring parameters, in accordance with clinical guidelines. The plan may include followup care with the patient and communication with the patient's primary care provider.
 - h. A pharmacist shall inquire about the identity of the patient's primary care provider or provider of record. If a primary care provider or provider of record is identified, the pharmacist shall provide notification to the primary care provider or provider of record within three business days following the prescription of a drug. The notification must include the results of any test that required the prescription and, upon the provider's request, any relevant documentation required under subdivision i.
 - i. A pharmacist shall maintain documentation adequate to justify the care provided, including information collected as part of the patient assessment, the prescription record, any notification provided under this section, and the followup care plan.
2. A pharmacist may prescribe any drug approved by the federal food and drug administration which is indicated for the following conditions:
 - a. Lice;
 - b. Cold sores;
 - c. Motion sickness, including the prevention of motion sickness; and
 - d. Hypoglycemia.
 3. A pharmacist may prescribe any of the following devices approved by the federal food and drug administration:
 - a. Inhalation spacer;

- b. Nebulizer;
 - c. Disposable diabetes blood sugar testing supplies;
 - d. Pen needles; and
 - e. Auto-injectors containing drugs for patients with a documented history of allergies or anaphylaxis.
4. A pharmacist may prescribe any drug approved by the federal food and drug administration which is indicated for the following conditions, provided the symptomatic patient first tests positive to a test that is waived under the Federal Clinical Laboratory Improvement Act of 1988 [Pub. L. 100-578, section 2; 102 Stat. 2903; 42 U.S.C. 263a et seq.], as amended:
- a. Influenza;
 - b. Group A streptococcal pharyngitis; and
 - c. Severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2.
5. If a patient tested positive for influenza, a pharmacist may prescribe an antiviral drug to an individual who has been exposed to the infected patient and for whom the clinical guidelines recommend chemoprophylaxis.
6. A pharmacist may prescribe any drug approved by the federal food and drug administration for the purpose of closing a gap in clinical guidelines as follows:
- a. Postexposure prophylaxis for nonoccupational exposure to human immunodeficiency virus infection; and
 - b. Short-acting beta agonists for a patient with asthma who has had a prior prescription for a short-acting beta agonist and who has a current prescription for a long-term asthma control drug.
7. A pharmacist who successfully completes an accredited continuing pharmacy education or continuing medical education course on travel medicine may prescribe any noncontrolled drug recommended for individuals traveling outside the United States which is specifically listed in the federal centers for disease control and prevention health information for international travel publication. The pharmacist only may prescribe drugs that are indicated for the patient's intended destination for travel.
8. If an emergency situation exists which in the professional judgment of the pharmacist threatens the health or safety of the patient, a pharmacist may prescribe the following drugs approved by the federal food and drug administration in the minimum quantity necessary until the patient is able to be seen by a provider:
- a. Diphenhydramine;
 - b. Epinephrine; and
 - c. Short-acting beta agonists.

9. A pharmacist may prescribe antimicrobial prophylaxis for the prevention of lyme disease in accordance with the federal centers for disease control and prevention guidelines.

SECTION 4. A new section to chapter 43-15 of the North Dakota Century Code is created and enacted as follows:

Therapeutic substitution.

1. A pharmacist whose practice is physically located within this state may substitute a drug for a therapeutically equivalent drug, except for antidepressants, antipsychotics, chemotherapy agents, schedule II controlled substances, biological products, and narrow therapeutic index drugs, as limited by this section. Therapeutic equivalence may be established by clinical publications comparing dosages of drugs in a therapeutic class.
2. A pharmacist may not substitute a drug for a therapeutically equivalent drug if:
 - a. The prescriber indicates no substitution is to be made; or
 - b. The board has determined a therapeutically equivalent drug should not be substituted and notified pharmacists of that determination.
3. Before dispensing a therapeutically equivalent drug, a pharmacist shall:
 - a. Verbally discuss the suggested substitution with the patient, including informing the patient that the therapeutically equivalent drug does not contain the identical active ingredient present in the prescribed drug and any differences in dosage and frequency between the prescribed drug and the therapeutically equivalent drug;
 - b. Inform the patient of the patient's right to refuse the substitution; and
 - c. Determine whether the substitution would provide a cost benefit to the patient or provide access if the prescribed drug is not available.
4. The pharmacist shall send notice of the substitution to the prescriber by electronic communication within twenty-four hours of dispensing the drug to the patient.
5. The prescribing provider is not liable for a substitution made by a pharmacist under this section.

