



SPECIAL NEWS BULLETIN

FALL 2023

DENTAL AND DENTAL HYGIENE COMPACTS

In response to Member questions and comments, CRDTS has assembled information regarding two dental and dental hygiene licensure compacts that are being circulated to help CRDTS Members and non-member dental boards better understand what information is currently publicly available. In addition, CRDTS has identified key questions regarding the compacts that may assist CRDTS Members and non-member dental boards in monitoring the status of the compacts in their states from a patient-centered perspective.

Background

What are the compacts and who is promoting them?

- There are two Dental and Dental Hygiene Compacts being introduced in states around the country:
 - **The Council on State Governments (CSG Compact) in conjunction with the ADA and ADHA.** The CSG has posted information about the CSG Compact on its website: <https://ddhcompact.org/>
 - **The American Association of Dental Boards (AADB Compact) in conjunction with CDCA/WREB/CITA(ADEX).** The AADB has posted information about the AADB Compact on its website: <https://aadbcompact.org/wp-content/uploads/2023/09/AADB-Compact-official-draft-Aug-31-final-version-Clean.pdf>

A review of the Compact information makes clear that each state's laws and/or regulations must permit such Compacts prior to their being used for licensure of dentists and dental hygienists in a particular state. The status of such legislation and regulations varies from state to state.

What are some of the key features of each Compact?

- **The CSG Compact**
 - Requires seven (7) states to enact the legislation; three (3) states have enacted the Compact legislation. Legislation is pending in four (4) more states.
- **The AADB Compact**
 - Requires five (5) states joining the Compact to become active.
 - A commission will be formed from those five (or more) states **and the commission "shall have the authority to enact bylaws and rules on behalf of the Compact that shall have the force of law in each participating state to carry out the provisions of the Compact."** (AADB Dental and Dental Hygiene Licensure Compact, Section 3.c.)
 - The AADB Compact contains the following definitions which appear to restrict the examinations that are permitted for licensure, i.e., only the ADEX examination will be

allowed as a pathway to licensure if a state joins the AADB compact except for those candidates who passed a competitor's examination prior to January 1, 2024:

“(q) Dental hygienist – means any person who . . . 2. [h]as successfully passed the American Board of Dental Examiners, (ADEX) licensure exam; or have been in practice 5 years or more and has successfully passed a regional or equivalent state administered psychomotor licensure examination prior to January 1, 2024.” (*AADB Dental and Dental Hygiene Licensure Compact, Section 2.(q)(2)*)

“(s) “Dentist” – means any person who as successfully passed the American Board of Dental Examiners, (ADEX) licensure exam; or have been in practice 5 years or more and has successfully passed a regional or equivalent state administered psychomotor licensure examination prior to January 1, 2024.” (*AADB Dental and Dental Hygiene Licensure Compact, Section 2.(s)(2)*).

Questions Dental Boards Should Consider Asking

1. Have State Dental and Dental Hygiene Licensing Boards had adequate time to review and digest the Compacts' Proposed Legislation and its impact on the safety and welfare of the public, Dentists, and Dental Hygienists in their States? If Legislation is passed, will State Dental and Dental Hygiene Licensing Boards have sufficient local control to protect the interests of such state's patients? Has consideration been given to whether a state can easily withdraw from a Compact in the event the Compact's standards are no longer consistent with the State's standards designed to protect the public? Would a withdrawal require new legislation repealing authorization to join a Compact?

- Has the Dental and Dental Hygiene Licensing Board received a copy of the proposed legislation and/or regulations?
- Does the proposed legislation maintain local (state) control regarding licensure, i.e., if a state disagrees with an aspect of a Compact's licensure rules, does the Board have the power to modify how such rule operates in its home state and can such "exception" to a Compact rule be implemented in an efficient, expedient manner in the best interests of the patient? Would legislation be required for any state exceptions or carve outs to Compact licensure rules?
- Will each state and its Dental and Dental Hygiene Board be able to review and comment on the AADB Compact Commission's licensure rules that will have the "effect of law" prior to the potential passage of legislation related to the AADB Compact Commission?
- Do the CSG and AADB Compacts' proposed legislation permit boards to ensure qualified, competent, and ethical professionals are practicing in their state and grant the boards sufficient oversight of such licensees? Are there opportunities for, and has sufficient time been given to, the boards and representatives of the state dentists and dental hygienists to evaluate the Compacts and provide their insight prior to passage of any Compact in their respective states?

It is not clear whether each state's dental and dental hygienist board is aware that legislation regarding the Compacts is being circulated and/or introduced.

2. Do the Compacts Duplicate Current Laws Related to Licensure Portability?

Both Compacts claim to be supporting the mobility of licensed dental and dental hygiene professionals – both claim portability is the driving force. It is important for Boards to consider whether the Compacts duplicate existing portability laws and regulations.

- Most states have licensure through credentialing so is there a need for a Compact?
- In order for a Compact to aid portability, all states will have to be a part of a Compact. A Compact will only aid portability in those states that participate in the Compact. With

competing Compacts, will the Compacts truly aid portability or complicate the matter further?

