

SENATE, No. 702

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

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

Introduced Pending Technical Review by Legislative Counsel.



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.

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

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

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

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

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

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

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

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

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

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

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

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

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

46 “Significant investigative information” means information,
47 records, and documents received or generated by a state licensing
48 authority pursuant to an investigation for which a determination has

1 been made that there is probable cause to believe that the licensee
2 has violated a statute or regulation that is considered more than a
3 minor infraction for which the state licensing authority could pursue
4 an adverse action against the licensee.

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

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

11

12 Section 3. State Participation in the Compact.

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

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

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

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

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

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

28 (6) Comply with commission rules applicable to a participating
29 state;

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

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

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

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

- 1 (11) Have continuing professional development requirements as
2 a 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
7 the 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
12 and background check information to the extent allowed by state
13 and 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
16 or denied a license.
- 17 d. A licensee of a participating state who has a qualifying
18 license in that state and does not hold an encumbered license in any
19 other participating state shall be issued a compact privilege in a
20 remote state in accordance with the terms of the compact and
21 commission rules. If a remote state has a jurisprudence
22 requirement, a compact privilege shall not be issued to the licensee
23 unless the licensee has satisfied the 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
40 examination 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
44 United States Department of Education for the accreditation of
45 dentistry and dental hygiene education programs, leading to the
46 doctor of dental 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
2 United States Department of Education for the accreditation of
3 dentistry and 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
11 thereafter immediately report to the commission any change in the
12 address of the licensee's primary residence; and
- 13 (12) Consent to accept service of process by mail at the
14 licensee's primary residence on record with the commission with
15 respect to any action brought against the licensee by the
16 commission or a participating state, and consent to accept service of
17 a subpoena by mail at the licensee's primary residence on record
18 with the commission with respect to any action brought or
19 investigation conducted by the 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
23 will continue as long as the licensee maintains a qualifying license
24 in the state through which the licensee applied for the compact
25 privilege and 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
29 hygienist licensed in that state.
- 30 d. A licensee providing dentistry or dental hygiene pursuant to
31 a 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
35 of time, impose fines, or take any other necessary actions to protect
36 the health and safety of its citizens. If a remote state imposes an
37 adverse action against a compact privilege that limits the compact
38 privilege, that adverse action shall apply to all compact privileges in
39 all remote states. A licensee whose compact privilege in a remote
40 state is removed for a specified period of time shall not be eligible
41 for a compact privilege in any other remote state until the specific
42 time for removal of the compact privilege has passed and all
43 encumbrance requirements are satisfied.
- 44 e. If a license in a participating state is an encumbered license,
45 the licensee shall lose the compact privilege in a remote state and
46 shall not be eligible for a compact privilege in any remote state
47 until the license is no longer encumbered.

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

5 g. If a licensee's compact privilege in a remote state is
6 removed by the remote state, the individual shall lose or be
7 ineligible for the 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
11 been 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
15 remote 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
20 compact privilege the fee otherwise charged by the commission. If
21 a remote state chooses to charge a fee for a compact privilege, it
22 may choose to charge a reduced fee or no fee to active military
23 members and spouses of active military members for a compact
24 privilege.

25

26 Section 6. Adverse Actions.

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

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

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

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

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

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

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

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

20 f. Joint Investigations.

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

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

28 g. Authority to Continue Investigation.

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

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

39

40 Section 7. Establishment and Operation of the Commission.

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

1 b. Participation, Voting, and Meetings.

2 (1) Each participating state shall have and be limited to one
3 commissioner selected by the participating state's state licensing
4 authority or, if the state has more than one state licensing authority,
5 selected collectively by the state licensing authorities.

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

8 (3) The commission may by rule or bylaw establish a term of
9 office for commissioners and may by rule or bylaw establish term
10 limits.

