

[First Reprint]

ASSEMBLY, No. 5632

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED JUNE 20, 2023

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Co-Sponsored by:

Assemblywoman Speight

SYNOPSIS

Adopts Dentist and Dental Hygienist Compact.

CURRENT VERSION OF TEXT

As reported by the Assembly Budget Committee on June 27, 2023, with amendments.



(Sponsorship Updated As Of: 6/30/2023)

1 AN ACT adopting the Dentist and Dental Hygienist Compact and
2 supplementing Title 45 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. The State of New Jersey enacts and enters into the Dentist and
8 Dental Hygienist Compact with all other jurisdictions that legally join
9 the compact in the form substantially as follows:

10
11 Section 1. Title and Purpose.

12 This statute shall be known and cited as the Dentist and Dental
13 Hygienist Compact. The purposes of this compact are to facilitate the
14 interstate practice of dentistry and dental hygiene and improve public
15 access to dentistry and dental hygiene services by providing dentists
16 and dental hygienists licensed in a participating state the ability to
17 practice in participating states in which they are not licensed. The
18 compact does this by establishing a pathway for dentists and dental
19 hygienists licensed in a participating state to obtain a compact
20 privilege that authorizes them to practice in another participating state
21 in which they are not licensed. The compact enables participating
22 states to protect the public health and safety with respect to the
23 practice of such dentists and dental hygienists, through the state's
24 authority to regulate the practice of dentistry and dental hygiene in the
25 state. The compact:

26 a. Enables dentists and dental hygienists who qualify for a
27 compact privilege to practice in other participating states without
28 satisfying burdensome and duplicative requirements associated with
29 securing a license to practice in those states;

30 b. Promotes mobility and addresses workforce shortages through
31 each participating state's acceptance of a compact privilege to practice
32 in that state;

33 c. Increases public access to qualified, licensed dentists and
34 dental hygienists by creating a responsible, streamlined pathway for
35 licensees to practice in participating states;

36 d. Enhances the ability of participating states to protect the
37 public's health and safety;

38 e. Does not interfere with licensure requirements established by a
39 participating state;

40 f. Facilitates the sharing of licensure and disciplinary information
41 among participating states;

42 g. Requires dentists and dental hygienists who practice in a
43 participating state pursuant to a compact privilege to practice within
44 the scope of practice authorized in that state;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ABU committee amendments adopted June 27, 2023.

1 h. Extends the authority of a participating state to regulate the
2 practice of dentistry and dental hygiene within its borders to dentists
3 and dental hygienists who practice in the state through a compact
4 privilege;

5 i. Promotes the cooperation of participating states in regulating
6 the practice of dentistry and dental hygiene within those states; and

7 j. Facilitates the relocation of military members and their spouses
8 who are licensed to practice dentistry or dental hygiene.

9
10 Section 2. Definitions.

11 As used in this compact, unless context requires otherwise:

12 “Active military member” means any person with full-time duty
13 status in the Armed Forces of the United States, including members of
14 the National Guard and Reserve components.

15 “Adverse action” means disciplinary action or encumbrance
16 imposed on a license or compact privilege by a state licensing
17 authority.

18 “Alternative program” means a non-disciplinary monitoring or
19 practice remediation process applicable to a dentist or dental hygienist
20 approved by a state licensing authority of a participating state in which
21 the dentist or dental hygienist is licensed. “Alternative program” shall
22 include, but not be limited to, programs to which licensees with a
23 substance use disorder are referred in lieu of adverse action.

24 “Clinical assessment” means an examination or process required
25 for licensure as a dentist or dental hygienist, as applicable, which
26 examination or process provides evidence of clinical competence in
27 dentistry or dental hygiene, as applicable.

28 “Commissioner” means the individual appointed by a participating
29 state to serve as the member of the commission for that participating
30 state.

31 “Compact” means ¹~~the~~ this¹ Dentist and Dental ¹~~Hygiene~~
32 Hygienist¹ Compact.

33 “Compact privilege” means the authorization granted by a remote
34 state to allow a licensee from a participating state to practice as a
35 dentist or dental hygienist in a remote state.

36 “Continuing professional development” means a requirement, as a
37 condition of license renewal, to provide evidence of successful
38 participation in educational or professional activities relevant to
39 practice or area of work.

40 “Criminal background check” means the submission of
41 fingerprints or other biometric-based information for an applicant for
42 licensure for the purpose of obtaining the applicant’s criminal history
43 record information, as defined in 28 C.F.R. s.20.3(d), from the Federal
44 Bureau of Investigation and the state’s criminal history record
45 repository, as defined in 28 C.F.R. s.20.3(f).

46 “Data system” means the commission’s repository of information
47 about licensees, including, but not limited to, examination, licensure,

1 investigative, compact privilege, adverse action, and alternative
2 program information.

3 “Dental hygienist” means an individual who is licensed by a state
4 licensing authority to practice dental hygiene.

5 “Dentist” means an individual who is licensed by a state licensing
6 authority to practice dentistry.

7 “Dentist and Dental Hygienist Compact Commission” or
8 “commission” means the joint government agency established under
9 the compact comprising each state that has enacted the compact and a
10 national administrative body comprising a commissioner from each
11 state that has enacted the compact.

12 “Encumbered license” means a license that a state licensing
13 authority has limited in any way other than through an alternative
14 program.

15 “Executive board” means the chair, vice chair, secretary, and
16 treasurer of the commission, as well as any other commissioners as
17 may be determined by commission rule or bylaw.

18 “Jurisprudence requirement” means the assessment of an
19 individual’s knowledge of the laws and rules governing the practice of
20 dentistry or dental hygiene, as applicable, in a state.

21 “License” means current authorization by a state, other than
22 authorization pursuant to a compact privilege, or other privilege, for an
23 individual to practice as a dentist or dental hygienist in that state.