SECTION 5. A new subsection to section 43-48-03 of the North Dakota Century Code is created and enacted as follows:

Pharmacists duly and currently licensed to practice pharmacy.

SECTION 6. REPEAL. Section 43-15-25.3 of the North Dakota Century Code is repealed.

SECTION 7. EFFECTIVE DATE. This Act becomes effective upon its filing with the secretary of state.

Approved January 23, 2026

Filed January 23, 2026

CHAPTER 656

SENATE BILL NO. 2401

(Legislative Management)
(Joint Policy Committee)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code, relating to criminal history record checks by the board of occupational therapy practice; to amend and reenact section 43-17-27.1 of the North Dakota Century Code, relating to physician continuing education requirements; to provide a statement of legislative intent; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The board of occupational therapy practice for applicants, licensees, or investigations under chapters 43-40 and 43-40.1.

SECTION 2. AMENDMENT. Section 43-17-27.1 of the North Dakota Century Code is amended and reenacted as follows:

43-17-27.1. Physician continuing education requirements.

1. The board shall promote a high degree of competence in the practice of medicine by establishing rules requiring every physician licensed in the state to fulfill continuing education requirements. Compliance with these rules must be documented at such times and in such manner as is required by the board. Physicians failing to comply with continuing education requirements in the time and manner specified by rule of the board will be assessed a fee up to three times the licensure fee, in addition to such other penalties as are authorized by law.
2. The board shall require physicians to complete a minimum of one hour of continuing education on nutrition and metabolic health each renewal cycle.
3. Before a license may be renewed, the physician shall submit evidence to the board establishing that all continuing education requirements prescribed by the rules adopted by the board have been met.
- ~~3-4.~~ The board may accept current certification, maintenance of certification, or recertification by a member of the American board of medical specialties, the American osteopathic association, or the royal college of physician and surgeons of Canada in lieu of compliance with continuing education requirements.
- ~~4-5.~~ The board may exempt a physician from the requirements of this section in accordance with rules adopted by the board.

- 5-6. Notwithstanding subsection 1, if an individual fails to file a timely response, the board may determine whether the individual's failure to file a timely response to an audit constitutes an admission of noncompliance with this section and whether the individual's license should be subject to action by the board. If the board determines that the individual's failure to file a timely response is an admission of noncompliance and that the individual's license should be subject to action by the board, the board shall hold a hearing in accordance with chapter 28-32 to take any appropriate action.
- 6-7. The board shall provide access on the board's website to an instructional course on chapters 12.1-19.1, 14-02.1, and 14-02.6 as the chapters relate to the practice of medicine. The instructional course must be developed by contract through the office of management and budget, in consultation with and with final approval from the attorney general. This section does not create a right of action against the board by a physician acting upon reliance of the instructional course. The instructional course must be updated periodically to accurately reflect state law.

SECTION 3. LEGISLATIVE INTENT - HEALTH OCCUPATION BOARDS TO CONSIDER REQUIRING COMPLETION OF NUTRITION-RELATED CONTINUING EDUCATION. It is the intent of the sixty-ninth legislative assembly that health-related occupation boards under title 43 consider requiring licensees to complete nutrition-related continuing education for the prevention and reduction of chronic disease.

SECTION 4. EFFECTIVE DATE. This Act becomes effective upon its filing with the secretary of state.