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

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

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

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

23 c. The commission shall have the following powers:

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

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

27 (3) Adopting rules and bylaws;

28 (4) Maintaining the commission's financial records in
29 accordance with the bylaws;

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

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

36 (7) Maintaining and certifying records and information provided
37 to a participating state as the authenticated business records of the
38 commission, and designating a person to do so on the commission's
39 behalf;

40 (8) Purchasing and maintaining insurance and bonds;

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

44 (10) Conducting an annual financial review;

45 (11) Hiring employees, electing or appointing officers, fixing
46 compensation, defining duties, granting such individuals
47 appropriate authority to carry out the purposes of the compact, and
48 establishing the commission's personnel policies and programs

- 1 relating to conflicts of interest, qualifications of personnel, and
2 other related personnel matters;
- 3 (12) As set forth in the commission rules, charging a fee to a
4 licensee for the grant of a compact privilege in a remote state and
5 thereafter, as may be established by commission rule, charging the
6 licensee a compact privilege renewal fee for each renewal period in
7 which that licensee exercises or intends to exercise the compact
8 privilege in that remote state. Nothing herein shall be construed to
9 prevent a remote state from charging a licensee a fee for a compact
10 privilege or renewals of a compact privilege, or a fee for the
11 jurisprudence requirement if the remote state imposes such a
12 requirement for the grant of a compact privilege;
- 13 (13) Accepting any and all appropriate gifts, donations, grants of
14 money, other sources of revenue, equipment, supplies, materials,
15 and services, and receiving, utilizing, and disposing of the same,
16 provided that at all times the commission shall avoid any
17 appearance of impropriety or conflict of interest;
- 18 (14) Leasing, purchasing, retaining, owning, holding,
19 improving, or using any property, real, personal, or mixed, or any
20 undivided interest therein;
- 21 (15) Selling, conveying, mortgaging, pledging, leasing,
22 exchanging, abandoning, or otherwise disposing of any property,
23 real, personal, or mixed;
- 24 (16) Establishing a budget or making expenditures;
- 25 (17) Borrowing money;
- 26 (18) Appointing committees, including standing committees,
27 which may be composed of members, state regulators, state
28 legislators or their representatives, and consumer representatives,
29 and such other interested persons as may be designated in this
30 compact and the bylaws;
- 31 (19) Providing and receiving information from, and cooperating
32 with, law enforcement agencies;
- 33 (20) Electing a chair, vice chair, secretary, and treasurer, and
34 such other officers of the commission as provided in the
35 commission's bylaws;
- 36 (21) Establishing and electing an executive board;
- 37 (22) Adopting and providing to the participating states an annual
38 report;
- 39 (23) Determining whether a state's enacted compact is
40 materially different from the model compact language such that the
41 state would not qualify for participation in the compact; and
- 42 (24) Performing such other functions as may be necessary or
43 appropriate to achieve the purposes of this compact.
- 44 d. Meetings of the Commission.
- 45 (1) All meetings of the commission that are not closed pursuant
46 to this subsection shall be open to the public. Notice of public
47 meetings shall be posted on the commission's Internet website at
48 least 30 days prior to the public meeting.

- 1 (2) Notwithstanding the provisions of paragraph (1) of this
2 subsection, the commission may convene an emergency public
3 meeting by providing at least 24 hours' prior notice on the
4 commission's Internet website, and any other means as provided in
5 the commission's rules, for any of the reasons it may dispense with
6 notice of proposed rulemaking under subsection 1. of section 9 of
7 this compact. The commission's legal counsel shall certify that one
8 of the reasons justifying an emergency public meeting has been
9 met.
- 10 (3) Notice of all commission meetings shall provide the time,
11 date, and location of the meeting, and if the meeting is to be held or
12 accessible via telecommunication, video conference, or other
13 electronic means, the notice shall include the mechanism for access
14 to the meeting through such means.
- 15 (4) The commission may convene in a closed, nonpublic
16 meeting for the commission to receive legal advice or to discuss any
17 of the following:
- 18 (a) Noncompliance of a participating state with its obligations
19 under the compact;
- 20 (b) The employment, compensation, discipline, or other matters,
21 practices, or procedures related to specific employees or other
22 matters related to the commission's internal personnel practices and
23 procedures;
- 24 (c) Current or threatened discipline of a licensee or compact
25 privilege holder by the commission or by a participating state's
26 licensing authority;
- 27 (d) Current, threatened, or reasonably anticipated litigation;
- 28 (e) Negotiation of contracts for the purchase, lease, or sale of
29 goods, services, or real estate;
- 30 (f) Accusing any person of a crime or formally censuring any
31 person;
- 32 (g) Trade secrets or commercial or financial information that is
33 privileged or confidential;
- 34 (h) Information of a personal nature where disclosure would
35 constitute a clearly unwarranted invasion of personal privacy;
- 36 (i) Investigative records compiled for law enforcement
37 purposes;
- 38 (j) Information related to any investigative reports prepared by
39 or on behalf of or for use of the commission or other committee
40 charged with responsibility of investigation or determination of
41 compliance issues pursuant to the compact;
- 42 (k) Legal advice;
- 43 (l) Matters specifically exempted from disclosure to the public
44 by federal or participating state law; and
- 45 (m) Other matters as promulgated by the commission by rule.
- 46 (5) If a meeting, or portion of a meeting, is closed, the presiding
47 officer shall state that the meeting will be closed and reference each