- Portability issues can be more easily resolved by each state accepting all clinical licensure exams that meet state requirements.

3. **Patient Safety: Are Hand-Skills and Psychomotor Examination Components adequately preserved?**

One stipulation under the CSG Compact for obtaining Compact Privilege is the Licensee shall . . . “have successfully completed a Clinical Assessment for licensure.” The CSG Compact further states that “Clinical Assessment” means examination or process, required for licensure as a Dentist or Dental Hygienist as applicable, that provides evidence of clinical competence in dentistry or dental hygiene.”

- Is there a concern that the CSG Compact will allow professionals to practice without mandated hand-skills and psychomotor testing?

For example, if State A currently requires a hand-skills or psychomotor component as part of the licensure examination requirements but is part of the CSG Compact with State B and State B does not require a hands skills or psychomotor component, it appears State A must still grant a licensee Compact Privilege even though such licensee has not passed a hands-skills or psychomotor component. For instance, if a candidate was licensed by passing the DLOSCE, or has been licensed in a state such as Wisconsin that has deemed graduates of Marquette University eligible for licensure based on their diploma alone, then it appears all Compact states must accept the licensee as qualified to practice in their state despite not having passed a hand-skills or psychomotor component.

- Does the Dental and Dental Hygiene Board have any concern about this possibility if the state joins a Compact?

4. **Are potential conflict of interest issues accurately and transparently shared with the State Dental Boards and has there been sufficient time to evaluate the impact of any potential conflicts of interest?**

The current Acting Executive Director of the AADB is also the current National Director of Licensure Acceptance and Portability with CDCA/WREB/CITA who exclusively administers the ADEX Examination. The AADB Compact prohibits the use of any examination except the ADEX Examination other than for licensees who took an alternative examination prior to January 1, 2024.

- Is the Compact an attempt by private interests to squeeze out the competition, i.e., other credible and reliable testing examination agencies, by limiting the pathway to licensure to one specific examination despite the existence of other nationally-accepted examinations that are portable, credible, and reliable?
- If there is a financially driven interest to squeeze out the competition through a particular Compact, how will that impact the Dental Boards’ ability to protect the public and regulate quality of licensure examinations?
- Are patients’ and dental and dental hygienist professionals’ interests best protected by the state through a process that reduces the pathways to licensure?
- Would such limitations decrease the availability of qualified dentists and dental hygienists?

For your convenience and education, CRDTS is attaching copies of the latest draft of each Compact that is publicly available. If you are aware of a more recent draft, please let us know so we can update the information.

CRDTS continues its mission of providing a pathway to licensure for dentists and dental hygienists through CRDTS’ nationally-accepted examination that is portable, credible, and reliable.



AADB DENTAL & DENTAL HYGIENE LICENSURE COMPACT

1 AADB DENTAL AND DENTAL HYGIENE LICENSURE COMPACT

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3
4 Section 1 NEW LAW The American Association of Dental Boards Compact is hereby enacted into law and the
5 Governor shall enter into a compact on behalf of the State of _____ with any jurisdiction legally joined
6 therein, in the form substantially as set forth in this Act.

7
8 Section 1. PURPOSE.

9 Section 2 NEW LAW

10 AADB DENTAL AND DENTAL HYGIENE COMPACT

11 This compact shall be known as the AMERICAN ASSOCIATION OF DENTAL BOARDS (AADB) Compact
12 and the purpose of the compact is to expedite licensure and increase access to dental health care through
13 licensure boards acting in cooperation. The compact adopts the existing structures most utilized by Dental
14 Boards across the United States, while ensuring the safety of the public through the sharing of documents and
15 information. This compact ensures that each state retains the right to impose an adverse action on a licensee as a
16 home state or as a practicing state. Each state has an opportunity to share investigations and information with
17 the home state of licensure. The Dental Board compact is operated by state dental board members,
18 administrators and other staff, thus allowing for each state to maintain its sovereignty.

19 The AADB Compact:

- 20 (a) Allows for expedited licensure portability and ease of movement between states;
21 (b) Allows each state to continue to regulate the practice of dentistry and dental hygiene within their
22 borders and maintain its sovereignty by allowing actions against a compact license privilege or a
23 licensee and maintaining its existing licensure structure while allowing for compact licensure
24 privileges;
25 (c) Creates a common goal of protecting the public by ensuring a uniform licensure standard and
26 sharing of information in the compact;
27 (d) Allows for licensure in every participating state by passing a uniform licensure examination, that
28 tests psychomotor and cognitive dental skills exam that is currently accepted in fifty-state (50)
29 licensing jurisdictions and United States territories;
30 (e) Gives licensees one (1) location to maintain professional documentation to expedite compact
31 license privileges in states, hospitals or institutional credentialing;
32 (f) Facilitates a faster licensure process for relocation or separation of military members and their
33 dependent spouses; there are no compact fees for military members or their spouses;
34 (g) Alleviates a duplicative process for licensure among multiple states;
35 (h) Saves applicants money by not having to obtain duplicate documents from a source that charges
36 for the documents; and
37 (i) Utilizes existing infrastructure of the AADB that has been in existence for over 100 years,
38 representing dental licensing boards.

