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H.47

Introduced by Representatives Stone of Burlington and Donahue of Northfield
Referred to Committee on
Date:
Subject: Professional regulation; dentists; dental hygienists; compact
Statement of purpose of bill as introduced: This bill proposes to adopt the
Dentist and Dental Hygienist Compact.

An act relating to Vermont’s adoption of the Dentist and Dental Hygienist
Compact

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 26 V.S.A. chapter 12, subchapter 7 is added to read:

Subchapter 7. Dentist and Dental Hygienist Compact

§ 690. DENTIST AND DENTAL HYGIENIST COMPACT; ADOPTION

This subchapter is the Vermont adoption of the Dentist and Dental
Hygienist Compact. The form, format, and text of the Compact have been
conformed to the conventions of the Vermont Statutes Annotated. It is the
intent of the General Assembly that this subchapter be interpreted as
substantively the same as the Dentist and Dental Hygienist Compact that is
enacted by other compact party states.

1 § 691. TITLE AND PURPOSE

2 This statute shall be known and cited as the Dentist and Dental Hygienist
3 Compact. The purposes of this Compact are to facilitate the interstate practice
4 of dentistry and dental hygiene and improve public access to dentistry and
5 dental hygiene services by providing dentists and dental hygienists licensed in
6 a participating state the ability to practice in participating states in which they
7 are not licensed. The Compact does this by establishing a pathway for a
8 dentists and dental hygienists licensed in a participating state to obtain a
9 compact privilege that authorizes them to practice in another participating state
10 in which they are not licensed. The Compact enables participating states to
11 protect the public health and safety with respect to the practice of such dentists
12 and dental hygienists, through the state's authority to regulate the practice of
13 dentistry and dental hygiene in the state. The Compact:

14 (1) enables dentists and dental hygienists who qualify for a compact
15 privilege to practice in other participating states without satisfying burdensome
16 and duplicative requirements associated with securing a license to practice in
17 those states;

18 (2) promotes mobility and addresses workforce shortages through each
19 participating state's acceptance of a compact privilege to practice in that state;

1 (3) increases public access to qualified, licensed dentists and dental
2 hygienists by creating a responsible, streamlined pathway for licensees to
3 practice in participating states;

4 (4) enhances the ability of participating states to protect the public's
5 health and safety;

6 (5) does not interfere with licensure requirements established by a
7 participating state;

8 (6) facilitates the sharing of licensure and disciplinary information
9 among participating states;

10 (7) requires dentists and dental hygienists who practice in a participating
11 state pursuant to a compact privilege to practice within the scope of practice
12 authorized in that state;

13 (8) extends the authority of a participating state to regulate the practice
14 of dentistry and dental hygiene within its borders to dentists and dental
15 hygienists who practice in the state through a compact privilege;

16 (9) promotes the cooperation of participating state in regulating the
17 practice of dentistry and dental hygiene within those states; and

18 (10) facilitates the relocation of military members and their spouses who
19 are licensed to practice dentistry or dental hygiene.

1 § 692. DEFINITIONS

2 As used in this Compact, unless the context requires otherwise, the
3 following definitions shall apply:

4 (1) “Active military member” means any person with full-time duty
5 status in the armed forces of the United States, including members of the
6 National Guard and Reserve.

7 (2) “Adverse action” means disciplinary action or encumbrance imposed
8 on a license or compact privilege by a state licensing authority.

9 (3) “Alternative program” means a nondisciplinary monitoring or
10 practice remediation process applicable to a dentist or dental hygienist
11 approved by a state licensing authority of a participating state in which the
12 dentist or dental hygienist is licensed. This includes, but is not limited to,
13 programs to which licensees with substance abuse or addiction issues are
14 referred in lieu of adverse action.

15 (4) “Clinical assessment” means examination or process, required for
16 licensure as a dentist or dental hygienist as applicable, that provides evidence
17 of clinical competence in dentistry or dental hygiene.

18 (5) “Commissioner” means the individual appointed by a participating
19 state to serve as the member of the Commission for that participating state.

20 (6) “Compact” means this Dentist and Dental Hygienist Compact.

1 (7) “Compact privilege” means the authorization granted by a remote
2 state to allow a licensee from a participating state to practice as a dentist or
3 dental hygienist in remote state.

4 (8) “Continuing professional development” means a requirement, as a
5 condition of license renewal to provide evidence of successful participation in
6 educational or professional activities relevant to practice or area of work.

7 (9) “Criminal background check” means the submission of fingerprints
8 or other biometric-based information for a license applicant for the purpose of
9 obtaining that applicant’s criminal history record information, as defined in 28
10 C.F.R. § 20.3(d) from the Federal Bureau of Investigation and the state’s
11 criminal history record repository as defined in 28 C.F.R. § 20.3(f).