1 relevant exempting provision, and such reference shall be recorded
2 in the minutes.

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

11 e. Financing of the Commission.

12 (1) The commission shall pay or provide for the payment of the
13 reasonable expenses of its establishment, organization, and ongoing
14 activities.

15 (2) The commission may accept any and all appropriate sources
16 of revenue, donations, and grants of money, equipment, supplies,
17 materials, and services.

18 (3) The commission may levy on and collect an annual
19 assessment from each participating state and impose fees on
20 licensees of participating states when a compact privilege is granted
21 to cover the cost of the operations and activities of the commission
22 and its staff, which assessment and fees shall be in a total amount
23 sufficient to cover its annual budget as approved each fiscal year for
24 which sufficient revenue is not provided by other sources. The
25 aggregate annual assessment amount for participating states shall be
26 allocated based upon a formula that the commission shall
27 promulgate by rule.

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

32 (5) The commission shall keep accurate accounts of all receipts
33 and disbursements. The receipts and disbursements of the
34 commission shall be subject to the financial review and accounting
35 procedures established under the commission's bylaws. All receipts
36 and disbursements of funds handled by the commission shall be
37 subject to an annual financial review by a certified or licensed
38 public accountant, and the report of the financial review shall be
39 included in and become part of the annual report of the commission.

40 f. The Executive Board.

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

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

47 (b) Recommending to the commission changes to the rules or
48 bylaws, changes to this compact legislation, fees charged to the

- 1 compact participating states, fees charged to licensees, and other
2 fees;
- 3 (c) Ensuring compact administration services are appropriately
4 provided, including by contract;
- 5 (d) Preparing and recommending the budget;
- 6 (e) Maintaining financial records on behalf of the commission;
- 7 (f) Monitoring compact compliance of participating states and
8 providing compliance reports to the commission;
- 9 (g) Establishing additional committees as necessary;
- 10 (h) Exercising the powers and duties of the commission during
11 the interim between commission meetings, except for adopting or
12 amending rules, adopting or amending bylaws, and exercising any
13 other powers and duties expressly reserved to the commission by
14 rule or bylaw; and
- 15 (i) Other duties as provided in the rules or bylaws of the
16 commission.
- 17 (2) The executive board shall be composed of up to seven
18 members:
- 19 (a) The chair, vice chair, secretary, and treasurer of the
20 commission, and any other members of the commission who serve
21 on the executive board shall be voting members of the executive
22 board; and
- 23 (b) Other than the chair, vice chair, secretary, and treasurer of
24 the commission, the commission may elect up to three voting
25 members to the executive board from the current membership of the
26 commission.
- 27 (3) The commission may remove any member of the executive
28 board as provided in the commission's bylaws.
- 29 (4) The executive board shall meet at least annually.
- 30 (a) An executive board meeting at which the executive board
31 takes or intends to take formal action on a matter shall be open to
32 the public, except that the executive board may meet in a closed,
33 nonpublic session of a public meeting when dealing with any of the
34 matters covered under paragraph (4) of subsection d. of this section.
- 35 (b) The executive board shall give five business days' notice of
36 its public meetings, posted on its Internet website and as it may
37 otherwise determine to provide notice to persons with an interest in
38 the public matters the executive board intends to address at those
39 meetings.
- 40 (5) The executive board may hold an emergency meeting when
41 acting for the commission to do any of the following:
- 42 (a) Meet an imminent threat to public health, safety, or welfare;
- 43 (b) Prevent a loss of commission or participating state funds; or
- 44 (c) Protect public health and safety.
- 45 g. Qualified Immunity, Defense, and Indemnification.
- 46 (1) The members, officers, executive director, employees, and
47 representatives of the commission shall be immune from suit and
48 liability, both personally and in their official capacity, for any claim

