

SENATE, No. 3938

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED JUNE 8, 2023

Sponsored by:

Senator ROBERT W. SINGER

District 30 (Monmouth and Ocean)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Adopts Dentist and Dental Hygienist Compact.

CURRENT VERSION OF TEXT

As introduced.



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
8 and Dental Hygienist Compact with all other jurisdictions that
9 legally join 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
14 the interstate practice of dentistry and dental hygiene and improve
15 public access to dentistry and dental hygiene services by providing
16 dentists and dental hygienists licensed in a participating state the
17 ability to practice in participating states in which they are not
18 licensed. The compact does this by establishing a pathway for
19 dentists and dental hygienists licensed in a participating state to
20 obtain a compact privilege that authorizes them to practice in
21 another participating state in which they are not licensed. The
22 compact enables participating states to protect the public health and
23 safety with respect to the practice of such dentists and dental
24 hygienists, through the state's authority to regulate the practice of
25 dentistry and dental hygiene in the 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
31 through each participating state's acceptance of a compact privilege
32 to practice 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
39 by a participating state;

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

45 h. Extends the authority of a participating state to regulate the
46 practice of dentistry and dental hygiene within its borders to
47 dentists and dental hygienists who practice in the state through a
48 compact privilege;

- 1 i. Promotes the cooperation of participating states in regulating
2 the practice of dentistry and dental hygiene within those states; and
3 j. Facilitates the relocation of military members and their
4 spouses who are licensed to practice dentistry or dental hygiene.

5

6 Section 2. Definitions.

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

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

11 “Adverse action” means disciplinary action or encumbrance
12 imposed on a license or compact privilege by a state licensing
13 authority.

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

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

25 “Commissioner” means the individual appointed by a
26 participating state to serve as the member of the commission for
27 that participating state.

28 “Compact” means the Dentist and Dental Hygiene Compact.

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

32 “Continuing professional development” means a requirement, as
33 a condition of license renewal, to provide evidence of successful
34 participation in educational or professional activities relevant to
35 practice or area of work.

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

42 “Data system” means the commission’s repository of information
43 about licensees, including, but not limited to, examination,
44 licensure, investigative, compact privilege, adverse action, and
45 alternative program information.

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

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

1 “Dentist and Dental Hygienist Compact Commission” or
2 “commission” means the joint government agency established under
3 the compact comprising each state that has enacted the compact and
4 a national administrative body comprising a commissioner from
5 each state that has enacted the compact.

6 “Encumbered license” means a license that a state licensing
7 authority has limited in any way other than through an alternative
8 program.

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

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

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

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

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

24 “Participating state” means a state that has enacted the compact
25 and been admitted to the commission in accordance with the
26 provisions of the compact and commission rules.

27 “Qualifying license” means a license that is not an encumbered
28 license issued by a participating state to practice dentistry or dental
29 hygiene.

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

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

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

44 “Significant investigative information” means information,
45 records, and documents received or generated by a state licensing
46 authority pursuant to an investigation for which a determination has
47 been made that there is probable cause to believe that the licensee
48 has violated a statute or regulation that is considered more than a

1 minor infraction for which the state licensing authority could pursue
2 an adverse action against the licensee.

3 “State” means a state, commonwealth, district, or territory of the
4 United States that regulates the practices of dentistry and dental
5 hygiene.

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

9
10 Section 3. State Participation in the Compact.

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

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

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

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

19 (4) Notify the commission, in compliance with the terms of the
20 compact and commission rules, of any adverse action or the
21 availability of significant investigative information regarding a
22 licensee or license applicant;

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

26 (6) Comply with commission rules applicable to a participating
27 state;

28 (7) Accept the national board examinations of the Joint
29 Commission on National Dental Examinations or another
30 examination accepted by commission rule as a licensure
31 examination;

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

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

44 (10) Require for licensure that applicants successfully complete
45 a clinical assessment;

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

48 (12) Pay a participation fee to the commission as established by
49 commission rule.