12 (10) “Data system” means the Commission’s repository of information
13 about licensees, including, but not limited to examination, licensure,
14 investigative, compact privilege, adverse action, and alternative program.

15 (11) “Dental hygienist” means an individual who is licensed by a state
16 licensing authority to practice dental hygiene.

17 (12) “Dentist” means an individual who is licensed by a state licensing
18 authority to practice dentistry.

19 (13) “Dentist and Dental Hygienist Compact Commission” or
20 “Commission” means a joint government agency established by this Compact
21 comprised of each state that has enacted the Compact and a national

1 administrative body comprised of a commissioner from each state that has
2 enacted the Compact.

3 (14) “Encumbered license” means a license that a state licensing
4 authority has limited in any way other than through an alternative program.

5 (15) “Executive board” means the chair, vice chair, secretary, and
6 treasurer, and any other commissioners as may be determined by Commission
7 rule or bylaw.

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

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

14 (18) “Licensee” means an individual who holds an unrestricted license
15 from a participating state to practice as a dentist or dental hygienist in that
16 state.

17 (19) “Model Compact” the model for the Dentist and Dental Hygienist
18 Compact on file with the Council of State Governments or other entity as
19 designated by the Commission.

1 (20) “Participating state” means a state that has enacted the Compact
2 and been admitted to the Commission in accordance with the provisions herein
3 and Commission rules.

4 (21) “Qualifying license” means a license that is not an encumbered
5 license issued by a participating state to practice dentistry or dental hygiene.

6 (22) “Remote state” means a participating state where a licensee who is
7 not licensed as a dentist or dental hygienist is exercising or seeking to exercise
8 the compact privilege.

9 (23) “Rule” means a regulation promulgated by an entity that has the
10 force of law.

11 (24) “Scope of practice” means the procedures, actions, and processes a
12 dentist or dental hygienist licensed in a state is permitted to undertake in that
13 state and the circumstances under which the licensee is permitted to undertake
14 those procedures, actions, and processes. Such procedures, actions, and
15 processes and the circumstances under which they may be undertaken may be
16 established through means, including, but not limited to, statute, regulations,
17 case law, and other processes available to the state licensing authority or other
18 government agency.

19 (25) “Significant investigative information” means information, records,
20 and documents received or generated by a state licensing authority pursuant to
21 an investigation for which a determination has been made that there is probable

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

4 (26) “State” means any state, commonwealth, district, or territory of the
5 United States of America that regulates the practices of dentistry and dental
6 hygiene.

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

10 § 693. STATE PARTICIPATION IN THE COMPACT

11 (a) In order to join the Compact and thereafter continue as a participating
12 state, a state must:

13 (1) enact a compact that is not materially different from the Model
14 Compact as determined in accordance with Commission rules;

15 (2) participate fully in the Commission’s data system;

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

18 (4) notify the Commission, in compliance with the terms of the Compact
19 and Commission rules, of any adverse action or the availability of significant
20 investigative information regarding a licensee and license applicant;

1 (5) fully implement a criminal background check requirement, within a
2 time frame established by Commission rule, by receiving the results of a
3 qualifying criminal background check;

4 (6) comply with the Commission rules applicable to a participating
5 state;

6 (7) accept the National Board Examinations of the Joint Commission on
7 National Dental Examinations or another examination accepted by
8 Commission rule as a licensure examination;

9 (8) accept for licensure that applicants for a dentist license graduate
10 from a predoctoral dental education program accredited by the Commission on
11 Dental Accreditation, or another accrediting agency recognized by the U.S.
12 Department of Education for the accreditation of dentistry and dental hygiene
13 education programs, leading to the Doctor of Dental Surgery (D.D.S.) or
14 Doctor of Dental Medicine (D.M.D.) degree;

15 (9) accept for licensure that applicants for a dental hygienist license
16 graduate from a dental hygiene education program accredited by the
17 Commission on Dental Accreditation or another accrediting agency recognized
18 by the U.S. Department of Education for the accreditation of dentistry and
19 dental hygiene education programs;

20 (10) require for licensure that applicants successfully complete a clinical
21 assessment;

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

3 (12) pay a participation fee to the Commission as established by
4 Commission rule.

5 (b) Providing alternative pathways for an individual to obtain an
6 unrestricted license does not disqualify a state from participating in the
7 Compact.

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

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

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

14 (3) report to the Commission whether it has completed the criminal
15 background check and whether the individual was granted or denied a license.