24 “Licensee” means an individual who holds an unrestricted license
25 from a participating state to practice as a dentist or dental hygienist in
26 that state.

27 “Model compact” means the model for the Dentist and Dental
28 Hygienist Compact on file with the Council of State Governments or
29 other entity as designated by the commission.

30 “Participating state” means a state that has enacted the compact
31 and been admitted to the commission in accordance with the
32 provisions of the compact and commission rules.

33 “Qualifying license” means a license that is not an encumbered
34 license issued by a participating state to practice dentistry or dental
35 hygiene.

36 “Remote state” means a participating state where a licensee who is
37 not licensed as a dentist or dental hygienist is exercising or seeking to
38 exercise the compact privilege.

39 “Rule” means a regulation promulgated by an entity that has the
40 force of law.

41 “Scope of practice” means the procedures, actions, and processes a
42 dentist or dental hygienist licensed in a state is permitted to undertake
43 in that state and the circumstances under which the licensee is
44 permitted to undertake those procedures, actions, and processes. Such
45 procedures, actions, and processes and the circumstances under which
46 they may be established through means, including, but not limited to,
47 statutes, regulations, case law, and other processes available to the
48 state licensing authority or other government agency.

1 “Significant investigative information” means information,
2 records, and documents received or generated by a state licensing
3 authority pursuant to an investigation for which a determination has
4 been made that there is probable cause to believe that the licensee has
5 violated a statute or regulation that is considered more than a minor
6 infraction for which the state licensing authority could pursue an
7 adverse action against the licensee.

8 “State” means a state, commonwealth, district, or territory of the
9 United States that regulates the practices of dentistry and dental
10 hygiene.

11 “State licensing authority” means an agency or other entity of a
12 state that is responsible for the licensing and regulation of dentists or
13 dental hygienists.

14

15 Section 3. State Participation in the Compact.

16 a. In order to join the compact and thereafter continue as a
17 participating state, a state shall:

18 (1) Enact a compact that is not materially different from the model
19 compact, as determined in accordance with commission rules;

20 (2) Participate fully in the commission’s data system;

21 (3) Have a mechanism in place for receiving and investigating
22 complaints about its licensees and license applicants;

23 (4) Notify the commission, in compliance with the terms of the
24 compact and commission rules, of any adverse action or the
25 availability of significant investigative information regarding a
26 licensee or license applicant;

27 (5) Fully implement a criminal background check requirement,
28 within a time frame established by commission rule, by receiving the
29 results of a qualifying criminal background check;

30 (6) Comply with commission rules applicable to a participating
31 state;

32 (7) Accept the national board examinations of the Joint
33 Commission on National Dental Examinations or another examination
34 accepted by commission rule as a licensure examination;

35 (8) Accept for licensure that applicants for a dentist license
36 graduate from a predoctoral dental education program accredited by
37 the Commission on Dental Accreditation, or another accrediting
38 agency recognized by the United States Department of Education for
39 the accreditation of dentistry and dental hygiene education programs,
40 leading to the doctor of dental surgery or doctor of dental medicine
41 degree;

42 (9) Accept for licensure that applicants for a dental hygienist
43 license graduate from a dental hygiene program accredited by the
44 Commission on Dental Accreditation, or another accrediting agency
45 recognized by the United States Department of Education for the
46 accreditation of dentistry and dental hygiene education programs;

47 (10) Require for licensure that applicants successfully complete a
48 clinical assessment;

1 (11) Have continuing professional development requirements as a
2 condition for license renewal; and

3 (12) Pay a participation fee to the commission as established by
4 commission rule.

5 b. Providing alternative pathways for an individual to obtain an
6 unrestricted license shall not disqualify a state from participating in the
7 compact.

8 c. When conducting a criminal background check, the state
9 licensing authority shall:

10 (1) Consider that information in making a licensure decision;

11 (2) Maintain documentation of the criminal background check and
12 background check information to the extent allowed by state and
13 federal law; and

14 (3) Report to the commission whether a state has completed the
15 criminal background check and whether the individual was granted or
16 denied a license.

17 d. A licensee of a participating state who has a qualifying license
18 in that state and does not hold an encumbered license in any other
19 participating state shall be issued a compact privilege in a remote state
20 in accordance with the terms of the compact and commission rules. If
21 a remote state has a jurisprudence requirement, a compact privilege
22 shall not be issued to the licensee unless the licensee has satisfied the
23 jurisprudence requirement.

24

25 Section 4. Compact Privilege.

26 a. To obtain and exercise the compact privilege under the terms
27 and provisions of the compact, a licensee shall:

28 (1) Have a qualifying license as a dentist or dental hygienist in a
29 participating state;

30 (2) Be eligible for a compact privilege in any remote state in
31 accordance with subsections d., g., and h. of this section;

32 (3) Submit to an application process whenever the licensee is
33 seeking a compact privilege;

34 (4) Pay any applicable commission and remote state fees for a
35 compact privilege in the remote state;

36 (5) Meet any jurisprudence requirement established by a remote
37 state in which the licensee is seeking a compact privilege;

38 (6) Have passed a national board examination of the Joint
39 Commission on National Dental Examinations or another examination
40 accepted by commission rule;

41 (7) For a dentist, have graduated from a predoctoral dental
42 education program accredited by the Commission on Dental
43 Accreditation, or another accrediting agency recognized by the United
44 States Department of Education for the accreditation of dentistry and
45 dental hygiene education programs, leading to the doctor of dental
46 surgery or doctor of dental medicine degree;

47 (8) For a dental hygienist, have graduated from a dental hygiene
48 education program accredited by the Commission on Dental

1 Accreditation or another accrediting agency recognized by the United
2 States Department of Education for the accreditation of dentistry and
3 dental hygiene education programs;

4 (9) Have successfully completed a clinical assessment for
5 licensure;

6 (10) Report to the commission any adverse action taken by any
7 nonparticipating state when applying for a compact privilege and,
8 otherwise, within 30 days from the date the adverse action is taken;

9 (11) Report to the commission when applying for a compact
10 privilege the address of the licensee's primary residence, and thereafter
11 immediately report to the commission any change in the address of the
12 licensee's primary residence; and

13 (12) Consent to accept service of process by mail at the licensee's
14 primary residence on record with the commission with respect to any
15 action brought against the licensee by the commission or a
16 participating state, and consent to accept service of a subpoena by mail
17 at the licensee's primary residence on record with the commission with
18 respect to any action brought or investigation conducted by the
19 commission or a participating state.

