

By: Klick

H.B. No. 3039

A BILL TO BE ENTITLED

AN ACT

relating to the Dentist and Dental Hygienist Compact; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle D, Title 3, Occupations Code, is amended by adding Chapter 268 to read as follows:

CHAPTER 268. DENTIST AND DENTAL HYGIENIST COMPACT

Sec. 268.001. DENTIST AND DENTAL HYGIENIST COMPACT. The Dentist and Dental Hygienist Compact is enacted and entered into with all other jurisdictions that legally join in the compact, which reads as follows:

DENTIST AND DENTAL HYGIENIST COMPACT

SECTION 1. TITLE AND PURPOSE

This statute shall be known and cited as the Dentist and Dental Hygienist Compact. The purpose of this Compact is to facilitate the interstate practice of dentistry and dental hygiene with the goal of improving public access to services and supporting the ability of Dentists and Dental Hygienists to provide dentistry and dental hygiene services when relocating in Participating States. The Compact preserves the regulatory authority of Participating States to protect public health and safety through their authority to regulate the practice of dentistry and dental hygiene in their State by Dentists and Dental Hygienists who practice in their State pursuant to a Compact Privilege.

1 SECTION 2. DEFINITIONS

2 As used in this Compact, and except as otherwise provided, the
3 following definitions shall apply:

4 A. "Active-Duty Military" means full-time duty status in the
5 active uniformed service of the United States, including
6 members of the National Guard and Reserve on active-duty
7 orders pursuant to 10 U.S.C. Section 1209 and 1211.

8 B. "Adverse Action" means disciplinary action or encumbrance
9 imposed on a license or Compact Privilege by a State
10 Licensing Authority.

11 C. "Alternative Program" means a non-disciplinary monitoring
12 or practice remediation process applicable to a Dentist or
13 Dental Hygienist approved by the State Licensing Authority
14 of a Participating State in which the Dentist or Dental
15 Hygienist is licensed. This includes, but is not limited
16 to, programs to which Licensees with substance abuse or
17 addiction issues are referred in lieu of Adverse Action.

18 D. "Clinical Assessment" means examination or process,
19 required for licensure as a Dentist or Dental Hygienist as
20 applicable, that provides evidence of clinical competence
21 in dentistry or dental hygiene.

22 E. "Commissioner" means the individual appointed by a
23 Participating State to serve as the member of the
24 Commission for that Participating State.

25 F. "Compact" means this Dentist and Dental Hygienist
26 Licensing Compact.

27 G. "Compact Privilege" means the authorization granted by

1 the Commission to allow a Licensee from a Participating
2 State to practice as a Dentist or Dental Hygienist in a
3 Remote State.

4 H. "Continuing Professional Development" means a
5 requirement, as a condition of license renewal or the
6 renewal of a license registration, to provide evidence of
7 successful participation in, educational or professional
8 activities relevant to practice or area of work.

9 I. "Criminal Background Check" means the submission of
10 fingerprints or other biometric-based information for a
11 license applicant for the purpose of obtaining that
12 applicant's criminal history record information, as
13 defined in 28 C.F.R. § 20.3(d) from the Federal Bureau of
14 Investigation and the agency responsible for retaining
15 State criminal records in the State.

16 J. "Data System" means the Commission's repository of
17 information about Licensees, including but not limited to
18 examination, licensure, investigative, Compact Privilege,
19 Adverse Action, and Alternative Program.

20 K. "Dental Hygienist" means an individual who is licensed by
21 a State Licensing Authority to practice dental hygiene.

22 L. "Dentist" means an individual who is licensed by a State
23 Licensing Authority to practice dentistry.

24 M. "Dentist and Dental Hygienist Compact Commission" or
25 "Commission" means a government agency established by this
26 Compact comprised of each State that has enacted the
27 Compact and a national administrative body comprised of a

1 Commissioner from each State that has enacted the Compact.

2 N. "Encumbered License" means a license that a State
3 Licensing Authority has limited in any way other than
4 through an Alternative Program.

5 O. "Executive Board" means the Chair, Vice Chair, Secretary
6 and Treasurer and any other Commissioners as may be
7 determined by Commission Rule or bylaw.

8 P. "Jurisprudence Requirement" means the assessment of an
9 individual's knowledge of the laws and Rules governing the
10 practice of dentistry or dental hygiene, as applicable, in
11 a State.

12 Q. "Licensee" means an individual who currently holds an
13 authorization from a Participating State, other than a
14 Compact Privilege, or other privilege, to practice as a
15 Dentist or Dental Hygienist in that State.

16 R. "Model Compact" the model for the Interstate Dentist and
17 Dental Hygienist Compact on file with the Council of State
18 Governments or other entity as designated by the
19 Commission.

20 S. "Participating State" means a State that has enacted the
21 Compact and been admitted to the Commission in accordance
22 with the provisions herein and Commission Rules.

23 T. "Qualifying License" means a license that is not an
24 Encumbered License issued by a Participating State to
25 practice dentistry or dental hygiene.

26 U. "Remote State" means a Participating State where a
27 Licensee who is not licensed as a Dentist or Dental

1 Hygienist is exercising or seeking to exercise the Compact
2 Privilege.

3 V. "Rule" means a regulation promulgated by an entity that
4 has the force of law.

5 W. "Scope of Practice" means the procedures, actions, and
6 processes a Dentist or Dental Hygienist licensed in a
7 State is permitted to undertake in that State and the
8 circumstances under which the Licensee is permitted to
9 undertake those procedures, actions and processes. Such
10 procedures, actions and processes and the circumstances
11 under which they may be undertaken may be established
12 through means, including, but not limited to, statute,
13 Rules and regulations, case law, and other processes
14 available to the State Licensing Authority or other
15 government agency.

16 X. "Significant Investigative Information" means
17 information, records, and documents received or generated
18 by a State Licensing Authority pursuant to an
19 investigation for which a determination has been made that
20 there is probable cause to believe that the Licensee has
21 violated a statute or regulation that is considered more
22 than a minor infraction for which the State Licensing
23 Authority could pursue adverse action against the
24 Licensee.