1 for damage to or loss of property or personal injury or other civil
2 liability caused by or arising out of any actual or alleged act, error,
3 or omission that occurred, or that the person against whom the
4 claim is made had a reasonable basis for believing occurred, within
5 the scope of commission employment, duties, or responsibilities;
6 provided that nothing in this paragraph shall be construed to protect
7 any such person from suit or liability for any damage, loss, injury,
8 or liability caused by the intentional, willful, or wanton misconduct
9 of that person. The procurement of insurance of any type by the
10 commission shall not in any way compromise or limit the immunity
11 granted hereunder.

12 (2) The commission shall defend any member, officer, executive
13 director, employee, and representative of the commission in any
14 civil action seeking to impose liability arising out of any actual or
15 alleged act, error, or omission that occurred within the scope of
16 commission employment, duties, or responsibilities, or as
17 determined by the commission that the person against whom the
18 claim is made had a reasonable basis for believing occurred within
19 the scope of commission employment, duties, or responsibilities;
20 provided that nothing in this paragraph shall be construed to
21 prohibit that person from retaining counsel at that person's own
22 expense; and provided further that the actual or alleged act, error, or
23 omission did not result from that person's intentional, willful, or
24 wanton misconduct.

25 (3) Notwithstanding the provisions of paragraph (1) of this
26 subsection, should any member, officer, executive director,
27 employee, or representative of the commission be held liable for the
28 amount of any settlement or judgment arising out of any actual or
29 alleged act, error, or omission that occurred within the scope of that
30 individual's employment, duties, or responsibilities for the
31 commission, or that the person to whom the individual is liable had
32 a reasonable basis for believing occurred within the scope of the
33 individual's employment, duties, or responsibilities for the
34 commission, the commission shall indemnify and hold harmless
35 such individual, provided that the actual or alleged act, error, or
36 omission did not result from the intentional, willful, or wanton
37 misconduct of the individual.

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

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

1 (6) Nothing in this compact shall be construed to be a waiver of
2 sovereign immunity by the participating states or by the
3 commission.
4

5 Section 8. Data System.

6 a. The commission shall provide for the development,
7 maintenance, operation, and utilization of a coordinated database
8 and reporting system containing licensure, adverse action, and the
9 presence of significant investigative information on all licensees
10 and applicants for a license in participating states.

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

16 (1) Identifying information;

17 (2) Licensure data;

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

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

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

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

27 (7) Other information that may facilitate the administration of
28 this compact or the protection of the public, as determined by the
29 rules of the commission.

30 c. The records and information provided to a participating state
31 pursuant to this compact or through the data system, when certified
32 by the commission or an agent thereof, shall constitute the
33 authenticated business records of the commission, and shall be
34 entitled to any associated hearsay exception in any relevant judicial,
35 quasi-judicial, or administrative proceedings in a participating state.

36 d. Significant investigative information pertaining to a licensee
37 in any participating state shall only be available to other
38 participating states.

39 e. It shall be the responsibility of the participating states to
40 monitor the database to determine whether adverse action has been
41 taken against a licensee or license applicant. Adverse action
42 information pertaining to a licensee or license applicant in any
43 participating state shall be available to any other participating state.

44 f. Participating states contributing information to the data
45 system may designate information that may not be shared with the
46 public without the express permission of the contributing state.

47 g. Any information submitted to the data system that is
48 subsequently expunged pursuant to federal law or the laws of the

1 participating state contributing the information shall be removed
2 from the data system.

3

4 Section 9. Rulemaking.

5 a. The commission shall promulgate reasonable rules in order
6 to effectively and efficiently implement and administer the purposes
7 and provisions of the compact. A commission rule shall be invalid
8 and have no force or effect only if a court of competent jurisdiction
9 holds that the rule is invalid because the commission exercised its
10 rulemaking authority in a manner that is beyond the scope and
11 purposes of the compact or the powers granted hereunder, or based
12 upon another applicable standard of review.