20 b. A licensee shall comply with the requirements set forth in
21 subsection a. of this section to maintain the compact privilege in the
22 remote state. If those requirements are met, the compact privilege will
23 continue as long as the licensee maintains a qualifying license in the
24 state through which the licensee applied for the compact privilege and
25 pays any applicable compact privilege renewal fees.

26 c. A licensee providing dentistry or dental hygiene in a remote
27 state under a compact privilege shall function within the scope of
28 practice authorized by the remote state for a dentist or dental hygienist
29 licensed in that state.

30 d. A licensee providing dentistry or dental hygiene pursuant to a
31 compact privilege in a remote state shall be subject to that state's
32 regulatory authority. A remote state may, in accordance with due
33 process and that state's laws, by adverse action revoke or remove a
34 licensee's compact privilege in the remote state for a specific period of
35 time, impose fines, or take any other necessary actions to protect the
36 health and safety of its citizens. If a remote state imposes an adverse
37 action against a compact privilege that limits the compact privilege,
38 that adverse action shall apply to all compact privileges in all remote
39 states. A licensee whose compact privilege in a remote state is
40 removed for a specified period of time shall not be eligible for a
41 compact privilege in any other remote state until the specific time for
42 removal of the compact privilege has passed and all encumbrance
43 requirements are satisfied.

44 e. If a license in a participating state is an encumbered license, the
45 licensee shall lose the compact privilege in a remote state and shall not
46 be eligible for a compact privilege in any remote state until the license
47 is no longer encumbered.

1 f. Once an encumbered license in a participating state is restored
2 to good standing, the licensee shall meet the requirements of
3 subsection a. of this section to obtain a compact privilege in a remote
4 state.

5 g. If a licensee's compact privilege in a remote state is removed
6 by the remote state, the individual shall lose or be ineligible for the
7 compact privilege in any remote state until:

8 (1) The specified period of time for which the compact privilege
9 was removed has ended; and

10 (2) All conditions for removal of the compact privilege have been
11 satisfied.

12 h. Once the requirements of subsection g. of this section have
13 been met, the licensee shall be required to meet the requirements of
14 subsection a. of this section to obtain a compact privilege in a remote
15 state.

16

17 Section 5. Active Military Members and Their Spouses.

18 Active military members and the spouses of active military
19 members shall not be required to pay to the commission for a compact
20 privilege the fee otherwise charged by the commission. If a remote
21 state chooses to charge a fee for a compact privilege, it may choose to
22 charge a reduced fee or no fee to active military members and spouses
23 of active military members for a compact privilege.

24

25 Section 6. Adverse Actions.

26 a. A participating state in which a licensee is licensed shall have
27 exclusive authority to impose adverse action against the qualifying
28 license issued by that participating state.

29 b. A participating state may take adverse action based on
30 significant investigative information of a remote state, provided the
31 participating state follows its own procedures for imposing adverse
32 action.

33 c. Nothing in this compact shall override a participating state's
34 decision that participation in an alternative program may be used in
35 lieu of adverse action and that such participation shall remain
36 nonpublic if required by the participating state's laws. Participating
37 states shall require licensees who enter any alternative program in lieu
38 of discipline to agree not to practice pursuant to a compact privilege in
39 any other participating state during the term of the alternative program
40 without prior authorization from such other participating state.

41 d. Any participating state in which a licensee is applying to
42 practice or is practicing pursuant to a compact privilege may
43 investigate actual or alleged violations of the statutes and regulations
44 authorizing the practice of dentistry or dental hygiene in any other
45 participating state in which the dentist or dental hygienist holds a
46 license or compact privilege.

47 e. A remote state shall have the authority to:

1 (1) Take adverse actions as set forth in subsection d. of section 4
2 of the compact against a licensee's compact privilege in the state;

3 (2) In furtherance of its rights and responsibilities under the
4 compact and the commission's rules, issue subpoenas for both
5 hearings and investigations that require the attendance and testimony
6 of witnesses and the production of evidence. Subpoenas issued by a
7 state licensing authority in a participating state for the attendance and
8 testimony of witnesses, or the production of evidence from another
9 participating state, shall be enforced in the latter state by any court of
10 competent jurisdiction according to the practice and procedure of that
11 court applicable to subpoenas issued in proceedings pending before it.
12 The issuing authority shall pay any witness fees, travel expenses,
13 mileage, and other fees required by the service statutes of the state
14 where the witnesses or evidence are located; and

15 (3) If otherwise permitted by state law, recover from the licensee
16 the costs of investigation and disposition of cases resulting from any
17 adverse action taken against that licensee.

18 f. Joint Investigations.

19 (1) In addition to the authority granted to a participating state by
20 its dentist or dental hygienist licensure act or other applicable state
21 law, a participating state may jointly investigate licensees with other
22 participating states.

23 (2) Participating states shall share any significant investigative
24 information, litigation, or compliance materials in furtherance of any
25 joint or individual investigation initiated under the compact.

26 g. Authority to Continue Investigation.

27 (1) After a licensee's compact privilege in a remote state is
28 terminated, the remote state may continue an investigation of the
29 licensee that began when the licensee had a compact privilege in that
30 remote state.