Approved January 23, 2026

Filed January 23, 2026

CHAPTER 657

HOUSE BILL NO. 1622

(Legislative Management)
(Joint Policy Committee)

AN ACT to create and enact chapter 43-17.5 of the North Dakota Century Code, relating to the physician assistant licensure compact; to amend and reenact section 43-17-01, subsection 1 of section 43-17-02.1, and sections 43-17-02.2 and 43-17-46 of the North Dakota Century Code, relating to the requirements of physician assistants privileged to practice under the physician assistant licensure compact; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-17-01 of the North Dakota Century Code is amended and reenacted as follows:

43-17-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the North Dakota board of medicine.
2. "Licensee" means a physician, resident physician, or physician assistant licensed to practice in ~~North Dakota~~this state or a physician assistant privileged to practice in this state under chapter 43-17.5.
3. "Physician" includes physician and surgeon (M.D.) and osteopathic physician and surgeon (D.O.).
4. "Physician assistant" means an individual issued a physician assistant license under this chapter or privileged to practice in this state under chapter 43-17.5.
5. "Practice of medicine" includes the practice of medicine, surgery, and obstetrics. The following persons are regarded as practicing medicine:
 - a. A person that holds out to the public as being engaged within this state in the diagnosis or treatment of diseases or injuries of human beings.
 - b. A person that suggests, recommends, or prescribes any form of treatment for the intended relief or cure of any physical or mental ailment of any individual, with the intention of receiving, directly or indirectly, any fee, gift, or compensation.
 - c. A person that maintains an office for the examination or treatment of individuals afflicted with disease or injury of the body or mind.
 - d. A person that attaches the title M.D., surgeon, doctor, D.O., osteopathic physician and surgeon, or any other similar word or words or abbreviation to the person's name, indicating that the person is engaged in the treatment or diagnosis of the diseases or injuries of human beings shall be held to be engaged in the practice of medicine.

6. "Resident physician" means an individual issued a postgraduate training license under this chapter.
7. "Telemedicine" means the practice of medicine using electronic communication, information technologies, or other means between a licensee in one location and a patient in another location, with or without an intervening health care provider. "Telemedicine" includes direct interactive patient encounters, asynchronous store-and-forward technologies, and remote monitoring.

SECTION 2. AMENDMENT. Subsection 1 of section 43-17-02.1 of the North Dakota Century Code is amended and reenacted as follows:

1. An individual providing ~~the~~ the services of a physician assistant ~~as outlined in~~ under this chapter to a patient located in ~~the~~ this state shall possess an active North Dakota license for physician assistant practice or be privileged to practice in this state under chapter 43-17.5. The board shall adopt rules governing the conduct, licensure, fees for licensure and privilege, qualifications, and discipline of physician assistants. Physician assistants are not authorized to perform any services that must be performed by individuals licensed ~~pursuant to~~ under chapters 43-12.1, 43-13, 43-15, and 43-28 or services otherwise regulated by licensing laws, notwithstanding medical doctors ~~need not~~ are not required to be licensed specifically to perform the services contemplated under such chapters or licensing laws.

SECTION 3. AMENDMENT. Section 43-17-02.2 of the North Dakota Century Code is amended and reenacted as follows:

43-17-02.2. Use of certain words or initials prohibited.

1. An individual may not be licensed ~~as a physician or resident physician under this chapter~~ is prohibited from using the title of "doctor of medicine", "medical doctor", "doctor of osteopathic medicine", "osteopathic physician", "physician", "M.D.", or "D.O." unless the individual is licensed as a physician or resident physician under this chapter.
2. An individual may not use the title of "physician assistant" or "P.A." unless the individual is licensed as a physician assistant under this chapter ~~is prohibited from using the title of "physician assistant" or "P.A."~~ or is privileged to practice in this state under chapter 43-17.5.
3. This section may not be construed as to prohibit a licensed health care professional from using a title incorporating any of the words specified in subsection 1 or 2, or from using a title or designation that is not specifically protected by subsection 1 or 2, if the title or designation used is permitted under the health care professional's practice act.
4. Notwithstanding subsections 1 and 2, an individual who does not hold an active physician, resident physician, or physician assistant license may still use the title conferred by a qualified educational degree recognized under this chapter, but may not practice unless licensed under this chapter or privileged to practice in this state under chapter 43-17.5.