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

1 § 694. COMPACT PRIVILEGE

2 (a) To obtain and exercise the compact privilege under the terms and
3 provisions of the Compact, the licensee shall:

4 (1) have a qualifying license as a dentist or dental hygienist in a
5 participating state;

6 (2) be eligible for a compact privilege in any remote state in accordance
7 with subsections (d), (g), and (h) of this section;

8 (3) submit to an application process whenever the licensee is seeking a
9 compact privilege;

10 (4) pay any applicable Commission and remote state fees for a compact
11 privilege in the remote state;

12 (5) meet any jurisprudence requirement established by a remote state in
13 which the licensee is seeking a compact privilege;

14 (6) have passed a National Board Examination of the Joint Commission
15 on National Dental Examinations or another examination accepted by
16 Commission rule;

17 (7) for a dentist, have graduated from a predoctoral dental education
18 program accredited by the Commission on Dental Accreditation, or another
19 accrediting agency recognized by the U.S. Department of Education for the
20 accreditation of dentistry and dental hygiene education programs, leading to

1 the Doctor of Dental Surgery (D.D.S.) or Doctor of Dental Medicine (D.M.D.)
2 degree;

3 (8) for a dental hygienist, have graduated from a dental hygiene
4 education program accredited by the Commission on Dental Accreditation or
5 another accrediting agency recognized by the U.S. Department of Education
6 for the accreditation of dentistry and dental hygiene education programs;

7 (9) have successfully completed a clinical assessment for licensure;

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

11 (11) report to the Commission when applying for a compact privilege
12 the address of the licensee's primary residence and thereafter immediately
13 report to the Commission any change in the address of the licensee's primary
14 residence; and

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

1 (b) The licensee must comply with the requirements of subsection (a) of
2 this section to maintain the compact privilege in the remote state. If those
3 requirements are met, the compact privilege will continue as long as the
4 licensee maintains a qualifying license in the state through which the licensee
5 applied for the compact privilege and pays any applicable compact privilege
6 renewal fees.

7 (c) A licensee providing dentistry or dental hygiene in a remote state under
8 the compact privilege shall function within the scope of practice authorized by
9 the remote state for a dentist or dental hygienist licensed in that state.

10 (d) A licensee providing dentistry or dental hygiene pursuant to a compact
11 privilege in a remote state is subject to that state's regulatory authority. A
12 remote state may, in accordance with due process and that state's laws, by
13 adverse action revoke or remove a licensee's compact privilege in the remote
14 state for a specific period of time and impose fines or take any other necessary
15 actions to protect the health and safety of its citizens. If a remote state imposes
16 an adverse action against a compact privilege that limits the compact privilege,
17 that adverse action applies to all compact privileges in all remote states. A
18 licensee whose compact privilege in a remote state is removed for a specified
19 period of time is not eligible for a compact privilege in any other remote state
20 until the specific time for removal of the compact privilege has passed and all
21 encumbrance requirements are satisfied.

1 (e) If a license in a participating state is an encumbered license, the licensee
2 shall lose the compact privilege in a remote state and shall not be eligible for a
3 compact privilege in any remote state until the license is no longer
4 encumbered.

5 (f) Once an encumbered license in a participating state is restored to good
6 standing, the licensee must meet the requirements of subsection (a) of this
7 section to obtain a compact privilege in a remote state.

8 (g) If a licensee's compact privilege in a remote state is removed by the
9 remote state, the individual shall lose or be ineligible for the compact privilege
10 in any remote state until the following occur:

11 (1) the specific period of time for which the compact privilege was
12 removed has ended; and

13 (2) all conditions for removal of the compact privilege have been
14 satisfied.

15 (h) Once the requirements of subsection (g) of this section have been met,
16 the licensee must meet the requirements in subsection (a) of this section to
17 obtain a compact privilege in a remote state.

18 § 695. ACTIVE MILITARY MEMBER OR THEIR SPOUSE

19 An active military member and their spouse shall not be required to pay to
20 the Commission for a compact privilege the fee otherwise charged by the
21 Commission. If a remote state chooses to charge a fee for a compact privilege,

1 it may choose to charge a reduced fee or no fee to an active military member
2 and their spouse for a compact privilege.

3 § 696. ADVERSE ACTIONS

4 (a) A participating state in which a licensee is licensed shall have exclusive
5 authority to impose adverse action against the qualifying license issued by that
6 participating state.

7 (b) A participating state may take adverse action based on the significant
8 investigative information of a remote state, so long as the participating state
9 follows its own procedures for imposing adverse action.