- 1 b. Providing alternative pathways for an individual to obtain an
2 unrestricted license shall not disqualify a state from participating in
3 the compact.
- 4 c. When conducting a criminal background check, the state
5 licensing authority shall:
- 6 (1) Consider that information in making a licensure decision;
7 (2) Maintain documentation of the criminal background check
8 and background check information to the extent allowed by state
9 and federal law; and
- 10 (3) Report to the commission whether a state has completed the
11 criminal background check and whether the individual was granted
12 or denied a license.
- 13 d. A licensee of a participating state who has a qualifying
14 license in that state and does not hold an encumbered license in any
15 other participating state shall be issued a compact privilege in a
16 remote state in accordance with the terms of the compact and
17 commission rules. If a remote state has a jurisprudence
18 requirement, a compact privilege shall not be issued to the licensee
19 unless the licensee has satisfied the jurisprudence requirement.

20

21 Section 4. Compact Privilege.

- 22 a. To obtain and exercise the compact privilege under the terms
23 and provisions of the compact, a licensee shall:
- 24 (1) Have a qualifying license as a dentist or dental hygienist in a
25 participating state;
- 26 (2) Be eligible for a compact privilege in any remote state in
27 accordance with subsections d., g., and h. of this section;
- 28 (3) Submit to an application process whenever the licensee is
29 seeking a compact privilege;
- 30 (4) Pay any applicable commission and remote state fees for a
31 compact privilege in the remote state;
- 32 (5) Meet any jurisprudence requirement established by a remote
33 state in which the licensee is seeking a compact privilege;
- 34 (6) Have passed a national board examination of the Joint
35 Commission on National Dental Examinations or another
36 examination accepted by commission rule;
- 37 (7) For a dentist, have graduated from a predoctoral dental
38 education program accredited by the Commission on Dental
39 Accreditation, or another accrediting agency recognized by the
40 United States Department of Education for the accreditation of
41 dentistry and dental hygiene education programs, leading to the
42 doctor of dental surgery or doctor of dental medicine degree;
- 43 (8) For a dental hygienist, have graduated from a dental hygiene
44 education program accredited by the Commission on Dental
45 Accreditation or another accrediting agency recognized by the
46 United States Department of Education for the accreditation of
47 dentistry and dental hygiene education programs;
- 48 (9) Have successfully completed a clinical assessment for
49 licensure;

- 1 (10) Report to the commission any adverse action taken by any
2 nonparticipating state when applying for a compact privilege and,
3 otherwise, within 30 days from the date the adverse action is taken;
- 4 (11) Report to the commission when applying for a compact
5 privilege the address of the licensee's primary residence, and
6 thereafter immediately report to the commission any change in the
7 address of the licensee's primary residence; and
- 8 (12) Consent to accept service of process by mail at the
9 licensee's primary residence on record with the commission with
10 respect to any action brought against the licensee by the
11 commission or a participating state, and consent to accept service of
12 a subpoena by mail at the licensee's primary residence on record
13 with the commission with respect to any action brought or
14 investigation conducted by the commission or a participating state.
- 15 b. A licensee shall comply with the requirements set forth in
16 subsection a. of this section to maintain the compact privilege in the
17 remote state. If those requirements are met, the compact privilege
18 will continue as long as the licensee maintains a qualifying license
19 in the state through which the licensee applied for the compact
20 privilege and pays any applicable compact privilege renewal fees.
- 21 c. A licensee providing dentistry or dental hygiene in a remote
22 state under a compact privilege shall function within the scope of
23 practice authorized by the remote state for a dentist or dental
24 hygienist licensed in that state.
- 25 d. A licensee providing dentistry or dental hygiene pursuant to
26 a compact privilege in a remote state shall be subject to that state's
27 regulatory authority. A remote state may, in accordance with due
28 process and that state's laws, by adverse action revoke or remove a
29 licensee's compact privilege in the remote state for a specific period
30 of time, impose fines, or take any other necessary actions to protect
31 the health and safety of its citizens. If a remote state imposes an
32 adverse action against a compact privilege that limits the compact
33 privilege, that adverse action shall apply to all compact privileges in
34 all remote states. A licensee whose compact privilege in a remote
35 state is removed for a specified period of time shall not be eligible
36 for a compact privilege in any other remote state until the specific
37 time for removal of the compact privilege has passed and all
38 encumbrance requirements are satisfied.
- 39 e. If a license in a participating state is an encumbered license,
40 the licensee shall lose the compact privilege in a remote state and
41 shall not be eligible for a compact privilege in any remote state
42 until the license is no longer encumbered.
- 43 f. Once an encumbered license in a participating state is
44 restored to good standing, the licensee shall meet the requirements
45 of subsection a. of this section to obtain a compact privilege in a
46 remote state.
- 47 g. If a licensee's compact privilege in a remote state is
48 removed by the remote state, the individual shall lose or be
49 ineligible for the compact privilege in any remote state until:

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

3 (2) All conditions for removal of the compact privilege have
4 been satisfied.

5 h. Once the requirements of subsection g. of this section have
6 been met, the licensee shall be required to meet the requirements of
7 subsection a. of this section to obtain a compact privilege in a
8 remote state.

9
10 Section 5. Active Military Members and Their Spouses.

11 Active military members and the spouses of active military
12 members shall not be required to pay to the commission for a
13 compact privilege the fee otherwise charged by the commission. If
14 a remote state chooses to charge a fee for a compact privilege, it
15 may choose to charge a reduced fee or no fee to active military
16 members and spouses of active military members for a compact
17 privilege.

18
19 Section 6. Adverse Actions.

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

23 b. A participating state may take adverse action based on
24 significant investigative information of a remote state, provided the
25 participating state follows its own procedures for imposing adverse
26 action.

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

36 d. Any participating state in which a licensee is applying to
37 practice or is practicing pursuant to a compact privilege may
38 investigate actual or alleged violations of the statutes and
39 regulations authorizing the practice of dentistry or dental hygiene in
40 any other participating state in which the dentist or dental hygienist
41 holds a license or compact privilege.

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

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

45 (2) In furtherance of its rights and responsibilities under the
46 compact and the commission's rules, issue subpoenas for both
47 hearings and investigations that require the attendance and
48 testimony of witnesses and the production of evidence. Subpoenas
49 issued by a state licensing authority in a participating state for the

1 attendance and testimony of witnesses, or the production of
2 evidence from another participating state, shall be enforced in the
3 latter state by any court of competent jurisdiction according to the
4 practice and procedure of that court applicable to subpoenas issued
5 in proceedings pending before it. The issuing authority shall pay
6 any witness fees, travel expenses, mileage, and other fees required
7 by the service statutes of the state where the witnesses or evidence
8 are located; and

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

12 f. Joint Investigations.

13 (1) In addition to the authority granted to a participating state by
14 its dentist or dental hygienist licensure act or other applicable state
15 law, a participating state may jointly investigate licensees with
16 other participating states.

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

20 g. Authority to Continue Investigation.

21 (1) After a licensee's compact privilege in a remote state is
22 terminated, the remote state may continue an investigation of the
23 licensee that began when the licensee had a compact privilege in
24 that remote state.

25 (2) If the investigation yields what would be significant
26 investigative information had the licensee continued to have a
27 compact privilege in that remote state, the remote state shall report
28 the presence of such information to the data system as required by
29 paragraph (6) of subsection b. of section 8 of the compact as if it
30 was significant investigative information.

31

32 Section 7. Establishment and Operation of the Commission.

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

41 b. Participation, Voting, and Meetings.

42 (1) Each participating state shall have and be limited to one
43 commissioner selected by the participating state's state licensing
44 authority or, if the state has more than one state licensing authority,
45 selected collectively by the state licensing authorities.