SECTION 4. AMENDMENT. Section 43-17-46 of the North Dakota Century Code is amended and reenacted as follows:

43-17-46. Payment of fees under the interstate medical licensure compact and the physician assistant licensure compact.

1. Fees levied under subsection 1 of article XIII of the interstate medical licensure compact by the interstate medical licensure compact commission to ~~the~~this state of ~~North Dakota~~ must be paid by the board through the board's funding mechanism, and the board may not request funds deposited in the general fund for the fee. A physician- granted licensure through the interstate medical licensure compact who fails to complete the addendum questions within the time specified by rule of the board must be assessed a fee up to three times the normal licensure fee, in addition to ~~such~~ other penalties as authorized by law.
2. Fees levied under section 43-17.5-07 of the physician assistant licensure compact by the physician assistant licensure compact commission to this state must be paid by the board through the board's funding mechanism, and the board may not request funds deposited in the general fund for the fee. A physician assistant granted licensure or privilege to practice in this state through the physician assistant licensure compact who fails to complete the addendum questions within the time specified by rule of the board must be assessed a fee up to three times the normal licensure fee for a physician assistant licensed in this state, in addition to other penalties as authorized by law.
3. ~~Notwithstanding subsections~~subsections 1 and 2, if an individual fails to timely submit the addendum questionnaire required by rule of the board, the board may determine whether the individual's failure to file a timely response constitutes an admission of noncompliance with this section and whether the license should be subject to action by the board. If the board determines the individual's failure to file a timely response is an admission of noncompliance and the individual's license or privilege to practice should be subject to action by the board, the board shall hold a hearing in accordance with chapter 28-32 to take any appropriate action.

SECTION 5. Chapter 43-17.5 of the North Dakota Century Code is created and enacted as follows:

43-17.5-01. Purpose.

1. 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 assistant licensure 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.
2. This compact:
 - a. Allows medical services to be provided by physician assistants, via the mutual recognition of the licensee's qualifying license by other compact participating states.
 - b. Adopts the prevailing standard for physician assistant licensure.

- c. Affirms the practice and delivery of medical services by the 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.
3. 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 physician assistant licensure 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.

43-17.5-02. Definitions.

In this compact:

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 physician assistant license or license application or compact privilege including 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 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.
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 C.F.R. § 20.3(d), from the state's criminal history record repository as defined in 28 C.F.R. § 20.3(f).
5. "Data system" means the repository of information about licensees, including 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 under section 43-17.5-07.
7. "Impaired practitioner" means a physician assistant whose practice is adversely affected by health-related conditions that impact their 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 physician assistant in a state.

10. "License" means current authorization by a state, other than authorization pursuant to a compact privilege, for a physician assistant to provide medical services, which would be unlawful without current authorization.
11. "Licensee" means an individual who holds a license from a state to provide medical services as a physician assistant.
12. "Licensing board" means any state entity authorized to license and otherwise regulate physician assistants.
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 physician assistant 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. "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. "Physician assistant licensure compact commission", "compact commission", or "commission" mean the national administrative body created pursuant to section 43-17.5-07 of this compact.
18. "Qualifying license" means an unrestricted license issued by a participating state to provide medical services as a physician assistant.
19. "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.
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 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.
22. "State" means any state, commonwealth, district, or territory of the United States.

43-17.5-03. State participation in this compact.

1. To participate in this compact, a participating state shall:
 - a. License physician assistants:

- b. Participate in the compact 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 a criminal background check requirement, within a time frame established by commission rule, 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 compact commission;
 - g. Utilize passage of a recognized national exam, such as the national commission on certification of physician assistants' physician assistant national certifying 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. This compact does not prohibit a participating state from charging a fee for granting the compact privilege.

43-17.5-04. Compact privilege.