10 (c) Nothing in this Compact shall override a participating state's decision
11 that participation in an alternative program may be used in lieu of adverse
12 action and that such participation shall remain nonpublic if required by the
13 participating state's laws. Participating states must require licensees who enter
14 any alternative program in lieu of discipline to agree not to practice pursuant to
15 a compact privilege in any other participating state during the term of the
16 alternative program without prior authorization from such other participating
17 state.

18 (d) Any participating state in which a licensee is applying to practice or is
19 practicing pursuant to a compact privilege may investigate actual or alleged
20 violations of the statutes and regulations authorizing the practice of dentistry or

1 dental hygiene in any other participating state in which the dentist or dental
2 hygienist holds a license or compact privilege.

3 (e) A remote state shall have the authority to:

4 (1) Take adverse actions as set forth in subsection 694(d) of this title
5 against a licensee's compact privilege in the state.

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

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

20 (f) Joint investigations.

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

5 (2) Participating states shall share any significant investigative
6 information, litigation, or compliance materials in furtherance of any joint or
7 individual investigation initiated under the Compact.

8 (g) Authority to continue investigation.

9 (1) After a licensee's compact privilege in a remote state is terminated,
10 the remote state may continue an investigation of the licensee that began when
11 the licensee had a compact privilege in that remote state.

12 (2) If the investigation yields what would be significant investigative
13 information had the licensee continued to have a compact privilege in that
14 remote state, the remote state shall report the presence of such information to
15 the data system as required by subdivision 698(b)(6) of this title as if it was
16 significant investigative information.

17 § 697. ESTABLISHMENT AND OPERATION OF THE COMMISSION

18 (a) Commission. The Compact participating states hereby create and
19 establish a joint government agency whose membership consists of all
20 participating states that have enacted the Compact. The Commission is an
21 instrumentality of the participating states acting jointly and not an

1 instrumentality of any one state. The Commission shall come into existence on
2 or after the effective date of the Compact as set forth in subsection 701(a) of
3 this title.

4 (b) Participation, voting, and meetings.

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

9 (2) The commissioner shall be a member or designee of such authority
10 or authorities.

11 (3) The Commission may by rule or bylaw establish a term of office for
12 commissioners and may by rule or bylaw establish term limits.

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

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

19 (6) Each commissioner shall be entitled to one vote on all matters that
20 are voted upon by the Commission.

1 (7) The Commission shall meet at least once during each calendar year.
2 Additional meetings may be held as set forth in the bylaws. The Commission
3 may meet by telecommunication, video conference or other similar electronic
4 means.

5 (c) Powers. The Commission shall have the following powers:

6 (1) Establish the fiscal year of the Commission.

7 (2) Establish a code of conduct and conflict of interest policies.

8 (3) Adopt rules and bylaws.

9 (4) Maintain its financial records in accordance with the bylaws.

10 (5) Meet and take such actions as are consistent with the provisions of
11 this Compact, the Commission's rules, and the bylaws.

12 (6) Initiate and conclude legal proceedings or actions in the name of the
13 Commission, provided that the standing of any state licensing authority to sue
14 or be sued under applicable law shall not be affected.

15 (7) Maintain and certify records and information provided to a
16 participating state as the authenticated business records of the Commission and
17 designate a person to do so on the Commission's behalf.

18 (8) Purchase and maintain insurance and bonds.

19 (9) Borrow, accept, or contract for services of personnel, including, but
20 not limited to, employees of a participating state.

21 (10) Conduct an annual financial review.

1 (11) Hire employees; elect or appoint officers; fix compensation; define
2 duties; grant such individuals appropriate authority to carry out the purposes of
3 the Compact; and establish the Commission’s personnel policies and programs
4 relating to conflicts of interest, qualifications of personnel, and other related
5 personnel matters.

6 (12) As set forth in the Commission rules, charge a fee to a licensee for
7 the grant of a compact privilege in a remote state and thereafter, as may be
8 established by Commission rule, charge the licensee a compact privilege
9 renewal fee for each renewal period in which that licensee exercises or intends
10 to exercise the compact privilege in that remote state. Nothing herein shall be
11 construed to prevent a remote state from charging a licensee a fee for a
12 compact privilege or renewals of a compact privilege or a fee for the
13 jurisprudence requirement if the remote state imposes such a requirement for
14 the grant of a compact privilege.

15 (13) Accept any and all appropriate gifts, donations, grants of money,
16 other sources of revenue, equipment, supplies, materials, and services and
17 receive, utilize, and dispose of the same; provided that at all times the
18 Commission shall avoid any appearance of impropriety or conflict of interest,
19 or both.

20 (14) Lease, purchase, retain, own, hold, improve, or use any property,
21 real, personal, or mixed, or any undivided interest therein.