Section 2. DEFINITIONS

- (a) “AADB” means the American Association of Dental Boards (AADB) or its named successor, formerly known as the American Association of Dental Examiners (AADE), originally chartered on September 10th, 1896 and renewed in 1944, comprised of State Dental Boards in the United States and its territories;
- (b) “AADB Attorneys’ Committee” means attorneys that currently represent a state dental board. The attorneys’ committee participates in the commission as a non-voting member. An attorney that has previously served as an attorney for a State Dental Board may be invited on a year-to-year basis to serve on the committee if they have not engaged in an official case against a Board within the compact or have any other conflict of interest. The attorney’s committee may assist the investigators in working through joint investigation issues between states. The attorney’s committee shall prepare a summary of legal issues directly dealing with the compacts at the annual meeting as well as a legal update for issues affecting Member State Dental Boards;
- (c) “AADB Compact Commission” means the American Association of Dental Boards dental and dental hygiene AADB Compact compact commission. Each state shall have two (2) members as required by Section 3 of this act, meeting as a whole to form the commission;
- (d) “AADB composite” means an annual publication listing information regarding each state board, contacts, links to statutes and rules and additional data. Each state shall submit an annual update regarding all dental practice related licenses and permits available by state and the procedures allowed to be conducted by licensees and permit holders;
- (e) “Active-duty military person or spouse” means an individual in full-time active-duty status in the active uniformed service of the United States including members of the National Guard and Reserve. The legal spouse of the military member must be recognized by the military unit as a dependent while the service member is on active duty. Spouses shall receive the same privileges as military members for the purpose of this compact;
- (f) “Active investigation” means an active investigation resulting in formal allegations or charges precipitating a judicial process by a Dental Board, oversight agency, or other law enforcement entity;
- (g) “Adverse action” means an Order issued by a State Dental Board or reported to the AADB clearinghouse pursuant to the compact bylaws and rules. This shall also include a Temporary Emergency Order that may be later withdrawn by a Board;
- (h) “ADEX examination” means American Board of Dental Examiners examination;
- (i) “Bylaws” means the bylaws passed by the AADB or its named successor Compact Commission;
- (j) “Clearinghouse” means the AADB Clearinghouse and databank that houses prior adverse actions, orders and denials of licensure or permits from State Dental Boards in the fifty-states (50) and territories;

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- 87 (k) “CODA” means the Commission on Dental Accreditation or its successor as approved by the United
- 88 States Department of Education;
- 89
- 90 (l) “Commissioners” means the two members chosen by each Member State Dental Board to serve as the
- 91 voting members of the compact;
- 92
- 93 (m) “Compact” means the American Association of Dental Boards (AADB), dental and dental hygiene
- 94 compact;
- 95
- 96 (n) “Compact license privilege” means the expedited dental or dental hygiene license to practice in a
- 97 Member State that differs from the licensee’s home state;
- 98
- 99 (o) “Conviction” means an adjudication and/or formal judgment by a court that an individual is guilty
- 100 through a plea of guilty or no contest, or a finding of guilt by the court. Evidence of a conviction of a
- 101 criminal offense by the court shall be considered final for the purposes of disciplinary action by a board
- 102 member;
- 103
- 104 (p) “Criminal background check” means a dentist or dental hygienist seeking compact license privileges
- 105 shall complete and provide a criminal background check, including the use of the results of fingerprint
- 106 or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation,
- 107 with the exception of federal employees who have suitability determination in accordance with U.S.
- 108 C.F.R. Section 731.202;
- 109
- 110 (q) Dental hygienist – means any person who:
- 111 1. Has successfully graduated from a CODA approved dental hygiene school;
- 112 2. Has successfully passed the American Board of Dental Examiners, (ADEX) licensure exam; or have
- 113 been in practice 5 years or more and has successfully passed a regional or equivalent state
- 114 administered psychomotor licensure examination prior to January 1, 2024.
- 115 3. Has successfully passed the written national dental hygiene board examination administered by the
- 116 Joint Commission on National Dental Examinations;
- 117 4. Possesses a full and unrestricted dental hygiene license issued by a Member State of the compact;
- 118 5. Has never been convicted, received adjudication, deferred adjudication, community supervision or
- 119 deferred disposition for any offense by a court of appropriate jurisdiction;
- 120 6. Has never been a subject of discipline by a board through any adverse action, order or other
- 121 restriction of the licensee by the board with the exception of failure to pay fees or failure to complete
- 122 continuing education; and
- 123 7. Is not currently under active investigation by a licensing agency or law enforcement authority in any
- 124 state, federal or foreign jurisdiction;
- 125 8. Meet any jurisprudence requirement established by a Member State Dental Board in which a
- 126 licensee is seeking an compact privilege expedited license.
- 127
- 128 (r) “Dental Practice Act” means the laws and regulations governing the practice of dentistry within a
- 129 Member State;
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- 131 (s) “Dentist” means any person who:

1. Has successfully graduated from a CODA approved dental school;
2. Has successfully passed the American Board of Dental Examiners, (ADEX) licensure exam; or have been in practice 5 years or more and has successfully passed a regional or equivalent state administered psychomotor licensure examination prior to January 1, 2024.
3. Has successfully passed the written National Dental Board Exam administered by the Joint Commission on National Dental Examinations;
4. Possesses a full and unrestricted dental license issued by a Member State Dental Board of the compact;
5. Has never been convicted, received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction;
6. Has never been a subject of discipline by a board as determined by the AADB Compact bylaws and rules, through any adverse action, order or other restriction of the licensee by the board with the exception of failure to pay fees or failure to complete continuing education;
7. Has never had a state or federal drug registration, permit or license, restricted, suspended or revoked by the United States Drug Enforcement Administration or any State Board that oversees scheduled drug registrations; and
8. Is not currently under active investigation by a licensing agency or law enforcement authority in any state, federal or foreign jurisdiction;
9. Meet any jurisprudence requirement established by a Member State Dental Board in which a licensee is seeking an compact privilege expedited license.

(t) “Home state” means the state of primary licensure. It is the location of the practicing dentist or dental hygienist license where compact privileges originate and the licensee practices at least 25% of the time within a calendar year; The home state can take an action on a licensee regardless of where an action against a licensee occurred;

(u) “License” means authorization for a dentist or dental hygienist to engage in the unrestricted practice of dentistry or dental hygiene, which would be unlawful without;

(v) “Member state dental board” means a state agency in a Member State that acts in the sovereign interests of the state by protecting the public through licensure, regulation and the education of dentist and dental hygienists as directed by the state law. All actions taken by a member board shall be under the authority of their state jurisdiction and any other rights conferred under this compact;

(w) “Member state” means a state or United States territory that has enacted the compact;

(x) “Regional board examination” means the Western Regional Dental Board Examination (WREB), the North East Regional Board of Dental Examiners (NERB), the Commission on Dental Competency (CDCA), Council of AADB Compact Testing Agencies (CITA), Southern Regional Testing Agency (SRTA), Central Regional Dental Testing Services (CRDTS);

(y) “Repository” means the AADB repository of original documents of a licensee that may include, original transcripts, certification documents, test scores, military training records, previous or current licensing documents and other sources of materials needed for applications and verification. The AADB repository shall receive documents from primary or originating sources and/or verify their authenticity;

(z) “Scope of practice” means the dental related procedures that require a license, permit or training, to undertake the treatment and procedure to be completed on a patient within the practice state’s requirements;

(aa) “State” means a state within the United States or a United States Territory; and

(bb) “State jurisprudence” means the knowledge of the state laws and rules of dentistry and dental hygiene in which a compact license privilege is extended.

Section 3. STATE DENTAL BOARD AADB COMPACT COMMISSION MEMBERSHIP

- a) The Member States hereby create the AADB Dental and Dental Hygiene Compact. Each state must enact the AADB model compact that is not materially different as determined by the AADB Compact Commission.
- b) Each state Member State Dental Board shall have two (2) voting commission members that shall serve as commissioners and have one (1) vote each, cumulatively making the AADB Compact Commission. Member States with separate Dental and Dental Hygiene State Dental Boards shall appoint one (1) commissioner from each Board. One shall be a current State Dental Board member. Commissioners may not delegate votes or proxies, however, if a commissioner is unable to attend, the Member State may substitute a delegate that meets the same requirements.
- c) Upon five (5) states joining the compact, the AADB dental and dental hygiene compact will become active. The Compact Commission shall have the authority to enact bylaws and rules on behalf of the compact that shall have the force of law in each participating state to carry out the provisions of the compact.
- d) The AADB Compact Commission shall be a separate body within the American Association of Dental Boards and shall have all the responsibilities, powers and duties set forth in the compact and such additional powers as may be conferred by a concurrent action of the respective legislatures of the Member States in accordance with the terms of the compact.
- e) The Compact Commission shall meet at least once per calendar year and additional times as necessary pursuant to the bylaws and rules. During the annual meeting, the commission members and the attorneys’ committee shall prepare information regarding issues and resolutions between states to further the cooperation of the state boards. The attorneys’ committee shall also prepare a legal update for current events related to dental boards.
- f) The Compact Commission shall elect officers from the membership that shall serve as an Executive Committee. Elections shall occur during the annual meeting. The quorum of Commissioners shall select an Executive Committee consisting of a Chair, Vice Chair, Secretary, Treasurer and a Representative from the North, South, East and West districts as divided pursuant to the AADB Compact Rules.