1. To exercise the compact privilege, a licensee shall:
 - a. Have graduated from a physician assistant program accredited by the accreditation review commission on education for the physician assistant or other program authorized by commission rule;
 - b. Hold current national commission on certification of physician assistants' certification;
 - 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 drug enforcement administration;
 - e. Have a unique identifier as determined by commission rule;
 - f. Hold a qualifying license;
 - g. Have had no revocation of a license or limitation or restriction on any license currently held due to an adverse action, or if a licensee had a limitation or restriction on a license or compact privilege due to an adverse action, two years has elapsed from the date on which the license or compact privilege is no longer limited or restricted due to the adverse action, or 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 not consider such action as an adverse action requiring the denial or removal of a compact privilege in that state;
- h. Notify the compact 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 thirty 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 shall comply with the requirements of subsection 1 to maintain the compact privilege in a remote state. If the 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. Once a restricted or limited license satisfies the requirements of subsection 2, the licensee shall meet the requirements of subsection 1 to obtain a compact privilege in any remote state.
4. For each remote state in which a physician assistant seeks authority to prescribe controlled substances, the physician assistant shall satisfy all requirements imposed by such state in granting or renewing such authority.

43-17.5-05. Designation of the state from which a 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 when applying for a compact privilege, the licensee shall:

1. 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 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.

43-17.5-06. Adverse actions.

1. A participating state in which a licensee is licensed has exclusive power to impose adverse action against the qualifying license issued by that participating state.
2. In addition to the other powers conferred by state law, a remote state, in accordance with existing state due process law, may:
 - a. Take adverse action against a physician assistant'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.
 - 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 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.
3. 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. This compact does not authorize 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. For purposes of taking adverse action, the participating state which 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 which issued the qualifying license. In so doing, that participating state shall apply its own state laws to determine appropriate action.
6. A participating state, if otherwise permitted by state law, may recover from the affected physician assistant the costs of investigations and disposition of cases resulting from any adverse action taken against that physician assistant.
7. A participating state may take adverse action based on the factual findings of a remote state, provided the participating state follows its own procedures for taking the adverse action.
8. Joint investigations.
 - a. In addition to the authority granted to a participating state by its respective state physician assistant laws and regulations or other applicable state law, any participating state may participate with other participating states in joint investigations of licensees.

- b. Participating states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under this compact.
9. If an 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 two years have elapsed after all restrictions have been removed from the state license. All disciplinary orders by the participating state which issued the qualifying license that impose adverse action against a 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. If any participating state takes adverse action, it promptly shall notify the administrator of the data system.

43-17.5-07. Establishment of the physician assistant licensure compact commission.

1. The participating states hereby create and establish a joint government agency and national administrative body known as the physician assistant licensure compact commission. The commission is an instrumentality of the compact states acting jointly and not an instrumentality of any one state. The commission comes into existence on or after the effective date of the compact as set forth in section 43-17.5-11.
2. Membership, voting, and meetings.
 - a. Each participating state must have and be 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, 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 laws of the state from which the delegate is appointed.
 - d. The participating state licensing board shall fill any vacancy occurring in the commission within sixty days.
 - e. Each delegate is entitled to one vote on all matters voted on by the commission and shall otherwise have an opportunity to participate in the business and affairs of the commission. A delegate may vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telecommunications, video conference, or other means of communication.
 - f. 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.

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- g. The commission shall establish by rule a term of office for delegates.
3. The commission shall have the following powers and duties:
- a. Establish a code of ethics for the commission;
 - b. Establish the fiscal year of the commission;
 - c. Establish fees;
 - d. Establish bylaws;
 - e. Maintain its financial records in accordance with the bylaws;
 - f. Meet and take such actions as are consistent with the provisions of this compact and the bylaws;
 - g. Promulgate rules, which have the force and effect of law and are binding in all participating states, to facilitate and coordinate implementation and administration of this compact;
 - h. Bring and prosecute legal proceedings or actions in the name of the commission, provided the standing of any state licensing board to sue or be sued under applicable law is not affected;
 - i. Purchase and maintain insurance and bonds;
 - j. Borrow, accept, or contract for services of personnel, including employees of a participating state;
 - k. Hire employees and engage contractors, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
 - l. Accept any appropriate donations and grants of money, equipment, supplies, materials and services, and receive, utilize and dispose of the same; provided at all times the commission avoids any appearance of impropriety or conflict of interest;
 - m. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed; provided the commission avoids any appearance of impropriety;
 - n. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
 - o. Establish a budget and make expenditures;
 - p. Borrow money;
 - q. Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