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

- 1 (3) The commission may by rule or bylaw establish a term of
2 office for commissioners and may by rule or bylaw establish term
3 limits.
- 4 (4) The commission may recommend to a state licensing
5 authority or authorities, as applicable, removal or suspension of an
6 individual as the state's commissioner.
- 7 (5) A participating state's state licensing authority or
8 authorities, as applicable, shall fill any vacancy of its commissioner
9 on the commission within 60 days of the vacancy.
- 10 (6) Each commissioner shall be entitled to one vote on all
11 matters that are voted upon by the commission.
- 12 (7) The commission shall meet at least once during each
13 calendar year. Additional meetings may be held as set forth in the
14 bylaws. The commission may meet by telecommunication, video
15 conference, or other similar electronic means.
- 16 c. The commission shall have the following powers:
- 17 (1) Establishing the fiscal year of the commission;
- 18 (2) Establishing a code of conduct and conflict of interest
19 policies;
- 20 (3) Adopting rules and bylaws;
- 21 (4) Maintaining the commission's financial records in
22 accordance with the bylaws;
- 23 (5) Meeting and taking such actions as are consistent with the
24 provisions of the compact, the commission's rules, and the bylaws;
- 25 (6) Initiating and concluding legal proceedings or actions in the
26 name of the commission, provided that the standing of a state
27 licensing authority to sue or be sued under applicable law shall not
28 be affected;
- 29 (7) Maintaining and certifying records and information provided
30 to a participating state as the authenticated business records of the
31 commission, and designating a person to do so on the commission's
32 behalf;
- 33 (8) Purchasing and maintaining insurance and bonds;
- 34 (9) Borrowing, accepting, or contracting for services of
35 personnel, including, but not limited to, employees of a
36 participating state;
- 37 (10) Conducting an annual financial review;
- 38 (11) Hiring employees, electing or appointing officers, fixing
39 compensation, defining duties, granting such individuals
40 appropriate authority to carry out the purposes of the compact, and
41 establishing the commission's personnel policies and programs
42 relating to conflicts of interest, qualifications of personnel, and
43 other related personnel matters;
- 44 (12) As set forth in the commission rules, charging a fee to a
45 licensee for the grant of a compact privilege in a remote state and
46 thereafter, as may be established by commission rule, charging the
47 licensee a compact privilege renewal fee for each renewal period in
48 which that licensee exercises or intends to exercise the compact
49 privilege in that remote state. Nothing herein shall be construed to

- 1 prevent a remote state from charging a licensee a fee for a compact
2 privilege or renewals of a compact privilege, or a fee for the
3 jurisprudence requirement if the remote state imposes such a
4 requirement for the grant of a compact privilege;
- 5 (13) Accepting any and all appropriate gifts, donations, grants of
6 money, other sources of revenue, equipment, supplies, materials,
7 and services, and receiving, utilizing, and disposing of the same,
8 provided that at all times the commission shall avoid any
9 appearance of impropriety or conflict of interest;
- 10 (14) Leasing, purchasing, retaining, owning, holding,
11 improving, or using any property, real, personal, or mixed, or any
12 undivided interest therein;
- 13 (15) Selling, conveying, mortgaging, pledging, leasing,
14 exchanging, abandoning, or otherwise disposing of any property,
15 real, personal, or mixed;
- 16 (16) Establishing a budget or making expenditures;
- 17 (17) Borrowing money;
- 18 (18) Appointing committees, including standing committees,
19 which may be composed of members, state regulators, state
20 legislators or their representatives, and consumer representatives,
21 and such other interested persons as may be designated in this
22 compact and the bylaws;
- 23 (19) Providing and receiving information from, and cooperating
24 with, law enforcement agencies;
- 25 (20) Electing a chair, vice chair, secretary, and treasurer, and
26 such other officers of the commission as provided in the
27 commission's bylaws;
- 28 (21) Establishing and electing an executive board;
- 29 (22) Adopting and providing to the participating states an annual
30 report;
- 31 (23) Determining whether a state's enacted compact is
32 materially different from the model compact language such that the
33 state would not qualify for participation in the compact; and
- 34 (24) Performing such other functions as may be necessary or
35 appropriate to achieve the purposes of this compact.
- 36 d. Meetings of the Commission.
- 37 (1) All meetings of the commission that are not closed pursuant
38 to this subsection shall be open to the public. Notice of public
39 meetings shall be posted on the commission's Internet website at
40 least 30 days prior to the public meeting.
- 41 (2) Notwithstanding the provisions of paragraph (1) of this
42 subsection, the commission may convene an emergency public
43 meeting by providing at least 24 hours' prior notice on the
44 commission's Internet website, and any other means as provided in
45 the commission's rules, for any of the reasons it may dispense with
46 notice of proposed rulemaking under subsection 1. of section 9 of
47 this compact. The commission's legal counsel shall certify that one
48 of the reasons justifying an emergency public meeting has been
49 met.