- 223 g) Quorum for purposes of conducting business shall be a majority of commission members attending in
224 person or virtually.
- 225
- 226 h) The Commission shall provide notice of all meetings on its website and in other communications to
227 members.
- 228
- 229 i) A vote of two-thirds (2/3) of the membership shall be required for an executive session to discuss:
230 Items specifically related to participation in a lawsuit or in anticipation of a legal proceeding;
231 Matters specifically exempted from disclosure by federal statute;
232 Discussions of investigative records of an active compact member investigation or investigative records
233 for law enforcement or discussions involving specifically accusing a person of a crime or a public
234 censure;
235 Discussions that would include information of a personal nature that would constitute an unwarranted
236 invasion of personal privacy;
237 Anything considered internal practices and procedures or a trade secret;
238 Other items in the Commission bylaws allowing for executive sessions to be called; or
239 Advice of Legal Counsel.
- 240
- 241 j) The commission shall keep minutes and make them available to all Member States.
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- 243 k) The Commission may establish other committees as needed.
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- 245 l) The Commission shall prepare an annual report that shall be made available to the legislatures and
246 governors of the Member States concerning the activities of the AADB Compact Commission during the
247 preceding calendar year. Such reports shall also include reports of financial audits and any
248 recommendations that may have been adopted by the Compact Commission.

249 250 4. DUTIES OF COMPACT MEMBER STATES

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- 252 a) Member States agree to submit Member State Dental Board actions and other documents and data as
253 determined by the AADB Compact Commission through bylaws and rules;
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- 255 b) Member States shall notify the AADB Compact Commission pursuant to the rules regarding any
256 Adverse Action taken by the Board, any active investigation by the State Dental Board, any active
257 investigation involving pending criminal charges or other circumstance as determined by the Compact
258 Commission Rules and bylaws;
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- 260 c) Any adverse action, order, restriction or denial of a license or permit on a licensee or permit holder shall
261 be reported to the AADB Clearinghouse by the Member State Dental Board;
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- 263 d) Member State Dental Boards may submit nonpublic complaints, disciplinary or investigatory
264 information not required by subsection (C) to the AADB Clearinghouse. All investigatory material shall
265 be considered confidential and not part of a public record unless otherwise specifically required by state
266 statute;
- 267

- e) Accept continuing education credits as required by each state, including but not limited to classes authorized by AADB Accredited Continuing Education (ACE) program;
- f) Documents in the AADB Repository shall be treated by a Member State as the equivalent of a primary or original source document for licensure;
- g) Member States agree to accept a standardized application for compact license privileges. The standardized application shall be established by the rules enacted by the commission;
- h) Member States may agree to share information regarding ongoing investigations and actions, including joint investigations between states. All investigatory material shall be considered confidential and not part of a public record unless otherwise specifically required by state statute; and
- i) As part of the compact enforcement, participating Member States issuing subpoenas and seeking testimony of witnesses shall be enforced in other participating Member States in the compact and shall be enforced by a court of competent jurisdiction where the witnesses or evidence is located.

Section 5. POWERS AND DUTIES OF THE AADB COMPACT COMMISSION

- a) The AADB Compact Commission shall have the duty and power to:
 - 1) Oversee and maintain the administration of the Compact, including organizational needs, the financial activities, the hiring of personnel and ongoing activities or needs of the AADB Compact Commission;
 - 2) Promulgate bylaws and rules to operate the Compact;
 - 3) Establish a budget and make expenditures;
 - 4) Issue, upon the request of a Member State Dental Board, advisory opinions concerning the meaning or interpretation of the Compact and its bylaws, rules and actions;
 - 5) Enforce compliance with Compact provisions, the rules promulgated by the AADB Compact Commission and the bylaws using all necessary and proper means, including but not limited to the use of judicial process;
 - 6) Hold an annual meeting for the AADB Compact Commission where the elections of an executive board and other issues may be discussed and voted on;
 - 7) Establish personnel policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel;
 - 8) Accept donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of them in a manner consistent with the conflict-of-interest policies established by the AADB Commission;
 - 9) Report annually to the legislatures and governors of the Member State Dental Boards concerning the activities of the AADB Compact Commission during the preceding calendar year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the AADB Compact Commission; and
 - 10) Coordinate education, training and public awareness regarding the Compact, its implementation and its operation.
- b) The executive committee shall have the power to act on behalf of the AADB Compact Commission with the exception of rulemaking during periods when the Compact Commission is not in session. When

314 acting on behalf of the Compact Commission, the executive committee shall oversee the administration
315 of the compact including enforcement and compliance of the compact.