1 (15) Sell, convey, mortgage, pledge, lease, exchange, abandon, or
2 otherwise dispose of any property real, personal, or mixed.

3 (16) Establish a budget and make expenditures.

4 (17) Borrow money.

5 (18) Appoint committees, including standing committees, which may be
6 composed of members, state regulators, state legislators or their
7 representatives, and consumer representatives, and such other interested
8 persons as may be designated in this Compact and the bylaws.

9 (19) Provide and receive information from, and cooperate with, law
10 enforcement agencies.

11 (20) Elect a chair, vice chair, secretary, and treasurer, and such other
12 officers of the Commission as provided in the Commission's bylaws.

13 (21) Establish and elect an executive board.

14 (22) Adopt and provide to the participating states an annual report.

15 (23) Determine whether a state's enacted compact is materially different
16 from the Model Compact language such that the state would not qualify for
17 participation in the Compact.

18 (24) Perform such other functions as may be necessary or appropriate to
19 achieve the purposes of this Compact.

20 (d) Meetings of the Commission.

1 (1) All meetings of the Commission that are not closed pursuant to this
2 subsection shall be open to the public. Notice of public meetings shall be
3 posted on the Commission’s website at least 30 days prior to the public
4 meeting.

5 (2) Notwithstanding subdivision (1) of this subsection, the Commission
6 may convene an emergency public meeting by providing at least 24 hours’
7 prior notice on the Commission’s website, and any other means as provided in
8 the Commission’s rules, for any of the reasons it may dispense with notice of
9 proposed rulemaking under subsection 699(1) of this title. The Commission’s
10 legal counsel shall certify that one of the reasons justifying an emergency
11 public meeting has been met.

12 (3) Notice of all Commission meetings shall provide the time, date, and
13 location of the meeting, and if the meeting is to be held or accessible via
14 telecommunication, video conference, or other electronic means, the notice
15 shall include the mechanism for access to the meeting through such means.

16 (4) The Commission may convene in a closed, nonpublic meeting for
17 the Commission to receive legal advice or to discuss:

18 (A) noncompliance of a participating state with its obligations under
19 the Compact;

1 (B) the employment, compensation, discipline or other matters,
2 practices or procedures related to specific employees or other matters related to
3 the Commission's internal personnel practices and procedures;

4 (C) current or threatened discipline of a licensee or compact privilege
5 holder by the Commission or by a participating state's licensing authority;

6 (D) current, threatened, or reasonably anticipated litigation;

7 (E) negotiation of contracts for the purchase, lease, or sale of goods,
8 services, or real estate;

9 (F) accusing any person of a crime or formally censuring any person;

10 (G) trade secrets or commercial or financial information that is
11 privileged or confidential;

12 (H) information of a personal nature where disclosure would
13 constitute a clearly unwarranted invasion of personal privacy;

14 (I) investigative records compiled for law enforcement purposes;

15 (J) information related to any investigative reports prepared by or on
16 behalf of or for use of the Commission or other committee charged with
17 responsibility of investigation or determination of compliance issues pursuant
18 to the Compact;

19 (K) legal advice;

20 (L) matters specifically exempted from disclosure to the public by
21 federal or participating state law; and

1 (M) other matters as promulgated by the Commission by rule.

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

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

12 (e) Financing of the Commission.

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

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

18 (3) The Commission may levy on and collect an annual assessment from
19 each participating state and impose fees on licensees of participating states
20 when a compact privilege is granted to cover the cost of the operations and
21 activities of the Commission and its staff, which must be in a total amount

1 sufficient to cover its annual budget as approved each fiscal year for which
2 sufficient revenue is not provided by other sources. The aggregate annual
3 assessment amount for participating states shall be allocated based upon a
4 formula that the Commission shall promulgate by rule.

5 (4) The Commission shall not incur obligations of any kind prior to
6 securing the funds adequate to meet the same, nor shall the Commission pledge
7 the credit of any participating state, except by and with the authority of the
8 participating state.

9 (5) The Commission shall keep accurate accounts of all receipts and
10 disbursements. The receipts and disbursements of the Commission shall be
11 subject to the financial review and accounting procedures established under its
12 bylaws. All receipts and disbursements of funds handled by the Commission
13 shall be subject to an annual financial review by a certified or licensed public
14 accountant, and the report of the financial review shall be included in and
15 become part of the annual report of the Commission.

16 (f) The executive board.