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

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

9 (a) Noncompliance of a participating state with its obligations
10 under the compact;

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

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

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

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

21 (f) Accusing any person of a crime or formally censuring any
22 person;

23 (g) Trade secrets or commercial or financial information that is
24 privileged or confidential;

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

27 (i) Investigative records compiled for law enforcement
28 purposes;

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

33 (k) Legal advice;

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

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

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

41 (6) The commission shall keep minutes that fully and clearly
42 describe all matters discussed in a meeting and shall provide a full
43 and accurate summary of actions taken, and the reasons therefor,
44 including a description of the views expressed. All documents
45 considered in connection with an action shall be identified in such
46 minutes. All minutes and documents of a closed meeting shall
47 remain under seal, subject to release only by a majority vote of the
48 commission or order of a court of competent jurisdiction.

49 e. Financing of the Commission.

- 1 (1) The commission shall pay or provide for the payment of the
2 reasonable expenses of its establishment, organization, and ongoing
3 activities.
- 4 (2) The commission may accept any and all appropriate sources
5 of revenue, donations, and grants of money, equipment, supplies,
6 materials, and services.
- 7 (3) The commission may levy on and collect an annual
8 assessment from each participating state and impose fees on
9 licensees of participating states when a compact privilege is granted
10 to cover the cost of the operations and activities of the commission
11 and its staff, which assessment and fees shall be in a total amount
12 sufficient to cover its annual budget as approved each fiscal year for
13 which sufficient revenue is not provided by other sources. The
14 aggregate annual assessment amount for participating states shall be
15 allocated based upon a formula that the commission shall
16 promulgate by rule.
- 17 (4) The commission shall not incur obligations of any kind prior
18 to securing the funds adequate to meet the same, nor shall the
19 commission pledge the credit of any participating state, except by
20 and with the authority of the participating state.
- 21 (5) The commission shall keep accurate accounts of all receipts
22 and disbursements. The receipts and disbursements of the
23 commission shall be subject to the financial review and accounting
24 procedures established under the commission's bylaws. All receipts
25 and disbursements of funds handled by the commission shall be
26 subject to an annual financial review by a certified or licensed
27 public accountant, and the report of the financial review shall be
28 included in and become part of the annual report of the commission.
- 29 f. The Executive Board.
- 30 (1) The executive board shall have the power to act on behalf of
31 the commission according to the terms of the compact. The powers,
32 duties, and responsibilities of the executive board shall include:
- 33 (a) Overseeing the day-to-day activities of the administration of
34 the compact, including compliance with the provisions of the
35 compact, the commission's rules, and bylaws;
- 36 (b) Recommending to the commission changes to the rules or
37 bylaws, changes to this compact legislation, fees charged to the
38 compact participating states, fees charged to licensees, and other
39 fees;
- 40 (c) Ensuring compact administration services are appropriately
41 provided, including by contract;
- 42 (d) Preparing and recommending the budget;
- 43 (e) Maintaining financial records on behalf of the commission;
- 44 (f) Monitoring compact compliance of participating states and
45 providing compliance reports to the commission;
- 46 (g) Establishing additional committees as necessary;
- 47 (h) Exercising the powers and duties of the commission during
48 the interim between commission meetings, except for adopting or
49 amending rules, adopting or amending bylaws, and exercising any