- 316 c) The officers and employees of the AADB Compact Commission shall be immune from suit and liability,
317 either personally or in their official capacity, for a claim for damage to or loss of property or personal
318 injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error or
319 omission that occurred, or that such person had a reasonable basis for believing occurred, within the
320 scope of AADB Compact Commission employment, duties or responsibilities; provided, that such
321 person shall not be protected from suit or liability for damage, loss, injury or liability caused by the
322 intentional or willful and wanton misconduct of such person.
- 323 d) The liability of the executive director and employees of the AADB Compact Commission or
324 representatives of the AADB Compact Commission, acting within the scope of such person's
325 employment or duties for acts, errors or omissions occurring within such person's state may not exceed
326 the limits of liability set forth under the constitution and laws of that state for state officials, employees
327 and agents. The AADB Compact Commission is considered to be an instrumentality of the states for the
328 purposes of any such action. Nothing in this subsection shall be construed to protect such person from
329 suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton
330 misconduct of such person.
- 331 e) The AADB Compact Commission shall defend the executive director, its employees, and, subject to the
332 approval of the attorney general or other appropriate legal counsel of the member state represented by an
333 AADB Compact Commission representative, shall defend such AADB Compact Commission
334 representative in any civil action seeking to impose liability arising out of an actual or alleged act, error
335 or omission that occurred within the scope of AADB Compact Commission employment, duties or
336 responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of
337 AADB Compact Commission employment, duties or responsibilities, provided that the actual or alleged
338 act, error or omission did not result from intentional or willful and wanton misconduct on the part of
339 such person.
- 340 f) To the extent not covered by the state involved, member state or the AADB Compact Commission, the
341 representatives or employees of the AADB Compact Commission shall be held harmless in the amount
342 of a settlement or judgment, including attorney fees and costs, obtained against such persons arising out
343 of an actual or alleged act, error or omission that occurred within the scope of AADB Compact
344 Commission employment, duties or responsibilities, or that such persons had a reasonable basis for
345 believing occurred within the scope of AADB Compact Commission employment, duties or
346 responsibilities, provided that the actual or alleged act, error or omission did not result from intentional
347 or willful and wanton misconduct on the part of such persons.

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349 Section 6. APPLICATION, ELIGIBILITY AND ISSUANCE OF
350 AADB COMPACT LICENSE PRIVILEGE TO A PRACTICE STATE.

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352 a) A dentist or dental hygienist applying for compact license privileges shall meet the requirements of a
353 dentist as listed in Section (2)(S) of this compact or dental hygienist as listed in Section (2)(Q) of this
354 compact and hold a current valid license in a Member State under this compact.
- 355
356 b) Each dentist or dental hygienist shall designate a home state of licensure. The home state shall be
357 determined by:
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- 359 1) The state of primary residence for the dentist or dental hygienist where 25% of their practice
360 within one-year occurs. An active-duty military member or their spouse may choose a home
361 state as designated with the military but are not required to meet the 25% practice within the
362 home state requirement; or
363
364 2) If no state qualifies under section 1, then the state where the dentist or dental hygienist filed the
365 previous year federal tax return.
366

- 367 c) A dentist or dental hygienist may redesignate a home state one time in a calendar year, if the
368 qualifications of a home state are met.
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370 d) A dentist or dental hygienist seeking a compact license privilege shall apply to their home state for a
371 letter stating that they are eligible for compact license privileges.
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373 e) The home state determines the eligibility and issues a letter of approval or denial for the compact
374 license privilege.
375
376 f) The letter is submitted to the proposed compact license state along with the AADB compact application
377 packet and authorization to seek access to the licensee's repository documents and any additional
378 information as may be required by the proposed compact license state along with the required fees.
379 Upon approval from the Home State, the compact license state shall issue a state compact license
380 privilege from the proposed application state to the applicant.
381
382 g) Appeals on determination of eligibility shall be made to the Member State where the applicant was
383 seeking privileges under a state compact license privilege and shall be subject to the law of that state.
384
385 h) A person holding a compact license privilege shall notify the Compact Commission within 10 business
386 days of any adverse action taken against a license held in a non-compact state.
387
388 i) A compact license privilege may be revoked, suspended or limited by the issuing State Dental Board if
389 at any time the licensee's home state license is revoked, suspended or limited.
390
391 j) The AADB Compact Commission is authorized to develop rules regarding the application and renewal
392 process including payment of any application fees, and the issuance of a compact license privilege.
393
394 k) Eligibility or ineligibility to receive a state compact license privilege shall not impact or prohibit an
395 individual from the ability to seek a state license through the regular process outside of the compact.
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398 7. JURISDICTION OF COMPACT LICENSE PRIVILEGE HOLDERS 399

- 400 a) Each dentist or dental hygienist holding a compact license privilege is required to reference the
401 composite and Member State Dental Boards' statutes and rules to be aware of laws that apply to a
402 specific state in which they are practicing under a compact license privilege. Compact license scope
403 and practice requirements shall conform to the state jurisdiction in which the compact license
404 privilege holder is practicing.