17 (1) The executive board shall have the power to act on behalf of the
18 Commission according to the terms of this Compact. The powers, duties, and
19 responsibilities of the executive board shall include:

- 1 (A) overseeing the day-to-day activities of the administration of the
2 Compact including compliance with the provisions of the Compact, the
3 Commission’s rules and bylaws;
- 4 (B) recommending to the Commission changes to the rules or
5 bylaws, changes to this Compact legislation, fees charged to compact
6 participating states, fees charged to licensees, and other fees;
- 7 (C) ensuring Compact administration services are appropriately
8 provided, including by contract;
- 9 (D) preparing and recommending the budget;
- 10 (E) maintaining financial records on behalf of the Commission;
- 11 (F) monitoring Compact compliance of participating states and
12 providing compliance reports to the Commission;
- 13 (G) establishing additional committees as necessary;
- 14 (H) exercising the powers and duties of the Commission during the
15 interim between Commission meetings, except for adopting or amending rules,
16 adopting or amending bylaws, and exercising any other powers and duties
17 expressly reserved to the Commission by rule or bylaw; and
- 18 (I) other duties as provided in the rules or bylaws of the Commission.
- 19 (2) The executive board shall be composed of up to seven members.

1 (A) The chair, vice chair, secretary, and treasurer of the Commission,
2 and any other members of the Commission who serve on the executive board
3 shall be voting members of the executive board; and

4 (B) other than the chair, vice chair, secretary, and treasurer, the
5 Commission may elect up to three voting members from the current
6 membership of the Commission.

7 (3) The Commission may remove any member of the executive board as
8 provided in the Commission's bylaws.

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

10 (A) An executive board meeting at which it takes or intends to take
11 formal action on a matter shall be open to the public, except that the executive
12 board may meet in a closed, nonpublic session of a public meeting when
13 dealing with any of the matters covered under subdivision (d)(4) of this
14 section.

15 (B) The executive board shall give five business days' notice of its
16 public meetings, posted on its website and as it may otherwise determine to
17 provide notice to persons with an interest in the public matters the executive
18 board intends to address at those meetings.

19 (5) The executive board may hold an emergency meeting when acting
20 for the Commission to:

21 (A) meet an imminent threat to public health, safety, or welfare;

1 (B) prevent a loss of Commission or participating state funds; or

2 (C) protect public health and safety.

3 (g) Qualified immunity, defense, and indemnification.

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

16 (2) The Commission shall defend any member, officer, executive
17 director, employee, and representative of the Commission in any civil action
18 seeking to impose liability arising out of any actual or alleged act, error, or
19 omission that occurred within the scope of Commission employment, duties, or
20 responsibilities, or as determined by the Commission that the person against
21 whom the claim is made had a reasonable basis for believing occurred within

1 the scope of Commission employment, duties, or responsibilities, provided that
2 nothing herein shall be construed to prohibit that person from retaining their
3 own counsel at their own expense, and provided further, that the actual or
4 alleged act, error, or omission did not result from that person's intentional or
5 willful or wanton misconduct.

6 (3) Notwithstanding subdivision (1) of this subsection, should any
7 member, officer, executive director, employee, or representative of the
8 Commission be held liable for the amount of any settlement or judgment
9 arising out of any actual or alleged act, error, or omission that occurred within
10 the scope of that individual's employment, duties, or responsibilities for the
11 Commission, or that the person to whom that individual is liable had a
12 reasonable basis for believing occurred within the scope of the individual's
13 employment, duties, or responsibilities for the Commission, the Commission
14 shall indemnify and hold harmless such individual, provided that the actual or
15 alleged act, error, or omission did not result from the intentional or willful or
16 wanton misconduct of the individual.

17 (4) Nothing herein shall be construed as a limitation on the liability of
18 any licensee for professional malpractice or misconduct, which shall be
19 governed solely by any other applicable state laws.

20 (5) Nothing in this Compact shall be interpreted to waive or otherwise
21 abrogate a participating state's state action immunity or state action affirmative

1 defense with respect to antitrust claims under the Sherman Act, Clayton Act, or
2 any other state or federal antitrust or anticompetitive law or regulation.

3 (6) Nothing in this Compact shall be construed to be a waiver of
4 sovereign immunity by the participating states or by the Commission.

5 § 698. DATA SYSTEM

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

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

15 (1) identifying information;

16 (2) licensure data;

17 (3) adverse actions against a licensee, license applicant, or Compact
18 privilege and information related thereto;

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

1 (5) any denial of an application for licensure, and the reason or reasons
2 for such denial, excluding the reporting of any criminal history record
3 information where prohibited by law;

4 (6) the presence of significant investigative information; and

5 (7) other information that may facilitate the administration of this
6 Compact or the protection of the public, as determined by the rules of the
7 Commission.