- 1 other powers and duties expressly reserved to the commission by
2 rule or bylaw; and
- 3 (i) Other duties as provided in the rules or bylaws of the
4 commission.
- 5 (2) The executive board shall be composed of up to seven
6 members:
- 7 (a) The chair, vice chair, secretary, and treasurer of the
8 commission, and any other members of the commission who serve
9 on the executive board shall be voting members of the executive
10 board; and
- 11 (b) Other than the chair, vice chair, secretary, and treasurer of
12 the commission, the commission may elect up to three voting
13 members to the executive board from the current membership of the
14 commission.
- 15 (3) The commission may remove any member of the executive
16 board as provided in the commission's bylaws.
- 17 (4) The executive board shall meet at least annually.
- 18 (a) An executive board meeting at which the executive board
19 takes or intends to take formal action on a matter shall be open to
20 the public, except that the executive board may meet in a closed,
21 nonpublic session of a public meeting when dealing with any of the
22 matters covered under paragraph (4) of subsection d. of this section.
- 23 (b) The executive board shall give five business days' notice of
24 its public meetings, posted on its Internet website and as it may
25 otherwise determine to provide notice to persons with an interest in
26 the public matters the executive board intends to address at those
27 meetings.
- 28 (5) The executive board may hold an emergency meeting when
29 acting for the commission to do any of the following:
- 30 (a) Meet an imminent threat to public health, safety, or welfare;
31 (b) Prevent a loss of commission or participating state funds; or
32 (c) Protect public health and safety.
- 33 g. Qualified Immunity, Defense, and Indemnification.
- 34 (1) The members, officers, executive director, employees, and
35 representatives of the commission shall be immune from suit and
36 liability, both personally and in their official capacity, for any claim
37 for damage to or loss of property or personal injury or other civil
38 liability caused by or arising out of any actual or alleged act, error,
39 or omission that occurred, or that the person against whom the
40 claim is made had a reasonable basis for believing occurred, within
41 the scope of commission employment, duties, or responsibilities;
42 provided that nothing in this paragraph shall be construed to protect
43 any such person from suit or liability for any damage, loss, injury,
44 or liability caused by the intentional, willful, or wanton misconduct
45 of that person. The procurement of insurance of any type by the
46 commission shall not in any way compromise or limit the immunity
47 granted hereunder.
- 48 (2) The commission shall defend any member, officer, executive
49 director, employee, and representative of the commission in any

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

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

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

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

37

38 Section 8. Data System.

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

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

49 (1) Identifying information;

- 1 (2) Licensure data;
 - 2 (3) Adverse actions against a licensee, license applicant, or
3 compact privilege, and information related thereto;
 - 4 (4) Nonconfidential information related to alternative program
5 participation, the beginning and ending dates of such participation,
6 and other information related to such participation;
 - 7 (5) Any denial of an application for licensure and the reason for
8 such denial, excluding the reporting of any criminal history record
9 information where prohibited by law;
 - 10 (6) The presence of significant investigative information; and
 - 11 (7) Other information that may facilitate the administration of
12 this compact or the protection of the public, as determined by the
13 rules of the commission.
- 14 c. The records and information provided to a participating state
15 pursuant to this compact or through the data system, when certified
16 by the commission or an agent thereof, shall constitute the
17 authenticated business records of the commission, and shall be
18 entitled to any associated hearsay exception in any relevant judicial,
19 quasi-judicial, or administrative proceedings in a participating state.
- 20 d. Significant investigative information pertaining to a licensee
21 in any participating state shall only be available to other
22 participating states.
- 23 e. It shall be the responsibility of the participating states to
24 monitor the database to determine whether adverse action has been
25 taken against a licensee or license applicant. Adverse action
26 information pertaining to a licensee or license applicant in any
27 participating state shall be available to any other participating state.
- 28 f. Participating states contributing information to the data
29 system may designate information that may not be shared with the
30 public without the express permission of the contributing state.
- 31 g. Any information submitted to the data system that is
32 subsequently expunged pursuant to federal law or the laws of the
33 participating state contributing the information shall be removed
34 from the data system.

35

36 Section 9. Rulemaking.

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

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

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

3 c. The commission shall exercise its rulemaking powers
4 pursuant to the criteria set forth in this section and the rules adopted
5 thereunder. Rules shall become binding as of the date specified by
6 the commission 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
10 adopt the compact, within four years of the date of adoption of the
11 rule, then such rule shall have no further force and effect in any
12 participating state or to any state applying to participate in the
13 compact.

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

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

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

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

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

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

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

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

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

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

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

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

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

47 j. Nothing in this section shall be construed as requiring a
48 separate hearing on each commission rule. Rules may be grouped

1 for convenience of the commission at hearings required by this
2 section.

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

6 (1) The commission may adopt changes to the proposed rule,
7 provided the changes do not enlarge the original purposes of the
8 proposed rule.