31 (2) If the investigation yields what would be significant
32 investigative information had the licensee continued to have a compact
33 privilege in that remote state, the remote state shall report the presence
34 of such information to the data system as required by paragraph (6) of
35 subsection b. of section 8 of the compact as if it was significant
36 investigative information.

37
38 Section 7. Establishment and Operation of the Commission.

39 a. The compact participating states hereby create and establish a
40 joint government agency, the membership of which shall comprise all
41 participating states that have enacted the compact. The commission
42 shall be an instrumentality of the participating states acting jointly and
43 not an instrumentality of any one state. The commission shall come
44 into existence on or after the effective date of the compact as set forth
45 in subsection a. of section 11 of this compact.

46 b. Participation, Voting, and Meetings.

47 (1) Each participating state shall have and be limited to one
48 commissioner selected by the participating state's state licensing

1 authority or, if the state has more than one state licensing authority,
2 selected collectively by the state licensing authorities.

3 (2) The commissioner shall be a member or designee of such
4 licensing authority or authorities, as applicable.

5 (3) The commission may by rule or bylaw establish a term of
6 office for commissioners and may by rule or bylaw establish term
7 limits.

8 (4) The commission may recommend to a state licensing authority
9 or authorities, as applicable, removal or suspension of an individual as
10 the state's commissioner.

11 (5) A participating state's state licensing authority or authorities,
12 as applicable, shall fill any vacancy of its commissioner on the
13 commission within 60 days of the vacancy.

14 (6) Each commissioner shall be entitled to one vote on all matters
15 that are voted upon by the commission.

16 (7) The commission shall meet at least once during each calendar
17 year. Additional meetings may be held as set forth in the bylaws. The
18 commission may meet by telecommunication, video conference, or
19 other similar electronic means.

20 c. The commission shall have the following powers:

21 (1) Establishing the fiscal year of the commission;

22 (2) Establishing a code of conduct and conflict of interest policies;

23 (3) Adopting rules and bylaws;

24 (4) Maintaining the commission's financial records in accordance
25 with the bylaws;

26 (5) Meeting and taking such actions as are consistent with the
27 provisions of the compact, the commission's rules, and the bylaws;

28 (6) Initiating and concluding legal proceedings or actions in the
29 name of the commission, provided that the standing of a state licensing
30 authority to sue or be sued under applicable law shall not be affected;

31 (7) Maintaining and certifying records and information provided to
32 a participating state as the authenticated business records of the
33 commission, and designating a person to do so on the commission's
34 behalf;

35 (8) Purchasing and maintaining insurance and bonds;

36 (9) Borrowing, accepting, or contracting for services of personnel,
37 including, but not limited to, employees of a participating state;

38 (10) Conducting an annual financial review;

39 (11) Hiring employees, electing or appointing officers, fixing
40 compensation, defining duties, granting such individuals appropriate
41 authority to carry out the purposes of the compact, and establishing the
42 commission's personnel policies and programs relating to conflicts of
43 interest, qualifications of personnel, and other related personnel
44 matters;

45 (12) As set forth in the commission rules, charging a fee to a
46 licensee for the grant of a compact privilege in a remote state and
47 thereafter, as may be established by commission rule, charging the
48 licensee a compact privilege renewal fee for each renewal period in

1 which that licensee exercises or intends to exercise the compact
2 privilege in that remote state. Nothing herein shall be construed to
3 prevent a remote state from charging a licensee a fee for a compact
4 privilege or renewals of a compact privilege, or a fee for the
5 jurisprudence requirement if the remote state imposes such a
6 requirement for the grant of a compact privilege;

7 (13) Accepting any and all appropriate gifts, donations, grants of
8 money, other sources of revenue, equipment, supplies, materials, and
9 services, and receiving, utilizing, and disposing of the same, provided
10 that at all times the commission shall avoid any appearance of
11 impropriety or conflict of interest;

12 (14) Leasing, purchasing, retaining, owning, holding, improving,
13 or using any property, real, personal, or mixed, or any undivided
14 interest therein;

15 (15) Selling, conveying, mortgaging, pledging, leasing,
16 exchanging, abandoning, or otherwise disposing of any property, real,
17 personal, or mixed;

18 (16) Establishing a budget or making expenditures;

19 (17) Borrowing money;

20 (18) Appointing committees, including standing committees,
21 which may be composed of members, state regulators, state legislators
22 or their representatives, and consumer representatives, and such other
23 interested persons as may be designated in this compact and the
24 bylaws;

25 (19) Providing and receiving information from, and cooperating
26 with, law enforcement agencies;

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

30 (21) Establishing and electing an executive board;

31 (22) Adopting and providing to the participating states an annual
32 report;

33 (23) Determining whether a state's enacted compact is materially
34 different from the model compact language such that the state would
35 not qualify for participation in the compact; and

36 (24) Performing such other functions as may be necessary or
37 appropriate to achieve the purposes of this compact.

38 d. Meetings of the Commission.

39 (1) All meetings of the commission that are not closed pursuant to
40 this subsection shall be open to the public. Notice of public meetings
41 shall be posted on the commission's Internet website at least 30 days
42 prior to the public meeting.

43 (2) Notwithstanding the provisions of paragraph (1) of this
44 subsection, the commission may convene an emergency public
45 meeting by providing at least 24 hours' prior notice on the
46 commission's Internet website, and any other means as provided in the
47 commission's rules, for any of the reasons it may dispense with notice
48 of proposed rulemaking under subsection 1. of section 9 of this

1 compact. The commission's legal counsel shall certify that one of the
2 reasons justifying an emergency public meeting has been met.

3 (3) Notice of all commission meetings shall provide the time, date,
4 and location of the meeting, and if the meeting is to be held or
5 accessible via telecommunication, video conference, or other
6 electronic means, the notice shall include the mechanism for access to
7 the meeting through such means.