25 Y. "State" means any state, commonwealth, district, or
26 territory of the United States of America that regulates
27 the practices of dentistry and dental hygiene.

1 Z. "State Licensing Authority" means the agency or other
2 entity of a State that is responsible for the licensing and
3 regulation of Dentists and Dental Hygienists.

4 SECTION 3. STATE PARTICIPATION IN THE COMPACT

5 A. In order to join the Compact and thereafter continue as a
6 Participating State, a State must:

7 1. Enact a compact that is not materially different from the
8 Model Compact as determined in accordance with Commission
9 Rules;

10 2. Participate fully in the Commission's Data System;

11 3. Have a mechanism in place for receiving and investigating
12 complaints about its Licensees;

13 4. Notify the Commission, in compliance with the terms of the
14 Compact and Commission Rules, of any Adverse Action or the
15 availability of Significant Investigative Information
16 regarding a Licensee;

17 5. Fully implement a Criminal Background Check requirement,
18 within a time frame established by Commission Rule, by
19 receiving the results of a qualifying Criminal Background
20 Check;

21 6. Comply with the Commission Rules applicable to a
22 Participating State;

23 7. Utilize the National Board Examinations of the Joint
24 Commission on National Dental Examinations or another
25 examination accepted by Commission Rule as a requirement
26 for licensure;

27 8. Require for licensure that applicants graduate from a

1 predoctoral dental education program, leading to the
2 D.D.S. or D.M.D. degree, or a dental hygiene education
3 program accredited by the Commission on Dental
4 Accreditation or another agency permitted by Commission
5 Rule;

6 9. Require for licensure that applicants successfully
7 complete a Clinical Assessment;

8 10. Have Continuing Professional Development requirements as
9 a condition for license renewal or renewal of license; and

10 11. Pay a participation fee to the Commission as established
11 by Commission Rule.

12 B. When conducting a Criminal Background Check the State Licensing
13 Authority shall:

14 1. Consider that information in making a licensure decision;

15 2. Maintain documentation of completion of the Criminal
16 Background Check and background check information to the
17 extent allowed by State and federal law; and

18 3. Report to the Commission whether it has completed the
19 Criminal Background Check and whether the individual was
20 denied a license.

21 C. The Commission shall grant a Licensee of a Participating State
22 who does not hold an Encumbered License in any other
23 Participating State, the Compact Privilege in a Remote State in
24 accordance with the terms of the Compact and Commission Rules. If
25 a Remote State has a Jurisprudence Requirement, the Commission
26 shall not grant the Licensee the Compact Privilege for that
27 Remote State unless and until the Commission is informed by the

1 Remote State or Licensee that the Licensee has satisfied the
2 Jurisprudence Requirement.

3 SECTION 4. COMPACT PRIVILEGE

4 A. To exercise the Compact Privilege under the terms and provisions
5 of the Compact, the Licensee shall:

6 1. Have a Qualifying License as a Dentist or Dental Hygienist
7 in a Participating State.

8 2. Be eligible for a Compact Privilege in any Remote State in
9 accordance with D, G and H of this section;

10 3. Apply to the Commission whenever the Licensee is seeking a
11 Compact Privilege within one or more Remote States;

12 4. Pay any applicable Commission and Remote State fees for a
13 Compact Privilege in the Remote State;

14 5. Meet any Jurisprudence Requirements established by a
15 Remote State in which the Licensee is seeking a Compact
16 Privilege;

17 6. Have passed a National Board Examination of the Joint
18 Commission on National Dental Examinations or another
19 examination accepted by Commission Rule as a requirement
20 for licensure;

21 7. Have graduated from a predoctoral dental education
22 program, leading to the D.D.S. or D.M.D. degree, or a
23 dental hygiene education program accredited by the
24 Commission on Dental Accreditation or another agency
25 permitted by Commission Rule;

26 8. Have successfully completed a Clinical Assessment for
27 licensure;

1 9. Report to the Commission Adverse Action taken by any
2 non-Participating State when applying for a Compact
3 Privilege and, otherwise, within thirty (30) days from the
4 date the Adverse Action is taken;

5 10. Report to the Commission when applying for a Compact
6 Privilege the address of the Licensee's primary residence
7 and thereafter immediately report to the Commission any
8 change in the address of the Licensee's primary residence;
9 and

10 11. Consent to accept service of process by mail at the
11 Licensee's primary residence on record with the Commission
12 with respect to any action brought against the Licensee by
13 the Commission or a Participating State, and consent to
14 accept service of a subpoena by mail at the Licensee's
15 primary residence on record with the Commission with
16 respect to any action brought or investigation conducted
17 by the Commission or a Participating State.

18 B. The Licensee must comply with the requirements of subsection A
19 of this section to maintain the Compact Privilege in the Remote
20 State. If those requirements are met, the Compact Privilege will
21 continue as long as the Licensee maintains a Qualifying License
22 and pays any applicable renewal fees.

23 C. A Licensee providing dentistry or dental hygiene in a Remote
24 State under the Compact Privilege shall function within the Scope
25 of Practice authorized by the Remote State for a Dentist or Dental
26 Hygienist licensed in that State.

27 D. A Licensee providing dentistry or dental hygiene pursuant to

1 Compact Privilege in a Remote State is subject to that State's
2 regulatory authority. A Remote State may, in accordance with due
3 process and that State's laws, remove by Adverse Action a
4 Licensee's Compact Privilege in the Remote State for a specific
5 period of time, and impose fines or take any other necessary
6 actions to protect the health and safety of its citizens. If a
7 Remote State imposes an Adverse Action against a Compact
8 Privilege that limits the Compact Privilege, that Adverse Action
9 applies to all Compact Privileges in all Remote States. A
10 Licensee whose Compact Privilege in a Remote State is removed for
11 a specified period of time is not eligible for a Compact Privilege
12 in any other Remote State until the specific time for removal of
13 the Compact Privilege has passed and all encumbrance requirements
14 are satisfied.