13 b. The rules of the commission shall have the force of law in
14 each participating state, provided, however, that where the rules of
15 the commission conflict with the laws of the participating state that
16 establish the participating state's scope of practice as held by a
17 court of competent jurisdiction, the rules of the commission shall be
18 ineffective in that state to the extent of the conflict.

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

23 d. If a majority of the legislatures of the participating states
24 rejects a commission rule or portion of a commission rule, by
25 enactment of a statute or resolution in the same manner used to
26 adopt the compact, within four years of the date of adoption of the
27 rule, then such rule shall have no further force and effect in any
28 participating state or to any state applying to participate in the
29 compact.

30 e. Rules shall be adopted at a regular or special meeting of the
31 commission.

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

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

39 (1) On the Internet website of the commission or other publicly
40 accessible platform;

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

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

44 h. The notice of proposed rulemaking shall include all of the
45 following:

46 (1) The time, date, and location of the public hearing at which
47 the commission will hear public comments on the proposed rule

- 1 and, if different, the time, date, and location of the meeting where
2 the commission will consider and vote on the proposed rule;
- 3 (2) If the hearing is held via telecommunication, video
4 conference, or other electronic means, the commission shall include
5 the mechanism for access to the hearing in the notice of proposed
6 rulemaking;
- 7 (3) The text of the proposed rule and the reason for the proposed
8 rule;
- 9 (4) A request for comments on the proposed rule from any
10 interested person; and
- 11 (5) The manner in which interested persons may submit written
12 comments.
- 13 i. All hearings shall be recorded. A copy of the recording and
14 all written comments and documents received by the commission in
15 response to the proposed rule shall be available to the public.
- 16 j. Nothing in this section shall be construed as requiring a
17 separate hearing on each commission rule. Rules may be grouped
18 for convenience of the commission at hearings required by this
19 section.
- 20 k. The commission shall, by a majority vote of all
21 commissioners, take final action on the proposed rule based on the
22 rulemaking record.
- 23 (1) The commission may adopt changes to the proposed rule,
24 provided the changes do not enlarge the original purposes of the
25 proposed rule.
- 26 (2) The commission shall provide an explanation of the reasons
27 for substantive changes made to the proposed rule as well as
28 reasons for substantive changes not made that were recommended
29 by commenters.
- 30 (3) The commission shall determine a reasonable effective date
31 for the rule. Except for an emergency as provided in subsection l.
32 of this section, the effective date of the rule shall be no sooner than
33 30 days after the commission issues notice that it adopted or
34 amended the rule.
- 35 l. Upon determination that an emergency exists, the
36 commission may consider and adopt an emergency rule with 24
37 hours' notice, with opportunity to comment, provided that the usual
38 rulemaking procedures provided in the compact and in this section
39 shall be retroactively applied to the rule as soon as reasonably
40 possible, but in no event later than 90 days after the effective date
41 of the rule. For the purposes of this subsection, an emergency rule
42 is one that must be adopted immediately in order to do any of the
43 following:
- 44 (1) Meet an imminent threat to public health, safety, or welfare;
45 (2) Prevent a loss of commission or participating state funds;
46 (3) Meet a deadline for the promulgation of a rule that is
47 established by federal law or rule; or
48 (4) Protect public health and safety.

1 m. The commission or an authorized committee of the
2 commission may direct revisions to a previously adopted rule for
3 purposes of correcting typographical errors, errors in format, errors
4 in consistency, or grammatical errors. Public notice of any
5 revisions shall be posted on the Internet website of the commission.
6 The revision shall be subject to challenge by any person for a period
7 of 30 days after posting. The revision may be challenged only on
8 grounds that the revision results in a material change to a rule. A
9 challenge shall be made in writing and delivered to the commission
10 prior to the end of the notice period. If no challenge is made, the
11 revision will take effect without further action. If the revision is
12 challenged, the revision may not take effect without the approval of
13 the commission.

14 n. No participating state's rulemaking requirements shall apply
15 under this compact.

16

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

18 a. Oversight.