8 (4) The commission may convene in a closed, nonpublic meeting
9 for the commission to receive legal advice or to discuss any of the
10 following:

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

13 (b) The employment, compensation, discipline, or other matters,
14 practices, or procedures related to specific employees or other matters
15 related to the commission's internal personnel practices and
16 procedures;

17 (c) Current or threatened discipline of a licensee or compact
18 privilege holder by the commission or by a participating state's
19 licensing authority;

20 (d) Current, threatened, or reasonably anticipated litigation;

21 (e) Negotiation of contracts for the purchase, lease, or sale of
22 goods, services, or real estate;

23 (f) Accusing any person of a crime or formally censuring any
24 person;

25 (g) Trade secrets or commercial or financial information that is
26 privileged or confidential;

27 (h) Information of a personal nature where disclosure would
28 constitute a clearly unwarranted invasion of personal privacy;

29 (i) Investigative records compiled for law enforcement purposes;

30 (j) Information related to any investigative reports prepared by or
31 on behalf of or for use of the commission or other committee charged
32 with responsibility of investigation or determination of compliance
33 issues pursuant to the compact;

34 (k) Legal advice;

35 (l) Matters specifically exempted from disclosure to the public by
36 federal or participating state law; and

37 (m) Other matters as promulgated by the commission by rule.

38 (5) If a meeting, or portion of a meeting, is closed, the presiding
39 officer shall state that the meeting will be closed and reference each
40 relevant exempting provision, and such reference shall be recorded in
41 the minutes.

42 (6) The commission shall keep minutes that fully and clearly
43 describe all matters discussed in a meeting and shall provide a full and
44 accurate summary of actions taken, and the reasons therefor, including
45 a description of the views expressed. All documents considered in
46 connection with an action shall be identified in such minutes. All
47 minutes and documents of a closed meeting shall remain under seal,

1 subject to release only by a majority vote of the commission or order
2 of a court of competent jurisdiction.

3 e. Financing of the Commission.

4 (1) The commission shall pay or provide for the payment of the
5 reasonable expenses of its establishment, organization, and ongoing
6 activities.

7 (2) The commission may accept any and all appropriate sources of
8 revenue, donations, and grants of money, equipment, supplies,
9 materials, and services.

10 (3) The commission may levy on and collect an annual assessment
11 from each participating state and impose fees on licensees of
12 participating states when a compact privilege is granted to cover the
13 cost of the operations and activities of the commission and its staff,
14 which assessment and fees shall be in a total amount sufficient to
15 cover its annual budget as approved each fiscal year for which
16 sufficient revenue is not provided by other sources. The aggregate
17 annual assessment amount for participating states shall be allocated
18 based upon a formula that the commission shall promulgate by rule.

19 (4) The commission shall not incur obligations of any kind prior to
20 securing the funds adequate to meet the same, nor shall the
21 commission pledge the credit of any participating state, except by and
22 with the authority of the participating state.

23 (5) The commission shall keep accurate accounts of all receipts
24 and disbursements. The receipts and disbursements of the commission
25 shall be subject to the financial review and accounting procedures
26 established under the commission's bylaws. All receipts and
27 disbursements of funds handled by the commission shall be subject to
28 an annual financial review by a certified or licensed public accountant,
29 and the report of the financial review shall be included in and become
30 part of the annual report of the commission.

31 f. The Executive Board.

32 (1) The executive board shall have the power to act on behalf of
33 the commission according to the terms of the compact. The powers,
34 duties, and responsibilities of the executive board shall include:

35 (a) Overseeing the day-to-day activities of the administration of the
36 compact, including compliance with the provisions of the compact, the
37 commission's rules, and bylaws;

38 (b) Recommending to the commission changes to the rules or
39 bylaws, changes to this compact legislation, fees charged to the
40 compact participating states, fees charged to licensees, and other fees;

41 (c) Ensuring compact administration services are appropriately
42 provided, including by contract;

43 (d) Preparing and recommending the budget;

44 (e) Maintaining financial records on behalf of the commission;

45 (f) Monitoring compact compliance of participating states and
46 providing compliance reports to the commission;

47 (g) Establishing additional committees as necessary;

1 (h) Exercising the powers and duties of the commission during the
2 interim between commission meetings, except for adopting or
3 amending rules, adopting or amending bylaws, and exercising any
4 other powers and duties expressly reserved to the commission by rule
5 or bylaw; and

6 (i) Other duties as provided in the rules or bylaws of the
7 commission.

8 (2) The executive board shall be composed of up to seven
9 members:

10 (a) The chair, vice chair, secretary, and treasurer of the
11 commission, and any other members of the commission who serve on
12 the executive board shall be voting members of the executive board;
13 and

14 (b) Other than the chair, vice chair, secretary, and treasurer of the
15 commission, the commission may elect up to three voting members to
16 the executive board from the current membership of the commission.

17 (3) The commission may remove any member of the executive
18 board as provided in the commission's bylaws.

19 (4) The executive board shall meet at least annually.

20 (a) An executive board meeting at which the executive board takes
21 or intends to take formal action on a matter shall be open to the public,
22 except that the executive board may meet in a closed, nonpublic
23 session of a public meeting when dealing with any of the matters
24 covered under paragraph (4) of subsection d. of this section.

25 (b) The executive board shall give five business days' notice of its
26 public meetings, posted on its Internet website and as it may otherwise
27 determine to provide notice to persons with an interest in the public
28 matters the executive board intends to address at those meetings.

29 (5) The executive board may hold an emergency meeting when
30 acting for the commission to do any of the following:

- 31 (a) Meet an imminent threat to public health, safety, or welfare;
32 (b) Prevent a loss of commission or participating state funds; or
33 (c) Protect public health and safety.

34 g. Qualified Immunity, Defense, and Indemnification.