8 (c) The records and information provided to a participating state pursuant
9 to this Compact or through the data system, when certified by the Commission
10 or an agent thereof, shall constitute the authenticated business records of the
11 Commission and shall be entitled to any associated hearsay exception in any
12 relevant judicial, quasi-judicial, or administrative proceedings in a
13 participating state.

14 (d) Significant investigative information pertaining to a licensee in any
15 participating state will only be available to other participating states.

16 (e) It is the responsibility of the participating states to monitor the database
17 to determine whether adverse action has been taken against a licensee or
18 license applicant. Adverse action information pertaining to a licensee or
19 license applicant in any participating state will be available to any other
20 participating state.

1 (f) Participating states contributing information to the data system may
2 designate information that may not be shared with the public without the
3 express permission of the contributing state.

4 (g) Any information submitted to the data system that is subsequently
5 expunged pursuant to federal law or the laws of the participating state
6 contributing the information shall be removed from the data system.

7 § 699. RULEMAKING

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

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

1 (c) The Commission shall exercise its rulemaking powers pursuant to the
2 criteria set forth in this section and the rules adopted thereunder. Rules shall
3 become binding as of the date specified by the Commission for each rule.

4 (d) If a majority of the legislatures of the participating states rejects a
5 Commission rule or portion of a Commission rule, by enactment of a statute or
6 resolution in the same manner used to adopt the Compact, within four years of
7 the date of adoption of the rule, then such rule shall have no further force and
8 effect in any participating state or to any state applying to participate in the
9 Compact.

10 (e) Rules shall be adopted at a regular or special meeting of the
11 Commission.

12 (f) Prior to adoption of a proposed Rule, the Commission shall hold a
13 public hearing and allow persons to provide oral and written comments, data,
14 facts, opinions, and arguments.

15 (g) Prior to adoption of a proposed rule by the Commission, and at least 30
16 days in advance of the meeting at which the Commission will hold a public
17 hearing on the proposed rule, the Commission shall provide a notice of
18 proposed rulemaking:

19 (1) on the website of the Commission or other publicly accessible
20 platform;

1 (2) to persons who have requested notice of the Commission’s notices of
2 proposed rulemaking; and

3 (3) in such other way as the Commission may by rule specify.

4 (h) The notice of proposed rulemaking shall include:

5 (1) the time, date, and location of the public hearing at which the
6 Commission will hear public comments on the proposed rule and, if different,
7 the time, date, and location of the meeting where the Commission will consider
8 and vote on the proposed rule;

9 (2) if the hearing is held via telecommunication, video conference, or
10 other electronic means, the Commission shall include the mechanism for
11 access to the hearing in the notice of proposed rulemaking;

12 (3) the text of the proposed rule and the reason therefore;

13 (4) a request for comments on the proposed rule from any interested
14 person; and

15 (5) the manner in which interested persons may submit written
16 comments.

17 (i) All hearings will be recorded. A copy of the recording and all written
18 comments and documents received by the Commission in response to the
19 proposed rule shall be available to the public.

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

4 (k) The Commission shall, by majority vote of all commissioners, take
5 final action on the proposed rule based on the rulemaking record.

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

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

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

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

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

2 (2) prevent a loss of Commission or participating state funds;

3 (3) meet a deadline for the promulgation of a rule that is established by
4 federal law or rule; or

5 (4) protect public health and safety.

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

17 (n) No participating state's rulemaking requirements shall apply under this
18 Compact.

19 § 700. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

20 (a) Oversight.

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

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

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

18 (b) Default, technical assistance, and termination.

19 (1) If the Commission determines that a participating state has defaulted
20 in the performance of its obligations or responsibilities under this Compact or
21 the promulgated rules, the Commission shall provide written notice to the

1 defaulting state. The notice of default shall describe the default, the proposed
2 means of curing the default, and any other action that the Commission may
3 take, and shall offer training and specific technical assistance regarding the
4 default.

5 (2) The Commission shall provide a copy of the notice of default to the
6 other participating states.

7 (c) If a state in default fails to cure the default, the defaulting state may be
8 terminated from the Compact upon an affirmative vote of a majority of the
9 Commissioners, and all rights, privileges and benefits conferred on that state
10 by this Compact may be terminated on the effective date of termination. A
11 cure of the default does not relieve the offending state of obligations or
12 liabilities incurred during the period of default.

13 (d) Termination of participation in the Compact shall be imposed only after
14 all other means of securing compliance have been exhausted. Notice of intent
15 to suspend or terminate shall be given by the Commission to the governor, the
16 majority and minority leaders of the defaulting state's legislature, the
17 defaulting state's state licensing authority or authorities, as applicable, and
18 each of the participating states' state licensing authority or authorities, as
19 applicable.