- r. Provide and receive information from, and cooperate with, law enforcement agencies;
 - s. Elect a chair, vice chair, secretary, treasurer, and such other officers of the commission as provided in the commission's bylaws;
 - t. Reserve for itself, in addition to those reserved exclusively to the commission under the compact, powers that the executive committee may not exercise;
 - u. Approve or disapprove a state's participation in the compact based on its determination as to whether the state's compact legislation departs in a material manner from the model compact language;
 - v. Prepare and provide to the participating states an annual report; and
 - w. 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 the commission.
- a. All meetings of the commission that are not closed pursuant to this subsection must be open to the public. Notice of public meetings must be posted on the commission's website at least thirty days prior to the public meeting.
 - b. Notwithstanding subdivision a, the commission may convene a public meeting by providing at least twenty-four hours prior notice on the commission's website, and any other means as provided in the commission's rules, for any of the reasons it may dispense with notice of proposed rulemaking under section 43-17.5-09.
 - c. The commission may convene in a closed, nonpublic meeting or nonpublic part of a public meeting to receive legal advice or to discuss:
 - (1) Noncompliance of a participating state with its obligations under this compact;
 - (2) The 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 where 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 this compact;
 - (10) Legal advice; or
 - (11) 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 section, the chair of the meeting or the chair's designee shall certify 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 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 of 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 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.
 - (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 its scheduled expiration, and the licensee has a qualifying license in another participating state, the licensee shall inform the commission that it is changing to that participating state the participating state through which it 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 same; nor may the commission 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. The executive committee.
- a. The executive committee may act on behalf of the commission according to the terms of this compact and commission rules.
 - b. The executive committee must be composed of nine 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 physician assistant professional association; and
 - (3) One ex officio, nonvoting member from a recognized national physician assistant certification organization.
 - c. The ex officio members will be selected by their respective organizations.
 - d. The commission may remove any member of the executive committee as provided in its bylaws.
 - e. The executive committee shall:
 - (1) Meet at least annually;
 - (2) Recommend to the commission changes to the commission's rules or bylaws, changes to this compact legislation, fees to be paid by compact participating states including annual dues and any commission compact fee charged to licensees for the compact privilege;
 - (3) Ensure compact administration services are appropriately provided, contractual or otherwise;
 - (4) Prepare and recommend the budget;
 - (5) Maintain financial records on behalf of the commission;
 - (6) Monitor compact compliance of participating states and provide compliance reports to the commission;
 - (7) Establish additional committees as necessary;

- (8) 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
- (9) Perform other duties as provided in the commission's rules or bylaws.
- f. All meetings of the executive committee at which it votes or plans to vote on matters in exercising the powers and duties of the commission must be open to the public and public notice of such meetings must be given as public meetings of the commission are given.
- g. The executive committee may convene in a closed, nonpublic meeting for the same reasons the commission may convene in a nonpublic meeting under subsection 4, and shall announce the closed meeting and keep minutes of the closed meeting as the commission is required to do under subsection 4.
7. Qualified immunity, defense, and indemnification.
- a. The members, officers, executive director, employees, and representatives of the commission are 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 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; provided that nothing in this paragraph is 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 does not in any way compromise or limit the immunity granted under this section.
- b. The commission shall defend any member, officer, executive director, employee, and 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; provided that nothing herein is construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that 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, and 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 such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided 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 compact may not be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which must be governed solely by any other applicable state laws.
- f. This compact 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 compact 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 Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.
- h. This compact may not be construed to be a waiver of sovereign immunity by the participating states or by the commission.