35 (1) The members, officers, executive director, employees, and
36 representatives of the commission shall be immune from suit and
37 liability, both personally and in their official capacity, for any claim
38 for damage to or loss of property or personal injury or other civil
39 liability caused by or arising out of any actual or alleged act, error, or
40 omission that occurred, or that the person against whom the claim is
41 made had a reasonable basis for believing occurred, within the scope
42 of commission employment, duties, or responsibilities; provided that
43 nothing in this paragraph shall be construed to protect any such person
44 from suit or liability for any damage, loss, injury, or liability caused by
45 the intentional, willful, or wanton misconduct of that person. The
46 procurement of insurance of any type by the commission shall not in
47 any way compromise or limit the immunity granted hereunder.

1 (2) The commission shall defend any member, officer, executive
2 director, employee, and representative of the commission in any civil
3 action seeking to impose liability arising out of any actual or alleged
4 act, error, or omission that occurred within the scope of commission
5 employment, duties, or responsibilities, or as determined by the
6 commission that the person against whom the claim is made had a
7 reasonable basis for believing occurred within the scope of
8 commission employment, duties, or responsibilities; provided that
9 nothing in this paragraph shall be construed to prohibit that person
10 from retaining counsel at that person's own expense; and provided
11 further that the actual or alleged act, error, or omission did not result
12 from that person's intentional, willful, or wanton misconduct.

13 (3) Notwithstanding the provisions of paragraph (1) of this
14 subsection, should any member, officer, executive director, employee,
15 or representative of the commission be held liable for the amount of
16 any settlement or judgment arising out of any actual or alleged act,
17 error, or omission that occurred within the scope of that individual's
18 employment, duties, or responsibilities for the commission, or that the
19 person to whom the individual is liable had a reasonable basis for
20 believing occurred within the scope of the individual's employment,
21 duties, or responsibilities for the commission, the commission shall
22 indemnify and hold harmless such individual, provided that the actual
23 or alleged act, error, or omission did not result from the intentional,
24 willful, or wanton misconduct of the individual.

25 (4) Nothing in this compact shall be construed as a limitation on
26 the liability of any licensee for professional malpractice or misconduct,
27 which shall be governed solely by any other applicable state laws.

28 (5) Nothing in this compact shall be interpreted to waive or
29 otherwise abrogate a participating state's state action immunity or state
30 action affirmative defense with respect to antitrust claims under the
31 Sherman Act, the Clayton Act, or any other state or federal antitrust or
32 anticompetitive law or regulation.

33 (6) Nothing in this compact shall be construed to be a waiver of
34 sovereign immunity by the participating states or by the commission.

35
36 Section 8. Data System.

37 a. The commission shall provide for the development,
38 maintenance, operation, and utilization of a coordinated database and
39 reporting system containing licensure, adverse action, and the presence
40 of significant investigative information on all licensees and applicants
41 for a license in participating states.

42 b. Notwithstanding any other provision of state law to the
43 contrary, a participating state shall submit a uniform data set to the
44 data system on all individuals to whom this compact is applicable as
45 required by the rules of the commission, including all of the following:

46 (1) Identifying information;

47 (2) Licensure data;

1 (3) Adverse actions against a licensee, license applicant, or
2 compact privilege, and information related thereto;

3 (4) Nonconfidential information related to alternative program
4 participation, the beginning and ending dates of such participation, and
5 other information related to such participation ;

6 (5) Any denial of an application for licensure and the reason for
7 such denial, excluding the reporting of any criminal history record
8 information where prohibited by law;

9 (6) The presence of significant investigative information; and

10 (7) Other information that may facilitate the administration of this
11 compact or the protection of the public, as determined by the rules of
12 the commission.

13 c. The records and information provided to a participating state
14 pursuant to this compact or through the data system, when certified by
15 the commission or an agent thereof, shall constitute the authenticated
16 business records of the commission, and shall be entitled to any
17 associated hearsay exception in any relevant judicial, quasi-judicial, or
18 administrative proceedings in a participating state.

19 d. Significant investigative information pertaining to a licensee in
20 any participating state shall only be available to other participating
21 states.

22 e. It shall be the responsibility of the participating states to
23 monitor the database to determine whether adverse action has been
24 taken against a licensee or license applicant. Adverse action
25 information pertaining to a licensee or license applicant in any
26 participating state shall be available to any other participating state.

27 f. Participating states contributing information to the data system
28 may designate information that may not be shared with the public
29 without the express permission of the contributing state.

30 g. Any information submitted to the data system that is
31 subsequently expunged pursuant to federal law or the laws of the
32 participating state contributing the information shall be removed from
33 the data system.

34

35 Section 9. Rulemaking.

36 a. The commission shall promulgate reasonable rules in order to
37 effectively and efficiently implement and administer the purposes and
38 provisions of the compact. A commission rule shall be invalid and
39 have no force or effect only if a court of competent jurisdiction holds
40 that the rule is invalid because the commission exercised its
41 rulemaking authority in a manner that is beyond the scope and
42 purposes of the compact or the powers granted hereunder, or based
43 upon another applicable standard of review.

44 b. The rules of the commission shall have the force of law in each
45 participating state, provided, however, that where the rules of the
46 commission conflict with the laws of the participating state that
47 establish the participating state's scope of practice as held by a court of

1 competent jurisdiction, the rules of the commission shall be ineffective
2 in that state to the extent of the conflict.

3 c. The commission shall exercise its rulemaking powers pursuant
4 to the criteria set forth in this section and the rules adopted thereunder.
5 Rules shall become binding as of the date specified by the commission
6 for each rule.

7 d. If a majority of the legislatures of the participating states
8 rejects a commission rule or portion of a commission rule, by
9 enactment of a statute or resolution in the same manner used to adopt
10 the compact, within four years of the date of adoption of the rule, then
11 such rule shall have no further force and effect in any participating
12 state or to any state applying to participate in the compact.