15 E. If a license in a Participating State is an Encumbered License,
16 the Licensee shall lose the Compact Privilege in a Remote State
17 and shall not be eligible for a Compact Privilege in any Remote
18 State until the license is no longer encumbered.

19 F. Once an Encumbered License in a Participating State is restored
20 to good standing, the Licensee must meet the requirements of
21 subsection A of this section to obtain a Compact Privilege in a
22 Remote State.

23 G. If a Licensee's Compact Privilege in a Remote State is removed by
24 the Remote State, the individual shall lose or be ineligible for
25 the Compact Privilege in any Remote State until the following
26 occur:

27 1. The specific period of time for which the Compact

1 Privilege was removed has ended; and

2 2. All conditions for removal of the Compact Privilege have
3 been satisfied.

4 H. Once the requirements of subsection G of this section have been
5 met, the Licensee must meet the requirements in subsection A of
6 this section to obtain a Compact Privilege in a Remote State.

7 SECTION 5. ACTIVE-DUTY MILITARY PERSONNEL OR THEIR SPOUSES

8 An Active-Duty Military individual and their spouse shall not be
9 required to pay to the Commission for a Compact Privilege the fee
10 otherwise charged by the Commission. If a Remote State chooses to
11 charge a fee for a Compact Privilege, it may choose to charge a
12 reduced fee or no fee to an Active-Duty Military individual and
13 their spouse for a Compact Privilege.

14 SECTION 6. ADVERSE ACTIONS

15 A. A Participating State in which a Licensee is licensed shall have
16 exclusive authority to impose Adverse Action against the
17 Qualifying License issued by that Participating State.

18 B. A Participating State may take Adverse Action based on the
19 Significant Investigative Information of a Remote State, so long
20 as the Participating State follows its own procedures for
21 imposing Adverse Action.

22 C. Nothing in this Compact shall override a Participating State's
23 decision that participation in an Alternative Program may be used
24 in lieu of Adverse Action and that such participation shall
25 remain non-public if required by the Participating State's laws.
26 Participating States must require Licensees who enter any
27 Alternative Program in lieu of discipline to agree not to

1 practice in any other Participating State during the term of the
2 Alternative Program without prior authorization from such other
3 Participating State.

4 D. Any Participating State in which a Licensee is applying to
5 practice or is practicing pursuant to a Compact Privilege may
6 investigate actual or alleged violations of the statutes and
7 regulations authorizing the practice of dentistry or dental
8 hygiene in any other Participating State in which the Dentist or
9 Dental Hygienist holds a license or Compact Privilege.

10 E. A Remote State shall have the authority to:

11 1. Take Adverse Actions as set forth in Section 4.D against a
12 Licensee's Compact Privilege in the State;

13 2. Issue subpoenas for both hearings and investigations that
14 require the attendance and testimony of witnesses, and the
15 production of evidence. Subpoenas issued by a State
16 Licensing Authority in a Participating State for the
17 attendance and testimony of witnesses, or the production
18 of evidence from another Participating State, shall be
19 enforced in the latter State by any court of competent
20 jurisdiction, according to the practice and procedure of
21 that court applicable to subpoenas issued in proceedings
22 pending before it. The issuing authority shall pay any
23 witness fees, travel expenses, mileage, and other fees
24 required by the service statutes of the State where the
25 witnesses or evidence are located; and

26 3. If otherwise permitted by State law, recover from the
27 Licensee the costs of investigations and disposition of

1 cases resulting from any Adverse Action taken against that
2 Licensee.

3 F. Joint Investigations

4 1. In addition to the authority granted to a Participating
5 State by its respective dentist or dental hygienist
6 licensure act or other applicable State law, a
7 Participating State may jointly investigate Licensees
8 with other Participating States.

9 2. Participating States shall share any Investigative
10 Information, litigation, or compliance materials in
11 furtherance of any joint or individual investigation
12 initiated under the Compact.

13 G. Authority to Continue Investigation.

14 1. After a Licensee's Compact Privilege in a Remote State is
15 terminated, the Remote State may continue an investigation
16 of the Licensee that began when the Licensee had a Compact
17 Privilege in that Remote State.

18 2. If the investigation yields what would be Significant
19 Investigative Information had the Licensee continued to
20 have a Compact Privilege in that Remote State, the Remote
21 State shall report the presence of such Information to the
22 Data System as required by Section 8.B.6 as if it was
23 Significant Investigative Information.

24 SECTION 7. ESTABLISHMENT OF THE COMMISSION.

25 A. The Compact Participating States hereby create and establish a
26 joint government agency and national administrative body known as
27 the Dentist and Dental Hygienist Compact Commission. The

1 Commission is an instrumentality of the Compact States acting
2 jointly and not an instrumentality of any one state. The
3 Commission shall come into existence on or after the effective
4 date of the Compact as set forth in Section 11.A.

5 B. Participation, Voting, and Meetings

6 1. Each Participating State shall have and be limited to one
7 (1) Commissioner. The Commission may by Rule or bylaw
8 establish a term of office of a Commissioner or term
9 limits.

10 2. The Commissioner shall be a member or designee of the
11 State Licensing Authority.

12 3. Any Commissioner may be removed or suspended from serving
13 as a Commissioner as provided by the law of the State from
14 which the Commissioner is appointed or the Commission's
15 Rules or bylaws.

16 4. The Participating State shall fill a vacancy of its
17 Commissioner in the Commission within sixty (60) days of
18 the vacancy.

19 5. Each Commissioner shall be entitled to one (1) vote with
20 regard to all matters that are voted upon by the
21 Commissioners.

22 6. A Commissioner shall vote in person or by such other means
23 as provided in the Commission's bylaws. The bylaws may
24 provide for Commissioner participation in meetings by
25 telephone or other means of communication.

26 7. The Commission shall meet at least once during each
27 calendar year. Additional meetings shall be held as set

1 forth in the Commission's bylaws.