- 405
- 406 b) Each dentist or dental hygienist holding a compact license privilege shall list a current address with
- 407 the AADB Compact Commission that shall serve as their official address of service.
- 408
- 409 c) A dentist or dental hygienist holding a compact license privilege may have an adverse action taken
- 410 against them by any;
- 411
- 412 1) Member State Dental Board_in which they are practicing with a compact license
- 413 privilege;
- 414 2) the compact licensee's home state; or
- 415 3) any state that is a compact member where the compact licensee has requested or received
- 416 a compact license privilege to practice.
- 417
- 418 d) Any state in which the compact licensee holds a compact license privilege may investigate an
- 419 allegation of a violation of the statutes and rules of dentistry or dental hygiene in any other state
- 420 where the compact licensee holds a compact license privilege.
- 421

422 Section 8. FEES AND MILITARY WAIVER

- 423 a) The AADB Compact Commission is authorized to develop rules regarding fees for compact
- 424 licensees' use of the repository and other provisions as determined by the AADB Compact
- 425 Commission.
- 426
- 427 b) A Member State Dental Board issuing a compact license privilege authorizing practice in their state
- 428 may impose a fee for a compact license privilege to be issued or renewed.
- 429
- 430 c) No compact fee shall be required of each active-duty military member and/or their spouse up to one
- 431 (1) year after separation. Each participating state issuing a compact license privilege may waive fees
- 432 for active-duty military and/or their spouse as required by each individual state statute.
- 433
- 434 d) Active-duty military may transfer military training records to the repository without a fee.
- 435

436 Section 9. JOINT INVESTIGATIONS AND DISCIPLINARY ACTIONS

- 437 a) Each state shall name a point of contact for joint investigations between compact Member State
- 438 Dental Boards.
- 439
- 440 b) In addition to the authority granted to a Member State Dental Board by the state law of their
- 441 jurisdiction, Member State Dental Boards may participate with other Member State Dental Boards in
- 442 joint investigations of licensees that fall subject to this compact.
- 443
- 444 c) Member State Dental Boards may share investigative, litigation or other materials in furtherance of
- 445 any joint or individual investigation arising with a licensee who holds a compact license privilege
- 446 within their jurisdiction.
- 447

- d) A subpoena issued by a Member State or Member State Dental Board shall be enforceable in other Member States as allowed by law.
- e) If a licensee has a disciplinary action taken by any Member State Dental Board against a licensee under the compact, they shall automatically be subject to discipline by other Member State Dental Boards.
- f) If a licensee has an action taken against their home state license including being revoked, surrendered or relinquished in lieu of discipline or suspended, then automatically all other compact license privileges shall be placed in the same status. The home state shall notify the commission and the commission shall issue a notice to all Member State Dental Boards that the licensee holding a compact license privilege shall suspend the compact license privilege.
- g) If discipline is taken against a licensee in a AADB Compact Member State, the Member State Board shall notify the commission and the home state of the licensee. The home state may deem the action conclusive as a matter of law and fact decided and
- 1) Impose the same or lesser sanction consistent with the home state practice act; or
 - 2) Pursue separate actions against the licensee under its practice act regardless of the sanctions pursued by the compact Member State Dental Board.

Section 10. NON-MEMBER STATES, ENTITIES OR OTHER INSTITUTIONS' REQUEST FOR INFORMATION FROM THE REPOSITORY AND/OR ACCESS TO THE AADB CLEARINGHOUSE

- a) Insurance companies and entities verifying documents for the purpose of licenses extended to a provider may seek information from the AADB CLEARINGHOUSE for public record documents;
- b) A dentist or dental hygienist, as defined by the bylaws and rules, may submit a request to the AADB Compact Commission to allow any hiring employer, entity or insurance company to access documents from the repository for the purposes of credentialing, licensing or other privileges;
- c) The Commission shall set a fee schedule for these services in the bylaws and rules.

Section 11. RULEMAKING FUNCTIONS OF THE AADB COMPACT COMMISSION

- a) The AADB Compact Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the AADB Compact Commission may be determined to be invalid and have no force or effect.
- b) Rules deemed appropriate for the operations of the AADB Compact Commission shall be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act of 2010, and subsequent amendments thereto.

Section 12. OVERSIGHT OF AADB DENTAL AND DENTAL HYGIENE COMPACT

- a) The executive, legislative and judicial branches of state government in each Member State Dental Board shall enforce the Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent to allow for expedited licensure for the purpose of mobility. The provisions of the Compact and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of dentistry and dental hygiene.
- b) All courts may take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a Member State pertaining to the subject matter of the Compact which may affect the powers, responsibilities or actions of the AADB Compact Commission.
- c) The AADB Compact Commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the AADB Compact Commission shall render a judgment or order void as to the AADB Compact Commission, the Compact or promulgated rules.

Section 13. ENFORCEMENT AND DEFAULT PROCEDURES

- a) The AADB Compact Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the Compact.
- b) The grounds for default include, but are not limited to, failure of a Member State to perform such obligations or responsibilities imposed upon it by the Compact, or the rules and bylaws of the AADB Compact Commission promulgated under the Compact.
- c) If the AADB Compact Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under the Compact, or the bylaws or promulgated rules, the AADB Compact Commission shall:
 - a) provide written notice to the defaulting state and other Member States of the nature of the default, the means of curing the default and any action taken by the AADB Compact Commission. The AADB Compact Commission shall specify the conditions by which the defaulting state must cure its default; and
 - b) provide remedial training and specific technical assistance regarding the default.
- d) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the Compact upon an affirmative vote of a majority of the Commissioners and all rights, privileges and benefits conferred by the Compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.
- e) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the AADB Compact Commission to the Governor, the majority and minority leaders of the defaulting state's legislature and each of the Member States.