13 e. Rules shall be adopted at a regular or special meeting of the
14 commission.

15 f. Prior to adoption of a proposed rule, the commission shall hold
16 a public hearing and allow persons to provide oral and written
17 comments, data, facts, opinions, and arguments.

18 g. Prior to adoption of a proposed rule by the commission, and at
19 least 30 days in advance of the meeting at which the commission will
20 hold a public hearing on the proposed rule, the commission shall
21 provide a notice of proposed rulemaking as follows:

22 (1) On the Internet website of the commission or other publicly
23 accessible platform;

24 (2) To persons who have requested notice of the commission's
25 notices of proposed rulemaking; and

26 (3) In such other ways as the commission may by rule specify.

27 h. The notice of proposed rulemaking shall include all of the
28 following:

29 (1) The time, date, and location of the public hearing at which the
30 commission will hear public comments on the proposed rule and, if
31 different, the time, date, and location of the meeting where the
32 commission will consider and vote on the proposed rule;

33 (2) If the hearing is held via telecommunication, video conference,
34 or other electronic means, the commission shall include the
35 mechanism for access to the hearing in the notice of proposed
36 rulemaking;

37 (3) The text of the proposed rule and the reason for the proposed
38 rule;

39 (4) A request for comments on the proposed rule from any
40 interested person; and

41 (5) The manner in which interested persons may submit written
42 comments.

43 i. All hearings shall be recorded. A copy of the recording and all
44 written comments and documents received by the commission in
45 response to the proposed rule shall be available to the public.

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

1 k. The commission shall, by a majority vote of all commissioners,
2 take final action on the proposed rule based on the rulemaking record.

3 (1) The commission may adopt changes to the proposed rule,
4 provided the changes do not enlarge the original purposes of the
5 proposed rule.

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

9 (3) The commission shall determine a reasonable effective date for
10 the rule. Except for an emergency as provided in subsection l. of this
11 section, the effective date of the rule shall be no sooner than 30 days
12 after the commission issues notice that it adopted or amended the rule.

13 l. Upon determination that an emergency exists, the commission
14 may consider and adopt an emergency rule with 24 hours' notice, with
15 opportunity to comment, provided that the usual rulemaking
16 procedures provided in the compact and in this section shall be
17 retroactively applied to the rule as soon as reasonably possible, but in
18 no event later than 90 days after the effective date of the rule. For the
19 purposes of this subsection, an emergency rule is one that must be
20 adopted immediately in order to do any of the following:

21 (1) Meet an imminent threat to public health, safety, or welfare;

22 (2) Prevent a loss of commission or participating state funds;

23 (3) Meet a deadline for the promulgation of a rule that is
24 established by federal law or rule; or

25 (4) Protect public health and safety.

26 m. The commission or an authorized committee of the commission
27 may direct revisions to a previously adopted rule for purposes of
28 correcting typographical errors, errors in format, errors in consistency,
29 or grammatical errors. Public notice of any revisions shall be posted
30 on the Internet website of the commission. The revision shall be
31 subject to challenge by any person for a period of 30 days after
32 posting. The revision may be challenged only on grounds that the
33 revision results in a material change to a rule. A challenge shall be
34 made in writing and delivered to the commission prior to the end of
35 the notice period. If no challenge is made, the revision will take effect
36 without further action. If the revision is challenged, the revision may
37 not take effect without the approval of the commission.

38 n. No participating state's rulemaking requirements shall apply
39 under this compact.
40

41 Section 10. Oversight, Dispute Resolution, and Enforcement.

42 a. Oversight.

43 (1) The executive and judicial branches of state government in
44 each participating state shall enforce this compact and take all actions
45 necessary and appropriate to implement the compact.

46 (2) Venue is proper and judicial proceedings by or against the
47 commission shall be brought solely and exclusively in a court of
48 competent jurisdiction where the principal office of the commission is

1 located. The commission may waive venue and jurisdictional defenses
2 to the extent it adopts or consents to participate in alternative dispute
3 resolution proceedings. Nothing herein shall affect or limit the
4 selection or propriety of venue in any action against a licensee for
5 professional malpractice, misconduct, or any such similar matter.

6 (3) The commission shall be entitled to receive service of process
7 in any proceeding regarding the enforcement or interpretation of the
8 compact or commission rule and shall have standing to intervene in
9 such a proceeding for all purposes. Failure to provide the commission
10 service of process shall render a judgment or order void as to the
11 commission, this compact, or promulgated rules.

12 b. Default, Technical Assistance, and Termination.

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

20 (2) The commission shall provide a copy of the notice of default to
21 the other participating states.

22 c. If a state in default fails to cure the default, the defaulting state
23 may be terminated from the compact upon an affirmative vote of a
24 majority of the commissioners, and all rights, privileges, and benefits
25 conferred on that state by this compact may be terminated on the
26 effective date of termination. A cure of the default shall not relieve the
27 offending state of obligations or liabilities incurred during the period
28 of default.

29 d. Termination of participation in the compact shall be imposed
30 only after all other means of securing compliance have been
31 exhausted. Notice of intent to suspend or terminate shall be given by
32 the commission to the defaulting state's governor, the majority and
33 minority leaders of the defaulting state's legislature, the defaulting
34 state's state licensing authority or authorities, as applicable, and each
35 of the participating states' state licensing authority or authorities, as
36 applicable.

37 e. A state that has been terminated from participation in the
38 compact shall be responsible for all assessments, obligations, and
39 liabilities incurred through the effective date of termination, including
40 obligations that extend beyond the effective date of termination.

41 f. Upon the termination of a state's participation in this compact,
42 that state shall immediately provide notice to all licensees of the state,
43 including licensees of other participating states issued a compact
44 privilege to practice within that state, of such termination. The
45 terminated state shall continue to recognize all compact privileges then
46 in effect in that state for a minimum of 180 days after the date of the
47 notice of termination.