2 C. The Commission shall have the following powers and duties:

3 1. Establish code of conduct and conflict of interest
4 policies;

5 2. Establish the fiscal year of the Commission;

6 3. Establish bylaws;

7 4. Maintain its financial records in accordance with the
8 bylaws;

9 5. Meet and take such actions as are consistent with the
10 provisions of this Compact and the bylaws;

11 6. Promulgate Commission Rules to facilitate and coordinate
12 implementation and administration of this Compact. The
13 Rules shall have the force and effect of law and shall be
14 binding on all Participating States;

15 7. Bring and prosecute legal proceedings or actions in the
16 name of the Commission, provided that the standing of any
17 State Licensing Authority to sue or be sued under
18 applicable law shall not be affected;

19 8. Purchase and maintain insurance and bonds;

20 9. Borrow, accept, or contract for services of personnel,
21 including, but not limited to, employees of a
22 Participating State;

23 10. Hire employees and engage contractors, elect officers,
24 fix compensation, define duties, grant such individuals
25 appropriate authority to carry out the purposes of the
26 Compact, and establish the Commission's personnel
27 policies and programs relating to conflicts of interest,

- 1 qualifications of personnel, and other related personnel
2 matters;
- 3 11. Accept and dispose of equipment, supplies, materials and
4 services, and provide for financing of the Commission and
5 payments of its debts and expenses, provided that at all
6 times the Commission shall avoid any appearance of
7 impropriety and/or conflict of interest;
- 8 12. Lease, purchase, accept appropriate gifts or donations
9 of, or otherwise own, hold, improve or use, any property,
10 real, personal or mixed; provided that at all times the
11 Commission shall avoid any appearance of impropriety;
- 12 13. Sell convey, mortgage, pledge, lease, exchange, abandon,
13 or otherwise dispose of any property real, personal, or
14 mixed;
- 15 14. Establish a budget and make expenditures;
- 16 15. Borrow money;
- 17 16. Appoint committees, including standing committees
18 composed of Commissioners, State regulators, State
19 legislators or their representatives, and consumer
20 representatives, and such other interested persons as may
21 be designated in this Compact and the Commission's bylaws;
- 22 17. Provide and receive information from, and cooperate
23 with, law enforcement agencies;
- 24 18. Elect a Chair, Vice Chair, Secretary and Treasurer and
25 such other officers of the Commission as provided in the
26 Commission's bylaws;
- 27 19. Reserve for itself, in addition to those reserved

1 exclusively to the Commission under the Compact, powers
2 that the Executive Board may not exercise;

3 20. Approve or disapprove a State's participation in the
4 Compact based upon its determination as to whether the
5 State's Compact legislation departs in a material manner
6 from the model Compact language;

7 21. In its discretion, establish a period of time a Compact
8 Privilege shall be in effect without renewal.

9 22. As set forth in the Commission Rules, charge a fee to a
10 Licensee for the grant of a Compact Privilege in a Remote
11 State and thereafter, as may be established by Commission
12 Rule, charge the Licensee a Compact Privilege renewal fee
13 for each renewal period in which the Licensee exercises or
14 intends to exercise the Compact Privilege in that Remote
15 State. Nothing herein shall be construed to prevent a
16 Remote State from charging a Licensee a fee for a Compact
17 Privilege or renewals of a Compact Privilege, or a fee for
18 the Jurisprudence Requirement if the Remote State imposes
19 such a requirement for the grant of a Compact Privilege;

20 23. Maintain and certify records and information provided to
21 a Participating State as the authenticated business
22 records of the Commission, and designate a person to do so
23 on the Commission's behalf; and

24 24. Perform such other functions as may be necessary or
25 appropriate to achieve the purposes of this Compact.

26 D. Meetings of the Commission

27 1. All meetings of the Commission that are not closed

1 pursuant to this subsection shall be open to the public.
2 Notice of public meetings shall be posted on the
3 Commission's website at least thirty (30) days prior to
4 the public meeting.

5 2. Notwithstanding subsection D.1 of this section, the
6 Commission may convene a public meeting by providing at
7 least twenty-four (24) hours prior notice on the
8 Commission's website, and any other means as provided in
9 the Commission's Rules, for any of the reasons it may
10 dispense with notice of proposed rulemaking under Section
11 9.L.

12 3. The Commission may convene in a closed, non-public meeting
13 or non-public part of a public meeting to receive legal
14 advice or to discuss:

15 a. Non-compliance of a Participating State with its
16 obligations under the Compact;

17 b. The employment, compensation, discipline or other
18 matters, practices or procedures related to specific
19 employees or other matters related to the
20 Commission's internal personnel practices and
21 procedures;

22 c. Current, threatened, or reasonably anticipated
23 litigation;

24 d. Negotiation of contracts for the purchase, lease, or
25 sale of goods, services, or real estate;

26 e. Accusing any person of a crime or formally censuring
27 any person;

1 f. Disclosure of trade secrets or commercial or
2 financial information that is privileged or
3 confidential;

4 g. Disclosure of information of a personal nature where
5 disclosure would constitute a clearly unwarranted
6 invasion of personal privacy;

7 h. Disclosure of investigative records compiled for law
8 enforcement purposes;

9 i. Disclosure of information related to any
10 investigative reports prepared by or on behalf of or
11 for use of the Commission or committee charged with
12 the responsibility of investigation or determination
13 of compliance issues pursuant to the Compact;

14 j. Legal advice;

15 k. Matters specifically exempted from disclosure by
16 federal or Participating State law; or

17 l. Other matters as provided by Commission Rule.

18 4. If a meeting, or portion of a meeting, is closed pursuant
19 to subsection D.3 of this section, the presiding officer
20 shall make an announcement that the meeting or portion of
21 the meeting shall be closed and shall reference each
22 relevant exempting provision.

23 5. The Commission shall keep minutes that fully and clearly
24 describe all matters discussed in a meeting and shall
25 provide a full and accurate summary of actions taken. All
26 documents considered in connection with an action shall be
27 identified in such minutes. All minutes and documents of a

1 closed meeting shall remain under seal, subject to release
2 by a majority vote of the Commission or order of a court of
3 competent jurisdiction.

4 E. The Commission shall prepare and provide to the Participating
5 States an annual report of its activities.

6 F. Financing of the Commission

7 1. The Commission shall pay, or provide for the payment of,
8 the reasonable expenses of its establishment,
9 organization, and ongoing activities.