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

22 (2) Venue is proper and judicial proceedings by or against the
23 commission shall be brought solely and exclusively in a court of
24 competent jurisdiction where the principal office of the commission
25 is located. The commission may waive venue and jurisdictional
26 defenses to the extent it adopts or consents to participate in
27 alternative dispute resolution proceedings. Nothing herein shall
28 affect or limit the selection or propriety of venue in any action
29 against a licensee for professional malpractice, misconduct, or any
30 such similar matter.

31 (3) The commission shall be entitled to receive service of
32 process in any proceeding regarding the enforcement or
33 interpretation of the compact or commission rule and shall have
34 standing to intervene in such a proceeding for all purposes. Failure
35 to provide the commission service of process shall render a
36 judgment or order void as to the commission, this compact, or
37 promulgated rules.

38 b. Default, Technical Assistance, and Termination.

39 (1) If the commission determines that a participating state has
40 defaulted in the performance of its obligations or responsibilities
41 under this compact or the promulgated rules, the commission shall
42 provide written notice to the defaulting state. The notice of default
43 shall describe the default, the proposed means of curing the default,
44 and any other action that the commission may take, and shall offer
45 training and specific technical assistance regarding the default.

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

1 c. If a state in default fails to cure the default, the defaulting
2 state may be terminated from the compact upon an affirmative vote
3 of a majority of the commissioners, and all rights, privileges, and
4 benefits conferred on that state by this compact may be terminated
5 on the effective date of termination. A cure of the default shall not
6 relieve the offending state of obligations or liabilities incurred
7 during the period of default.

8 d. Termination of participation in the compact shall be imposed
9 only after all other means of securing compliance have been
10 exhausted. Notice of intent to suspend or terminate shall be given
11 by the commission to the defaulting state's governor, the majority
12 and minority leaders of the defaulting state's legislature, the
13 defaulting state's state licensing authority or authorities, as
14 applicable, and each of the participating states' state licensing
15 authority or authorities, as applicable.

16 e. A state that has been terminated from participation in the
17 compact shall be responsible for all assessments, obligations, and
18 liabilities incurred through the effective date of termination,
19 including obligations that extend beyond the effective date of
20 termination.

21 f. Upon the termination of a state's participation in this
22 compact, that state shall immediately provide notice to all licensees
23 of the state, including licensees of other participating states issued a
24 compact privilege to practice within that state, of such termination.
25 The terminated state shall continue to recognize all compact
26 privileges then in effect in that state for a minimum of 180 days
27 after the date of the notice of termination.

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

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

37 i. Dispute Resolution.

38 (1) Upon request by a participating state, the commission shall
39 attempt to resolve disputes related to the compact that arise among
40 participating states and between participating states and
41 nonparticipating states.

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

45 j. Enforcement.

46 (1) The commission, in the reasonable exercise of its discretion,
47 shall enforce the provisions of this compact and the commission's
48 rules.

1 (2) By a majority vote, the commission may initiate legal action
2 against a participating state in default in the United States District
3 Court for the District of Columbia or the federal district where the
4 commission has its principal offices to enforce compliance with the
5 provisions of the compact and its promulgated rules. The relief
6 sought may include both injunctive relief and damages. In the
7 event judicial enforcement is necessary, the prevailing party shall
8 be awarded all costs of such litigation, including reasonable
9 attorney fees. The remedies herein shall not be the exclusive
10 remedies of the commission. The commission may pursue any
11 other remedies available under federal or the defaulting
12 participating state's law.

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

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

23

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

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

28 (1) On or after the effective date of the compact, the
29 commission shall convene and review the enactment of each of the
30 states that enacted the compact prior to the commission convening,
31 which shall be known as charter participating states, to determine if
32 the statute enacted by each such charter participating state is
33 materially different from the model compact.

34 (a) If the enactment of a charter participating state is found to be
35 materially different from the model compact, the charter
36 participating state shall be entitled to the default process set forth in
37 section 10 of this compact.

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

42 (2) Participating states enacting the compact subsequent to the
43 charter participating states shall be subject to the process set forth
44 in paragraph (23) of subsection c. of section 7 of this compact to
45 determine if their enactments are materially different from the
46 model compact and whether they qualify for participation in the
47 compact.

1 (3) All actions taken for the benefit of the commission or in
2 furtherance of the purposes of the administration of the compact
3 prior to the effective date of the compact or the commission coming
4 into existence shall be considered to be actions of the commission
5 unless specifically repudiated by the commission.