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

13 (3) The commission shall determine a reasonable effective date
14 for the rule. Except for an emergency as provided in subsection 1.
15 of this section, the effective date of the rule shall be no sooner than
16 30 days after the commission issues notice that it adopted or
17 amended the rule.

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

- 27 (1) Meet an imminent threat to public health, safety, or welfare;
28 (2) Prevent a loss of commission or participating state funds;
29 (3) Meet a deadline for the promulgation of a rule that is
30 established by federal law or rule; or
31 (4) Protect public health and safety.

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

45 n. No participating state's rulemaking requirements shall apply
46 under this compact.

47

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

49 a. Oversight.

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

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

13 (3) The commission shall be entitled to receive service of
14 process in any proceeding regarding the enforcement or
15 interpretation of the compact or commission rule and shall have
16 standing to intervene in such a proceeding for all purposes. Failure
17 to provide the commission service of process shall render a
18 judgment or order void as to the commission, this compact, or
19 promulgated rules.

20 b. Default, Technical Assistance, and Termination.

21 (1) If the commission determines that a participating state has
22 defaulted in the performance of its obligations or responsibilities
23 under this compact or the promulgated rules, the commission shall
24 provide written notice to the defaulting state. The notice of default
25 shall describe the default, the proposed means of curing the default,
26 and any other action that the commission may take, and shall offer
27 training and specific technical assistance regarding the default.

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

30 c. If a state in default fails to cure the default, the defaulting
31 state may be terminated from the compact upon an affirmative vote
32 of a majority of the commissioners, and all rights, privileges, and
33 benefits conferred on that state by this compact may be terminated
34 on the effective date of termination. A cure of the default shall not
35 relieve the offending state of obligations or liabilities incurred
36 during the period of default.

37 d. Termination of participation in the compact shall be imposed
38 only after all other means of securing compliance have been
39 exhausted. Notice of intent to suspend or terminate shall be given
40 by the commission to the defaulting state's governor, the majority
41 and minority leaders of the defaulting state's legislature, the
42 defaulting state's state licensing authority or authorities, as
43 applicable, and each of the participating states' state licensing
44 authority or authorities, as applicable.

45 e. A state that has been terminated from participation in the
46 compact shall be responsible for all assessments, obligations, and
47 liabilities incurred through the effective date of termination,
48 including obligations that extend beyond the effective date of
49 termination.

1 f. Upon the termination of a state's participation in this
2 compact, that state shall immediately provide notice to all licensees
3 of the state, including licensees of other participating states issued a
4 compact privilege to practice within that state, of such termination.
5 The terminated state shall continue to recognize all compact
6 privileges then in effect in that state for a minimum of 180 days
7 after the date of the notice of termination.

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

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

17 i. Dispute Resolution.

18 (1) Upon request by a participating state, the commission shall
19 attempt to resolve disputes related to the compact that arise among
20 participating states and between participating states and
21 nonparticipating states.

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

25 j. Enforcement.

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

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

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

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

3

4 Section 11. Effective Date, Withdrawal, and Amendment.

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

8 (1) On or after the effective date of the compact, the
9 commission shall convene and review the enactment of each of the
10 states that enacted the compact prior to the commission convening,
11 which shall be known as charter participating states, to determine if
12 the statute enacted by each such charter participating state is
13 materially different from the model compact.

14 (a) If the enactment of a charter participating state is found to be
15 materially different from the model compact, the charter
16 participating state shall be entitled to the default process set forth in
17 section 10 of this compact.

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

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

28 (3) All actions taken for the benefit of the commission or in
29 furtherance of the purposes of the administration of the compact
30 prior to the effective date of the compact or the commission coming
31 into existence shall be considered to be actions of the commission
32 unless specifically repudiated by the commission.

33 (4) Any state that joins the compact subsequent to the
34 commission's initial adoption of the rules and bylaws shall be
35 subject to the commission's rules and bylaws as they exist on the
36 date on which the compact becomes law in that state. Any rule that
37 has been previously adopted by the commission shall have the full
38 force and effect of law on the day the compact becomes law in that
39 state.