10 2. The Commission may accept any and all appropriate sources
11 of revenue, donations, and grants of money, equipment,
12 supplies, materials, and services.

13 3. The Participating States' annual assessment fees and the
14 Licensees' Compact Privilege fees and any applicable
15 renewal fees shall be used to cover the cost of the
16 operations and activities of the Commission and its staff
17 and must be in a total amount sufficient to cover its
18 annual budget as approved each year for which revenue is
19 not provided by other sources. The aggregate annual
20 assessment amount for Participating States shall be
21 allocated based upon a formula to be determined by
22 Commission Rule.

23 4. The Commission shall not incur obligations of any kind
24 prior to securing the funds adequate to meet the same, nor
25 shall the Commission pledge the credit of any
26 Participating State, except by and with the authority of
27 the Participating State.

1 5. The Commission shall keep accurate accounts of all
2 receipts and disbursements. The receipts and
3 disbursements of the Commission shall be subject to the
4 financial review and accounting procedures established
5 under its bylaws. All receipts and disbursements of funds
6 handled by the Commission shall be subject to an annual
7 financial review by a certified or licensed public
8 accountant, and the report of the financial review shall
9 be included in and become part of the annual report of the
10 Commission.

11 G. The Executive Board

12 1. The Executive Board shall have the power to act on behalf
13 of the Commission according to the terms of this Compact
14 and Commission Rules.

15 2. The Commission may remove any member of the Executive
16 Board as provided in the Commission's bylaws.

17 3. The Executive Board shall meet at least annually.

18 4. The Executive Board shall have the following duties and
19 responsibilities:

20 a. Recommend to the Commission changes to the
21 Commission's Rules or bylaws, changes to this Compact
22 legislation, fees to be paid by Compact Participating
23 States such as annual dues, and any Commission Compact
24 fee charged to Licensees for the Compact Privilege;

25 b. Ensure Compact administration services are
26 appropriately provided, contractual or otherwise;

27 c. Prepare and recommend the budget;

- 1 d. Maintain financial records on behalf of the
2 Commission;
- 3 e. Monitor Compact compliance of Participating States
4 and provide compliance reports to the Commission;
- 5 f. Establish additional committees as necessary;
- 6 g. Exercise the powers and duties of the Commission
7 during the interim between Commission meetings,
8 except for issuing proposed rulemaking or adopting
9 Commission Rules or bylaws, or exercising any other
10 powers and duties exclusively reserved to the
11 Commission by the Commission's Rules; and
- 12 h. Other duties as provided in the Commission's Rules or
13 bylaws.

14 5. All meeting of the Executive Board at which it votes or
15 plans to vote on matters in exercising the powers and
16 duties of the Commission shall be open to the public and
17 public notice of such meetings shall be given as public
18 meetings of the Commission are given.

19 6. The Executive Board may convene in a closed, non-public
20 meeting for the same reasons that the Commission may
21 convene in a non-public meeting as set forth in Section 7.D
22 3 and shall announce the closed meeting as the Commission
23 is required to under Section 7.D.4 and keep minutes of the
24 closed meeting as the Commission is required to under
25 Section 7.D.5.

26 H. Qualified Immunity, Defense, and Indemnification

27 1. The Commissioners, officers, employees and

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

16 2. The Commission shall defend any Commissioner, officer,
17 employee, or representative of the Commission in any civil
18 action seeking to impose liability arising out of any
19 actual or alleged act, error, or omission that occurred
20 within the scope of Commission employment, duties, or
21 responsibilities, or, as determined by the Commission,
22 that the person against whom the claim is made had a
23 reasonable basis for believing occurred within the scope
24 of Commission employment, duties, or responsibilities,
25 provided that nothing herein shall be construed to
26 prohibit that person from retaining his or her own
27 counsel, and provided further, that the actual or alleged

1 act, error, or omission did not result from that person's
2 intentional or willful or wanton misconduct.

3 3. The Commission shall indemnify and hold harmless any
4 Commissioner, officer, employee, or representative of the
5 Commission for the amount of any settlement or judgment
6 obtained against that person arising out of any actual or
7 alleged act, error or omission that occurred within the
8 scope of Commission employment, duties, or
9 responsibilities, or that such person had a reasonable
10 basis for believing occurred within the scope of
11 Commission employment, duties, or responsibilities,
12 provided that the actual or alleged act, error, or
13 omission did not result from the intentional or willful or
14 wanton misconduct of that person.

15 4. Venue is proper and judicial proceedings by or against the
16 Commission shall be brought solely and exclusively in a
17 court of competent jurisdiction where the principal office
18 of the Commission is located. The Commission may waive
19 venue and jurisdictional defenses in any proceedings as
20 authorized by Commission Rules.

21 5. Nothing herein shall be construed as a limitation on the
22 liability of any Licensee for professional malpractice or
23 misconduct, which shall be governed solely by any other
24 applicable State laws.

25 6. Nothing herein shall be construed to designate the venue
26 or jurisdiction to bring actions for alleged acts of
27 malpractice, professional misconduct, negligence, or

1 other such civil action pertaining to the practice of
2 dentistry or dental hygiene. All such matters shall be
3 determined exclusively by State law other than this
4 Compact.

5 7. Nothing in this Compact shall be interpreted to waive or
6 otherwise abrogate a Participating State's state action
7 immunity or state action affirmative defense with respect
8 to antitrust claims under the Sherman Act, Clayton Act, or
9 any other state or federal antitrust or anticompetitive
10 law or regulation.

11 8. Nothing in this Compact shall be construed to be a waiver
12 of sovereign immunity by the Participating States or by
13 the Commission.

14 SECTION 8. DATA SYSTEM

15 A. The Commission shall provide for the development, maintenance,
16 operation, and utilization of a coordinated database and
17 reporting system containing licensure, Adverse Action,
18 Alternative Program and the reporting of the existence of
19 Significant Investigative Information, on all Licensees in
20 Participating States.