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

5 h. The defaulting state may appeal the action of the commission
6 by petitioning the United States District Court for the District of
7 Columbia or the federal district where the commission has its principal
8 offices. The prevailing party shall be awarded all costs of such
9 litigation, including reasonable attorney fees.

10 i. Dispute Resolution.

11 (1) Upon request by a participating state, the commission shall
12 attempt to resolve disputes related to the compact that arise among
13 participating states and between participating states and
14 nonparticipating states.

15 (2) The commission shall promulgate a rule providing for both
16 mediation and binding dispute resolution for disputes, as appropriate.

17 j. Enforcement.

18 (1) The commission, in the reasonable exercise of its discretion,
19 shall enforce the provisions of this compact and the commission's
20 rules.

21 (2) By a majority vote, the commission may initiate legal action
22 against a participating state in default in the United States District
23 Court for the District of Columbia or the federal district where the
24 commission has its principal offices to enforce compliance with the
25 provisions of the compact and its promulgated rules. The relief sought
26 may include both injunctive relief and damages. In the event judicial
27 enforcement is necessary, the prevailing party shall be awarded all
28 costs of such litigation, including reasonable attorney fees. The
29 remedies herein shall not be the exclusive remedies of the commission.
30 The commission may pursue any other remedies available under
31 federal or the defaulting participating state's law.

32 (3) A participating state may initiate legal action against the
33 commission in the United States District Court for the District of
34 Columbia or the federal district where the commission has its principal
35 offices to enforce compliance with the provisions of the compact and
36 its promulgated rules. The relief sought may include both injunctive
37 relief and damages. In the event judicial enforcement is necessary, the
38 prevailing party shall be awarded all costs of such litigation, including
39 reasonable attorney fees.

40 (4) No individual or entity other than a participating state may
41 enforce this compact against the commission.

42
43 Section 11. Effective Date, Withdrawal, and Amendment.

44 a. The compact shall come into effect on the date on which the
45 compact statute is enacted into law in the seventh participating state.

46 (1) On or after the effective date of the compact, the commission
47 shall convene and review the enactment of each of the states that
48 enacted the compact prior to the commission convening, which shall

1 be known as charter participating states, to determine if the statute
2 enacted by each such charter participating state is materially different
3 from the model compact.

4 (a) If the enactment of a charter participating state is found to be
5 materially different from the model compact, the charter participating
6 state shall be entitled to the default process set forth in section 10 of
7 this compact.

8 (b) If any participating state is later found to be in default, or is
9 terminated or withdraws from the compact, the commission shall
10 remain in existence and the compact shall remain in effect even if the
11 number of participating states should be less than seven.

12 (2) Participating states enacting the compact subsequent to the
13 charter participating states shall be subject to the process set forth in
14 paragraph (23) of subsection c. of section 7 of this compact to
15 determine if their enactments are materially different from the model
16 compact and whether they qualify for participation in the compact.

17 (3) All actions taken for the benefit of the commission or in
18 furtherance of the purposes of the administration of the compact prior
19 to the effective date of the compact or the commission coming into
20 existence shall be considered to be actions of the commission unless
21 specifically repudiated by the commission.

22 (4) Any state that joins the compact subsequent to the
23 commission's initial adoption of the rules and bylaws shall be subject
24 to the commission's rules and bylaws as they exist on the date on
25 which the compact becomes law in that state. Any rule that has been
26 previously adopted by the commission shall have the full force and
27 effect of law on the day the compact becomes law in that state.

28 b. Any participating state may withdraw from this compact by
29 enacting a statute repealing the state's enactment of the compact.

30 (1) A participating state's withdrawal shall not take effect until
31 180 days after enactment of the repealing statute.

32 (2) Withdrawal shall not affect the continuing requirement of the
33 withdrawing state's licensing authority or authorities, as applicable, to
34 comply with the investigative and adverse action reporting
35 requirements of this compact prior to the effective date of withdrawal.

36 (3) Upon the enactment of a statute withdrawing from this
37 compact, the withdrawing state shall immediately provide notice of
38 such withdrawal to all licensees within that state ¹], including
39 licensees of other participating states issued a compact privilege to
40 practice within that state¹. Notwithstanding any subsequent statutory
41 enactment to the contrary, such withdrawing state shall continue to
42 recognize all compact privileges to practice within that state granted
43 pursuant to this compact for a minimum of 180 days after the date of
44 such notice of withdrawal.

45 c. Nothing contained in this compact shall be construed to
46 invalidate or prevent any licensure agreement or other cooperative
47 arrangement between a participating state and a nonparticipating state
48 that does not conflict with the provisions of this compact.

1 d. This compact may be amended by the participating states. No
2 amendment to this compact shall become effective and binding upon
3 any participating state until it is enacted into the laws of all
4 participating states.

5
6 Section 12. Construction and Severability.

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

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

22 c. Notwithstanding the provisions of subsection b. of this section,
23 the commission may deny a state's participation in the compact or, in
24 accordance with the requirements of section 10 of this compact,
25 terminate a participating state's participation in the compact, if it
26 determines that a constitutional requirement of a participating state is a
27 material departure from the compact. Otherwise, if this compact shall
28 be held to be contrary to the constitution of any participating state, the
29 compact shall remain in full force and effect as to the remaining
30 participating states and in full force and effect as to the participating
31 state affected as to all severable matters.

32
33 Section 13. Consistent Effect and Conflict with Other State Laws.

34 a. Nothing herein shall prevent or inhibit the enforcement of any
35 other law of a participating state that is not inconsistent with the
36 compact.

37 b. Any laws, statutes, regulations, or other legal requirements in a
38 participating state in conflict with the compact are superseded to the
39 extent of the conflict.

40 c. All permissible agreements between the commission and the
41 participating states are binding in accordance with their terms.

42
43 2. This act shall take effect immediately.