43-17.5-08. Data system.

1. The commission shall provide for the development, maintenance, operation, and utilization of a coordinated data and reporting system containing licensure, adverse action, and the reporting of the existence of significant investigative information on all licensed physician assistants and applicants denied a license in participating states.
2. Notwithstanding any other 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, utilizing 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 such 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 pertaining to a licensee in any participating state must only be available to other participating states.

4. The commission shall promptly notify all participating states of any adverse action taken against a licensee or an individual applying for a license which has been reported to it. This adverse action information must be available to any other participating state.
5. 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. Any information submitted to the data system which is subsequently expunged pursuant to federal law or 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.
7. The records and information provided to a participating state pursuant to this compact or through the data system, when certified by the commission or an agent thereof, constitutes the authenticated business records of the commission, and is entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a participating state.

43-17.5-09. Rulemaking.

1. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Commission rules become binding as of the date specified by the commission for each rule.
2. The commission shall promulgate reasonable rules to effectively and efficiently implement and administer this compact and achieve its purposes. A commission rule is invalid and without force or effect only if a court of competent jurisdiction holds the rule is invalid because the commission exercised its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, or based upon another applicable standard of review.
3. The rules of the commission have the force of law in each participating state, provided however 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. If a majority of the legislatures of the participating states rejects a commission rule, by enactment of a statute or resolution in the same manner used to adopt this compact within four years of the date of adoption of the rule, then such rule has no further force and effect in any participating state or to any state applying to participate in the compact.
5. Commission rules must be adopted at a regular or special meeting of the commission.
6. Prior to promulgation and adoption of a final rule or rules by the commission, and at least thirty 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 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 by rule specify.
7. The notice of proposed rulemaking must include:
- a. The time, date, and location of the public hearing on the proposed rule and the proposed time, date, and location of the meeting in which the proposed 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. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which must be made available to the public.
9. If the hearing is to be held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.
- a. All persons wishing to be heard at the hearing shall as directed in the notice of proposed rulemaking, not less than five business days before the scheduled date of the hearing, notify the commission of their desire to appear and testify at 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 comments, data, facts, opinions, and arguments received in response to the proposed rulemaking must be made available to a person upon request.
 - d. This section may not be construed as requiring a separate hearing on each proposed rule. Proposed rules may be grouped for the convenience of the commission at hearings required by this section.
10. Following the public hearing, the commission shall consider all written and oral comments timely received.
11. The commission shall, by majority vote of all delegates, take final action on the proposed rule and shall determine the effective date of the rule, if adopted, based on the rulemaking record and the full text of the rule.
- a. If adopted, the rule must be posted on the commission's website.

- b. The commission may adopt changes to the proposed rule provided the changes do not enlarge the original purpose of the proposed rule.
 - c. The commission shall provide on its website an explanation of the reasons for substantive changes made to the proposed rule and reasons for substantive changes not made that were recommended by commenters.
 - 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 must be no sooner than thirty days after the commission issued the notice that it adopted the rule.
12. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with twenty-four hours prior notice, without the opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in this compact and in this section are retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For purposes of this subsection, an emergency rule is one that must be adopted immediately by the commission 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 a commission rule that is established by federal law or rule; or
 - d. Protect public health and safety.
13. The commission or an authorized committee of the commission may direct revisions to a previously adopted commission 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 website of the commission. The revision must be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds 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 will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.
14. No participating state's rulemaking requirements apply under this compact.

43-17.5-10. Oversight, dispute resolution, and enforcement.

1. Oversight.
- 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. This compact does not affect or limit 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 proceeding void as to the commission, this compact, or commission rules.

2. Default, technical assistance, and termination.

a. 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 provide written notice to the defaulting state and other participating states. The notice must describe the default, the proposed means of curing the default, any other action the commission may take, and offer remedial training and specific technical assistance regarding the default.

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

c. Termination of participation in this compact must be imposed only after all other means of securing compliance have been exhausted. The commission shall provide notice of intent to suspend or terminate to the governor, the majority and minority leaders of the defaulting state's legislature, and to the licensing board of each of the participating states.

d. 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.