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

42 (1) A participating state's withdrawal shall not take effect until
43 180 days after enactment of the repealing statute.

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

1 (3) Upon the enactment of a statute withdrawing from this
2 compact, the withdrawing state shall immediately provide notice of
3 such withdrawal to all licensees within that state, including
4 licensees of other participating states issued a compact privilege to
5 practice within that state. Notwithstanding any subsequent
6 statutory enactment to the contrary, such withdrawing state shall
7 continue to recognize all compact privileges to practice within that
8 state granted pursuant to this compact for a minimum of 180 days
9 after the date of such notice of withdrawal.

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

14 d. This compact may be amended by the participating states.
15 No amendment to this compact shall become effective and binding
16 upon any participating state until it is enacted into the laws of all
17 participating states.

18

19 Section 12. Construction and Severability.

20 a. This compact and the commission's rulemaking authority
21 shall be liberally construed so as to effectuate the purposes and the
22 implementation and administration of the compact. Provisions of
23 the compact expressly authorizing or requiring the promulgation of
24 rules shall not be construed to limit the commission's rulemaking
25 authority solely for those purposes.

26 b. The provisions of this compact shall be severable, and if any
27 phrase, clause, sentence, or provision of this compact is held by a
28 court of competent jurisdiction to be contrary to the constitution of
29 any participating state, a state seeking participation in the compact,
30 or of the United States, or the applicability thereof to any
31 government, agency, person, or circumstance is held to be
32 unconstitutional by a court of competent jurisdiction, the validity of
33 the remainder of this compact and the applicability thereof to any
34 other government, agency, person, or circumstance shall not be
35 affected thereby.

36 c. Notwithstanding the provisions of subsection b. of this
37 section, the commission may deny a state's participation in the
38 compact or, in accordance with the requirements of section 10 of
39 this compact, terminate a participating state's participation in the
40 compact, if it determines that a constitutional requirement of a
41 participating state is a material departure from the compact.
42 Otherwise, if this compact shall be held to be contrary to the
43 constitution of any participating state, the compact shall remain in
44 full force and effect as to the remaining participating states and in
45 full force and effect as to the participating state affected as to all
46 severable matters.

- 1 Section 13. Consistent Effect and Conflict with Other State Laws.
2 a. Nothing herein shall prevent or inhibit the enforcement of
3 any other law of a participating state that is not inconsistent with
4 the compact.
5 b. Any laws, statutes, regulations, or other legal requirements
6 in a participating state in conflict with the compact are superseded
7 to the extent of the conflict.
8 c. All permissible agreements between the commission and the
9 participating states are binding in accordance with their terms.
10
11 2. This act shall take effect immediately.
12
13

14 STATEMENT
15

16 This bill would adopt the Dentist and Dental Hygienist Compact
17 in New Jersey, which is an interstate compact that will authorize
18 dentists and dental hygienists licensed in a compact state to practice
19 in any other compact state without being individually licensed in
20 that other state.

21 Licensees in a compact state seeking to practice dentistry or
22 dental hygiene in another compact state will be required to apply
23 for a compact privilege to practice in the other state, including
24 paying any applicable fees. States participating in the compact are
25 required to meet certain requirements related to the licensure of
26 dentists and dental hygienists, require criminal background checks
27 of licensees and applicants for licensure, and participate in a data
28 system that is used to track adverse actions taken against licensees
29 in states participating in the compact. An adverse action against a
30 licensee in a compact state will suspend the licensee's authorization
31 to practice in all other compact states. Licensees are subject to the
32 practice laws and jurisdiction of the state in which the licensee is
33 practicing.

34 The compact will be overseen by a commission comprising one
35 commissioner appointed from each member state. An executive
36 board made up of the chair, vice chair, secretary, and treasurer of
37 the commission, as well as up to three additional commissioners,
38 will be charged with the day-to-day administration of the compact.
39 The bill sets forth specific requirements concerning the operations
40 and authorities of the commission and the executive board, as well
41 as procedures for enforcing compliance with the compact.

42 The compact takes effect when it is adopted in at least seven
43 states. As of May 2023, Iowa and Washington have enacted
44 legislation adopting the Dentist and Dental Hygienist Compact.