21 B. Notwithstanding any other provision of State law to the
22 contrary, a Participating State shall submit a uniform data set
23 to the Data System on all individuals to whom this Compact is
24 applicable as required by the Rules of the Commission, including:

- 25 1. Identifying information;
26 2. Licensure data;
27 3. Adverse Actions against a license or Compact Privilege and

1 information related thereto;

2 4. Alternative Program participation, the beginning and
3 ending dates of such participation, and other information
4 related to such participation not made confidential under
5 Participating State law;

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

10 6. The presence of Significant Investigative Information;
11 and

12 7. Other information that may facilitate the administration
13 of this Compact, as determined by the Rules of the
14 Commission.

15 C. Significant Investigative Information pertaining to a Licensee
16 in any Participating State will only be available to other
17 Participating States.

18 D. It is the responsibility of each Participating State to report
19 any Adverse Action it takes against a license or Compact
20 Privilege, including upon an applicant for a license, and to
21 monitor the database to determine whether Adverse Action has been
22 taken against a Licensee or license applicant. Adverse Action
23 information pertaining to a Licensee in any Participating State
24 will be available to any other Participating State. Participating
25 States may obtain from the Data System information of any Adverse
26 Action taken against a Licensee or an individual applying for a
27 license.

1 E. Participating States contributing information to the Data
2 System may, in accordance with a State or federal law so
3 requiring, designate information that may not be shared with the
4 public without the express permission of the contributing State.
5 Notwithstanding any such designation, such information shall be
6 reported to the Commission through the Data System.

7 F. Any information submitted to the Data System that is
8 subsequently expunged Pursuant to federal law or the laws of the
9 Participating State contributing the information shall be
10 removed from the Data System upon reporting of such by the
11 Participating State to the Commission.

12 G. The records and information provided to a Participating State
13 pursuant to this Compact or through the Data System, when
14 certified by the Commission or an agent thereof, shall constitute
15 the authenticated business records of the Commission, and shall
16 be entitled to any associated hearsay exception in any relevant
17 judicial, quasi-judicial or administrative proceedings in a
18 Participating State.

19 SECTION 9. RULEMAKING

20 A. The Commission shall exercise its rulemaking powers pursuant to
21 the criteria set forth in this section and the Rules adopted
22 thereunder. Commission Rules shall become binding as of the date
23 specified in its adoption of each Rule.

24 B. No Rule of the Commission shall conflict with the laws of a
25 Participating State that establishes the Scope of Practice of a
26 Licensee in that Participating State.

27 C. The Commission shall promulgate reasonable Rules in order to

1 effectively and efficiently achieve the purposes of the Compact.
2 Notwithstanding the foregoing, in the event the Commission
3 exercises its rulemaking authority in a manner that is beyond the
4 scope of the purposes of the Compact, or the powers granted
5 hereunder, or based upon another applicable standard of review,
6 as determined by a court of competent jurisdiction, the Rules to
7 which the judicial determination applies shall be invalid and
8 have no force and effect.

9 D. If a majority of the legislatures of the Participating States
10 rejects a Commission Rule, by enactment of a statute or
11 resolution in the same manner used to adopt the Compact within
12 four (4) years of the date of adoption of the Rule, then such Rule
13 shall have no further force and effect in any Participating State
14 or to any State applying to participate in the Compact.

15 E. Commission Rules shall be adopted at a regular or special
16 meeting of the Commission.

17 F. Prior to promulgation and adoption of a final Rule or Rules by
18 the Commission, and at least thirty (30) days in advance of the
19 meeting at which the Rule will be considered and voted upon, the
20 Commission shall place a Notice of Proposed Rulemaking on the
21 website of the Commission or other publicly accessible platform
22 and provide written Notice of Proposed Rulemaking to the State
23 Licensing Authority of each Participating State;

24 G. The Notice of Proposed Rulemaking shall include:

- 25 1. The time, date and location of a public hearing on the
26 proposed rule and the proposed time, date, and location of
27 the meeting in which the proposed Rule will be considered

1 and voted upon;

2 2. The text of the proposed Rule and the reason for the
3 proposed Rule;

4 3. A request for comments on the proposed Rule from any
5 interested person and the date by which written comments
6 must be received; and

7 4. The manner in which interested persons may submit notice
8 to the Commission of their intention to attend the public
9 hearing or provide any written comments.

10 H. Prior to adoption of a proposed Rule, the Commission shall allow
11 persons to submit written data, facts, opinions, and arguments,
12 which shall be made available to the public.

13 I. If the hearing is to be held via electronic means, the Commission
14 shall publish in the Notice of Proposed Rulemaking the mechanism
15 for access to the electronic hearing.

16 1. All persons wishing to be heard at the hearing shall as
17 directed in the notice of the public hearing, not less than
18 five (5) business days before the scheduled date of the
19 hearing, notify the Commission of their desire to appear
20 and testify at the hearing.

21 2. Hearings shall be conducted in a manner providing each
22 person who wishes to comment a fair and reasonable
23 opportunity to comment orally or in writing.

24 3. All hearings will be recorded. A copy of the recording and
25 the written Comments, data, facts, opinions, and arguments
26 received in response to the proposed rulemaking will be
27 made available to a person upon request.

1 4. Nothing in this section shall be construed as requiring a
2 separate hearing on each Rule. Rules may be grouped for the
3 convenience of the Commission at hearings required by this
4 section.

5 J. Following the public hearing the Commission shall consider all
6 written and oral comments received.

7 K. The Commission shall, by majority vote of all Commissioners,
8 take final action on the proposed Commission Rule and shall
9 determine the effective date of the Rule, if adopted, based on the
10 rulemaking record and the full text of the Rule.

11 1. If adopted, the Rule shall be posted on the Commission's
12 website.

13 2. The Commission may adopt changes to the proposed Rule
14 provided the changes do not enlarge the original purpose
15 of the proposed Rule.

16 3. The Commission shall provide on its website an explanation
17 of the reasons for substantive changes made to the
18 proposed Rule as well as reasons for substantive changes
19 not made that were recommended by commenters.