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

f. The defaulting state 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 such litigation, including reasonable attorney's fees.

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

- (1) Licensees who have been granted a compact privilege in that state shall retain the compact privilege for one hundred eighty days following the effective date of such termination.
 - (2) Licensees who are licensed in that state who have been granted a compact privilege in a participating state shall retain the compact privilege for one hundred eighty days unless the licensee also has a qualifying license in a participating state or obtains a qualifying license in a participating state before the one hundred eighty-day period ends, in which case the compact privilege continues.
3. Dispute resolution.

 - a. Upon request by a participating state, the commission shall attempt to resolve disputes related to this 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.
 4. Enforcement.

 - a. The commission, in the reasonable exercise of its discretion, shall enforce the provisions of this 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 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 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'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.
 5. Legal action against the commission.

 - 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. In the event judicial enforcement is necessary, the prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees.
 - b. Any person other than a participating state may not enforce this compact against the commission.

43-17.5-11. Date of implementation of the physician assistant licensure compact commission.

1. This compact becomes effective 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 before 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.
 - (1) A charter participating state whose enactment is found to be materially different from the model compact is entitled to the default process under section 43-17.5-10.
 - (2) If any participating state later withdraws from the compact or its participation is terminated, the commission shall remain in existence and the compact must remain in effect even if the number of participating states should be less than seven. Participating states enacting the compact subsequent to the commission convening are subject to the process under subsection 3 of section 43-17.5-07 to determine if 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 seven initial charter participating states are subject to the process under subsection 3 of section 43-17.5-07 to determine if 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 before the effective date of the compact or the commission coming into existence are considered actions of the commission unless specifically repudiated by the commission.
2. Any state that joins this compact is subject to the commission's rules and bylaws as they exist on the date on which this compact becomes law in that state. Any rule that has been previously adopted by the commission has the full force and effect of law on the day this compact becomes law in that state.
3. Any participating state may withdraw from this compact by enacting a statute repealing the same.
 - a. A participating state's withdrawal does not take effect until one hundred eighty days after enactment of the repealing statute. During this one hundred eighty 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 any licensee licensed in the withdrawing state is also licensed in another participating state or obtains a license in another participating state within the one hundred eighty days, the licensee's compact privileges in other participating states are not affected by the passage of the one hundred eighty days.

- b. Withdrawal does not affect the continuing requirement of the state licensing board 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, the state shall immediately provide notice of such withdrawal to all licensees within that state. Such withdrawing state shall continue to recognize all licenses granted pursuant to this compact for a minimum of one hundred eighty days after the date of such notice of withdrawal.
4. This compact may not be construed to invalidate or prevent any physician assistant licensure agreement or other cooperative arrangement between participating states and between a participating state and nonparticipating state which does not conflict with the provisions of this compact.
5. This compact may be amended by the participating states. An amendment to this compact may not become effective and binding on any participating state until it is enacted materially in the same manner into the laws of all participating states as determined by the commission.

43-17.5-12. Construction and severability.

1. This compact and the commission's rulemaking authority must be liberally construed so as to effectuate the purposes, and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules may not be construed to limit the commission's rulemaking authority solely for those purposes.
2. 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 of the United States, or the applicability thereof 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 thereof to any other government, agency, person or circumstance are not affected thereby.
3. Notwithstanding this section, the commission may deny a state's participation in the compact or, in accordance with the requirements of section 43-17.5-10, 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 must remain 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.

43-17.5-13. Binding effect of compact.

1. This compact does not prevent the enforcement of any other law of a participating state that is not inconsistent with this compact.
2. A law in a participating state in conflict with this compact is superseded to the extent of the conflict.

3. All agreements between the commission and the participating states are binding in accordance with the terms of the agreement.

SECTION 6. EFFECTIVE DATE. This Act becomes effective upon its filing with the secretary of state.

Approved January 23, 2026

Filed January 23, 2026