1 (e) A state that has been terminated is responsible for all assessments,
2 obligations, and liabilities incurred through the effective date of termination,
3 including obligations that extend beyond the effective date of termination.

4 (f) Upon the termination of a state’s participation in this Compact, that
5 state shall immediately provide notice to all licensees of the state, including
6 licensees of other participating states issued a compact privilege to practice
7 within that state, of such termination. The terminated state shall continue to
8 recognize all compact privileges then in effect in that state for a minimum of
9 180 days after the date of said notice of termination.

10 (g) The Commission shall not bear any costs related to a state that is found
11 to be in default or that has been terminated from the Compact, unless agreed
12 upon in writing between the Commission and the defaulting state.

13 (h) The defaulting state may appeal the action of the Commission by
14 petitioning the U.S. District Court for the District of Columbia or the federal
15 district where the Commission has its principal offices. The prevailing party
16 shall be awarded all costs of such litigation, including reasonable attorney’s
17 fees.

18 (i) Dispute resolution.

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

1 (2) The Commission shall promulgate a rule providing for both
2 mediation and binding dispute resolution for disputes as appropriate.

3 (j) Enforcement.

4 (1) The Commission, in the reasonable exercise of its discretion, shall
5 enforce the provisions of this Compact and the Commission's rules.

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

16 (3) A participating state may initiate legal action against the
17 Commission in the U.S. District Court for the District of Columbia or the
18 federal district where the Commission has its principal offices to enforce
19 compliance with the provisions of the Compact and its promulgated rules. The
20 relief sought may include both injunctive relief and damages. In the event

1 judicial enforcement is necessary, the prevailing party shall be awarded all
2 costs of such litigation, including reasonable attorney's fees.

3 (4) No individual or entity other than a participating state may enforce
4 this Compact against the Commission.

5 § 701. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

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

8 (1) On or after the effective date of the Compact, the Commission
9 shall convene and review the enactment of each of the states that enacted
10 the Compact prior to the Commission convening (charter participating
11 states) to determine if the statute enacted by each such charter
12 participating state is materially different than the Model Compact.

13 (A) A charter participating state whose enactment is found to be
14 materially different from the Model Compact shall be entitled to the
15 default process set forth in section 700 of this title.

16 (B) If any participating state is later found to be in default, or is
17 terminated or withdraws from the Compact, the Commission shall remain
18 in existence and the Compact shall remain in effect even if the number of
19 participating states should be less than seven.

20 (2) Participating states enacting the Compact subsequent to the
21 charter participating states shall be subject to the process set forth in

1 subdivision 697(c)(23) of this title to determine if their enactments are
2 materially different from the Model Compact and whether they qualify for
3 participation in the Compact.

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

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

15 (b) Any participating state may withdraw from this Compact by
16 enacting a statute repealing that state's enactment of the Compact.

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

19 (2) Withdrawal shall not affect the continuing requirement of the
20 withdrawing state's licensing authority or authorities to comply with the

1 investigative and adverse action reporting requirements of this Compact
2 prior to the effective date of withdrawal.

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

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

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

18 § 702. CONSTRUCTION AND SEVERABILITY

19 (a) This Compact and the Commission's rulemaking authority shall be
20 liberally construed so as to effectuate the purposes, and the
21 implementation and administration of the Compact. Provisions of the

1 Compact expressly authorizing or requiring the promulgation of rules
2 shall not be construed to limit the Commission's rulemaking authority
3 solely for those purposes.

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

13 (c) Notwithstanding subsection (b) of this section, the Commission
14 may deny a state's participation in the Compact or, in accordance with the
15 requirements of subsection 700(b) of this title, terminate a participating
16 state's participation in the Compact, if it determines that a constitutional
17 requirement of a participating state is a material departure from the
18 Compact. Otherwise, if this Compact shall be held to be contrary to the
19 constitution of any participating state, the Compact shall remain in full
20 force and effect as to the remaining participating states and in full force
21 and effect as to the participating state affected as to all severable matters.

1 § 703. CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE

2 LAWS

3 (a) Nothing herein shall prevent or inhibit the enforcement of any other law
4 of a participating state that is not inconsistent with the Compact.

5 (b) Any laws, statutes, regulations, or other legal requirements in a
6 participating state in conflict with the Compact are superseded to the extent of
7 the conflict.

8 (c) All permissible agreements between the Commission and the
9 participating states are binding in accordance with their terms.

10 Sec. 2. EFFECTIVE DATE

11 This act shall take effect on July 1, 2025.