20 4. The Commission shall determine a reasonable effective
21 date for the Rule. Except for an emergency as provided in
22 subsection L, the effective date of the Rule shall be no
23 sooner than thirty (30) days after issuing the notice that
24 it adopted the Rule.

25 L. Upon a determination that an emergency exists, the Commission
26 may consider and adopt an emergency Rule with twenty-four (24)
27 hours prior notice, without the opportunity for comment, or

1 hearing, provided that the usual rulemaking procedures provided
2 in the Compact and in this section shall be retroactively applied
3 to the Rule as soon as reasonably possible, in no event later than
4 ninety (90) days after the effective date of the Rule. For the
5 purposes of this provision, an emergency Rule is one that must be
6 adopted immediately in order to:

7 1. Meet an imminent threat to public health, safety, or
8 welfare;

9 2. Prevent a loss of Commission or Participating State funds;

10 3. Meet a deadline for the promulgation of a Rule that is
11 established by federal law or Rule; or

12 4. Protect public health and safety.

13 M. The Commission or an authorized committee of the Commission may
14 direct revisions to a previously adopted Rule for purposes of
15 correcting typographical errors, errors in format, errors in
16 consistency, or grammatical errors. Public notice of any
17 revisions shall be posted on the website of the Commission. The
18 revision shall be subject to challenge by any person for a period
19 of thirty (30) days after posting. The revision may be challenged
20 only on grounds that the revision results in a material change to
21 a Rule. A challenge shall be made to the Commission as set forth
22 in the notice of revisions and delivered to the Commission prior
23 to the end of the notice period. If no challenge is made, the
24 revision will take effect without further action. If the revision
25 is challenged, the revision may not take effect without the
26 approval of the Commission.

27 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

1 A. Oversight

2 1. The executive and judicial branches of State government in
3 each Participating State shall enforce this Compact and
4 take all actions necessary and appropriate to implement
5 the Compact.

6 2. The Commission shall be entitled to receive service of
7 process in any such proceeding regarding the enforcement
8 or interpretation of the Compact or the Commission's Rules
9 and shall have standing to intervene in such a proceeding
10 for all purposes. Failure to provide the Commission with
11 service of process shall render a judgment or order in such
12 proceeding void as to the Commission, this Compact, or
13 promulgated Rules.

14 B. Default, Technical Assistance, and Termination

15 1. If the Commission determines that a Participating State
16 has defaulted in the performance of its obligations or
17 responsibilities under this Compact or the promulgated
18 Rules, the Commission shall provide written notice to the
19 defaulting State and other Participating States. The
20 notice shall describe the default, the proposed means of
21 curing the default and any other action that the
22 Commission may take, and shall offer remedial training and
23 specific technical assistance regarding the default.

24 2. If a State in default fails to cure the default, the
25 defaulting State may be terminated from the Compact upon
26 an affirmative vote of a majority of the Commissioners of
27 the Participating States, and all rights, privileges and

1 benefits conferred by this Compact upon such State may be
2 terminated on the effective date of termination. A cure of
3 the default does not relieve the offending State of
4 obligations or liabilities incurred during the period of
5 default.

6 3. Termination of participation in the Compact shall be
7 imposed only after all other means of securing compliance
8 have been exhausted. Notice of intent to suspend or
9 terminate shall be given by the Commission to the governor
10 and the majority and minority leaders of the defaulting
11 State's legislature, and to the State Licensing Authority
12 of each of the Participating States.

13 4. A State that has been terminated is responsible for all
14 assessments, obligations, and liabilities incurred
15 through the effective date of termination, including
16 obligations that extend beyond the effective date of
17 termination.

18 5. The Commission shall not bear any costs related to a State
19 that is found to be in default or that has been terminated
20 from the Compact, unless agreed upon in writing between
21 the Commission and the defaulting State.

22 6. The defaulting State may appeal its termination from the
23 Compact by the Commission by petitioning the U.S. District
24 Court for the District of Columbia or the federal district
25 where the Commission has its principal offices. The
26 prevailing party shall be awarded all costs of such
27 litigation, including reasonable attorney's fees.

1 7. If a State has been terminated from participation in the
2 Compact, the State shall immediately provide notice to all
3 Licensees within that State of such termination:

4 a. Licensees who have been granted a Compact Privilege
5 in that State shall retain the Compact Privilege for
6 one hundred eighty (180) days following the effective
7 date of such termination.

8 b. Licensees who are licensed in that State who have
9 been granted a Compact Privilege in a Participating
10 State shall retain the Compact Privilege for one
11 hundred eighty (180) days unless the Licensee also has
12 a license in a Participating State or obtains a
13 license in a Participating State before the one
14 hundred eighty (180)-day period ends, in which case
15 the Compact Privilege shall continue.

16 C. Dispute Resolution

17 1. Upon request by a Participating State, the Commission
18 shall attempt to resolve disputes related to the Compact
19 that arise among Participating States and between
20 Participating and non-Participating States.

21 2. The Commission shall promulgate a Rule providing for both
22 mediation and binding dispute resolution for disputes as
23 appropriate.

24 D. Enforcement

25 1. The Commission, in the reasonable exercise of its
26 discretion, shall enforce the provisions and Rules of this
27 Compact.

1 2. If compliance is not secured after all means to secure
2 compliance have been exhausted, by majority vote, the
3 Commission may initiate legal action in the United States
4 District Court for the District of Columbia, or the
5 federal district where the Commission has its principal
6 offices, against a Participating State in default to
7 enforce compliance with the provisions of the Compact and
8 its promulgated Rules and bylaws. The relief sought may
9 include both injunctive relief and damages. In the event
10 judicial enforcement is necessary, the prevailing party
11 shall be awarded all costs of such litigation, including
12 reasonable attorney's fees.

13 3. The remedies herein shall not be the exclusive remedies of
14 the Commission. The Commission may pursue any other
15 remedies available under applicable federal or State law.

16 E. Legal Action Against the Commission

17 1. A Participating State may initiate legal action against
18 the Commission in the U.S. District Court for the District
19 of Columbia or the federal district where the Commission
20 has its principal offices to enforce compliance with the
21 provisions of the Compact and its Rules. The relief sought
22 may include both injunctive relief and damages. In the
23 event judicial enforcement is necessary, the prevailing
24 party shall be awarded all costs of such litigation,
25 including reasonable attorney's fees.