6 (4) Any state that joins the compact subsequent to the
7 commission's initial adoption of the rules and bylaws shall be
8 subject to the commission's rules and bylaws as they exist on the
9 date on which the compact becomes law in that state. Any rule that
10 has been previously adopted by the commission shall have the full
11 force and effect of law on the day the compact becomes law in that
12 state.

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

15 (1) A participating state's withdrawal shall not take effect until
16 180 days after enactment of the repealing statute.

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

22 (3) Upon the enactment of a statute withdrawing from this
23 compact, the withdrawing state shall immediately provide notice of
24 such withdrawal to all licensees within that state, including
25 licensees of other participating states issued a compact privilege to
26 practice within that state. Notwithstanding any subsequent
27 statutory enactment to the contrary, such withdrawing state shall
28 continue to recognize all compact privileges to practice within that
29 state granted pursuant to this compact for a minimum of 180 days
30 after the date of such notice of withdrawal.

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

35 d. This compact may be amended by the participating states.
36 No amendment to this compact shall become effective and binding
37 upon any participating state until it is enacted into the laws of all
38 participating states.

39

40 Section 12. Construction and Severability.

41 a. This compact and the commission's rulemaking authority
42 shall be liberally construed so as to effectuate the purposes and the
43 implementation and administration of the compact. Provisions of
44 the compact expressly authorizing or requiring the promulgation of
45 rules shall not be construed to limit the commission's rulemaking
46 authority solely for those purposes.

47 b. The provisions of this compact shall be severable, and if any
48 phrase, clause, sentence, or provision of this compact is held by a

1 court of competent jurisdiction to be contrary to the constitution of
2 any participating state, a state seeking participation in the compact,
3 or of the United States, or the applicability thereof to any
4 government, agency, person, or circumstance is held to be
5 unconstitutional by a court of competent jurisdiction, the validity of
6 the remainder of this compact and the applicability thereof to any
7 other government, agency, person, or circumstance shall not be
8 affected thereby.

9 c. Notwithstanding the provisions of subsection b. of this
10 section, the commission may deny a state's participation in the
11 compact or, in accordance with the requirements of section 10 of
12 this compact, terminate a participating state's participation in the
13 compact, if it determines that a constitutional requirement of a
14 participating state is a material departure from the compact.
15 Otherwise, if this compact shall be held to be contrary to the
16 constitution of any participating state, the compact shall remain in
17 full force and effect as to the remaining participating states and in
18 full force and effect as to the participating state affected as to all
19 severable matters.

20 Section 13. Consistent Effect and Conflict with Other State Laws.

21 a. Nothing herein shall prevent or inhibit the enforcement of
22 any other law of a participating state that is not inconsistent with
23 the compact.

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

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

29

30 2. This act shall take effect immediately.

31

32

33

STATEMENT

34

35 This bill would adopt the Dentist and Dental Hygienist Compact
36 in New Jersey, which is an interstate compact that will authorize
37 dentists and dental hygienists licensed in a compact state to practice
38 in any other compact state without being individually licensed in
39 that other state.

40 Licensees in a compact state seeking to practice dentistry or
41 dental hygiene in another compact state will be required to apply
42 for a compact privilege to practice in the other state, including
43 paying any applicable fees. States participating in the compact are
44 required to meet certain requirements related to the licensure of
45 dentists and dental hygienists, require criminal background checks
46 of licensees and applicants for licensure, and participate in a data
47 system that is used to track adverse actions taken against licensees
48 in states participating in the compact. An adverse action against a

1 licensee in a compact state will suspend the licensee's authorization
2 to practice in all other compact states. Licensees are subject to the
3 practice laws and jurisdiction of the state in which the licensee is
4 practicing.

5 The compact will be overseen by a commission comprising one
6 commissioner appointed from each member state. An executive
7 board made up of the chair, vice chair, secretary, and treasurer of
8 the commission, as well as up to three additional commissioners,
9 will be charged with the day-to-day administration of the compact.
10 The bill sets forth specific requirements concerning the operations
11 and authorities of the commission and the executive board, as well
12 as procedures for enforcing compliance with the compact.

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