26 2. No person other than a Participating State shall enforce
27 this compact against the Commission.

1 SECTION 11. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

2 A. The Compact shall come into effect on the date on which the
3 Compact statute is enacted into law in the tenth Participating
4 State.

5 1. On or after the effective date of the Compact, the
6 Commission shall convene and review the enactment of each
7 of the first ten Participating States ("Charter
8 Participating States") to determine if the statute enacted
9 by each such Charter Participating State is materially
10 different than the Model Compact.

11 a. A Charter Participating State whose enactment is
12 found to be materially different from the Model
13 Compact shall be entitled to the default process set
14 forth in Section 10.B.

15 b. If any Participating State later withdraws from the
16 Compact or its participation is terminated, the
17 Commission shall remain in existence and the Compact
18 shall remain in effect even if the number of
19 Participating States should be less than ten.
20 Participating States enacting the Compact subsequent
21 to the ten initial Charter Participating States shall
22 be subject to the process set forth in Section 7.C.20
23 to determine if their enactments are materially
24 different from the Model Compact and whether they
25 qualify for participation in the Compact.

26 2. Participating States enacting the Compact subsequent to
27 the ten initial Charter Participating States shall be

1 subject to the process set forth in Section 7.C.20 to
2 determine if their enactments are materially different
3 from the Model Compact and whether they qualify for
4 participation in the Compact.

5 3. All actions taken for the benefit of the Commission or in
6 furtherance of the purposes of the administration of the
7 Compact prior to the effective date of the Compact or the
8 Commission coming into existence shall be considered to be
9 actions of the Commission unless specifically repudiated
10 by the Commission.

11 B. Any State that joins the Compact subsequent to the Commission's
12 shall be subject to the Commission's Rules and bylaws as they
13 exist on the date on which the Compact becomes law in that State.
14 Any Rule or bylaw that has been previously adopted by the
15 Commission shall have the full force and effect of law on the day
16 the Compact becomes law in that State.

17 C. Any Participating State may withdraw from this Compact by
18 enacting a statute repealing the same.

19 1. A Participating State's withdrawal shall not take effect
20 until one hundred eighty (180) days after enactment of the
21 repealing statute. During this one hundred eighty (180)
22 day- period, all Compact Privileges that were in effect in
23 the withdrawing State and were granted to Licensees
24 licensed in the withdrawing State shall remain in effect.
25 If any Licensee licensed in the withdrawing State is also
26 licensed in another Participating State or obtains a
27 license in another Participating State within the one

1 hundred eighty (180) days, the Licensee's Compact
2 Privileges in other Participating States shall not be
3 affected by the passage of the 180 days.

4 2. Withdrawal shall not affect the continuing requirement of
5 the State Licensing Authority of the withdrawing State to
6 comply with the investigative, Alternative Program and
7 Adverse Action reporting requirements of the Compact prior
8 to the effective date of withdrawal.

9 3. Upon the enactment of a statute withdrawing from this
10 compact, a State shall immediately provide notice of such
11 withdrawal to all Licensees within that State. Such
12 withdrawing State shall continue to recognize all licenses
13 granted pursuant to this compact for a minimum of one
14 hundred eighty (180) days after the date of such notice of
15 withdrawal.

16 D. Nothing contained in this Compact shall be construed to
17 invalidate or prevent any State licensure agreement or other
18 cooperative arrangement between Participating States and between
19 a Participating and non-Participating State that does not
20 conflict with the provisions of this Compact.

21 E. This Compact may be amended by the Participating States. No
22 amendment to this Compact shall become effective and binding upon
23 any Participating State until it is enacted materially in the
24 same manner into the laws of all Participating States as
25 determined by the Commission.

26 SECTION 12. CONSTRUCTION AND SEVERABILITY

27 A. This Compact and the Commission's rulemaking authority shall be

1 liberally construed so as to effectuate the purposes, and the
2 implementation and administration of the Compact. Provisions of
3 the Compact expressly authorizing or requiring the promulgation
4 of Rules shall not be construed to limit the Commission's
5 rulemaking authority solely for those purposes.

6 B. The provisions of this Compact shall be severable and if any
7 phrase, clause, sentence or provision of this Compact is held by a
8 court of competent jurisdiction to be contrary to the
9 constitution of any Participating State, a State seeking
10 participation in the Compact, or of the United States, or the
11 applicability thereof to any government, agency, person or
12 circumstance is held to be unconstitutional by a court of
13 competent jurisdiction, the validity of the remainder of this
14 Compact and the applicability thereof to any other government,
15 agency, person or circumstance shall not be affected thereby.

16 C. Notwithstanding subsection B or this section, the Commission may
17 deny a State's participation in the Compact or, in accordance with
18 the requirements of Section 10.B, terminate a Participating
19 State's participation in the Compact, if it determines that a
20 constitutional requirement of a Participating State is, or would
21 be with respect to a State seeking to participate in the Compact,
22 a material departure from the Compact. Otherwise, if this Compact
23 shall be held to be contrary to the constitution of any
24 Participating State, the Compact shall remain in full force and
25 effect as to the remaining Participating States and in full force
26 and effect as to the Participating State affected as to all
27 severable matters.

1 SECTION 13. BINDING EFFECT OF COMPACT AND OTHER LAWS

2 A. Nothing herein shall prevent the enforcement of any other law of
3 a Participating State that is not inconsistent with the Compact.

4 B. Any laws of a Participating State in conflict with the Compact
5 are superseded to the extent of the conflict.

6 C. All agreements between the Commission and the Participating
7 States are binding in accordance with their terms.

8 Sec. 268.002. ADMINISTRATION OF COMPACT. The board is the
9 Dentist and Dental Hygienist Compact administrator for this state.

10 Sec. 268.003. RULES. The board may adopt rules necessary to
11 implement this chapter.

12 SECTION 2. This Act takes effect September 1, 2023.