- 530 f) The AADB Compact Commission shall establish rules and procedures to address licenses and compact
531 license privilege holders that are materially impacted by the termination of a Member State or the
532 withdrawal of a Member State.
- 533 g) The AADB Compact Commission shall not bear any costs relating to any state that has been found to
534 be in default or which has been terminated from the Compact, unless otherwise mutually agreed upon
535 in writing between the AADB Compact Commission and the defaulting state.
- 536 h) The defaulting state may appeal the action of the AADB Compact Commission by petitioning the
537 federal district where the AADB Compact Commission has its principal offices. The prevailing party
538 shall be awarded all costs of such litigation, including reasonable attorney fees.
- 539 i) The AADB Compact Commission shall not bear any costs relating to any state that has been found to
540 be in default or which has been terminated from the Compact, unless otherwise mutually agreed upon
541 in writing between the AADB Compact Commission and the defaulting state.
- 542 j) The remedies herein shall not be the exclusive remedies of the AADB Compact Commission. The
543 AADB Compact Commission may avail itself of any other remedies available under state law or the
544 regulation of a profession.

545

546 Section 14. DISPUTE RESOLUTION

- 547 a) The AADB Compact Commission shall attempt, upon the request of a Member State Dental Board, to
548 resolve disputes which are subject to the Compact and which may arise among Member State Dental
549 Boards.
- 550 b) The AADB Compact Commission shall promulgate rules providing for both mediation and binding
551 dispute resolution, as appropriate.
- 552

553 Section 15. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

- 554 a) Any state is eligible to become a Member State of the Compact.
- 555 b) The Compact shall become effective and binding upon legislative enactment of the Compact into law by
556 no less than five (5) states. Thereafter, it shall become effective and binding on a state upon enactment
557 of the Compact into law by that state.
- 558 c) The governors of non-member states, or their designees, shall be invited to participate in the activities of
559 the AADB Compact Commission on a nonvoting basis prior to adoption of the Compact by all states.
- 560 d) The AADB Compact Commission may propose amendments to the Compact for enactment by the
561 Member States. No amendment shall become effective and binding upon the AADB Compact
562 Commission and the Member States unless and until it is enacted into law by unanimous consent of the
563 Member States.
- 564

565 Section 16. WITHDRAWAL

- 566 a) Once effective, the Compact shall continue in force and remain binding upon each and every Member
567 State; provided, that a Member State may withdraw from the Compact after giving appropriate notice
568 by specifically repealing the statute which enacted the Compact into law.

- 569 b) Withdrawal from the Compact shall be by the enactment of a statute repealing the same. The
570 individual's compact license privilege shall remain in effect for six (6) months from the date of the
571 Member State Dental Board withdrawal.
- 572 c) The withdrawing state shall immediately notify the chairperson of the AADB Compact Commission in
573 writing upon the introduction of legislation repealing the Compact in the withdrawing state.
- 574 d) The AADB Compact Commission shall notify the other Member States of the withdrawing state's
575 intent to withdraw within sixty (60) days of its receipt of notice provided under subsection (c) of this
576 section.
- 577 e) Reinstatement following withdrawal of a Member State shall occur upon the withdrawing state
578 reenacting the Compact or upon such later date as determined by the AADB Compact Commission.
- 579 f) The AADB Compact Commission is authorized to develop rules to address the impact of the
580 withdrawal of a Member State on licenses granted in other Member States to dentists and dental
581 hygienists who designated the withdrawing Member State as the state of principal license.
- 582

583 Section 17. DISSOLUTION

- 584 a) The Compact shall dissolve effective upon the date of the withdrawal or default of the Member State
585 which reduces the membership in the Compact to one (1) Member State.
- 586 b) Upon the dissolution of the Compact, the Compact becomes null and void and shall be of no further
587 force or effect, and the business and affairs of the AADB Compact Commission shall be concluded
588 and surplus funds shall be distributed in accordance with the bylaws.
- 589

590 Section 18. SEVERABILITY AND CONSTRUCTION

- 591 a) The provisions of the Compact shall be severable, and if any phrase, clause, sentence or provision is
592 deemed unenforceable, the remaining provisions of the Compact shall be enforceable.
- 593 b) The provisions of the Compact shall be liberally construed to effectuate its purposes.
- 594

595 Section 19. BINDING EFFECT OF COMPACT AND OTHER LAWS

- 596 a) Nothing herein prevents the enforcement of any other law of a Member State that is not inconsistent
597 with the Compact.
- 598 b) All lawful actions of the AADB Compact Commission, including all rules and bylaws promulgated
599 by the Commission, are binding upon the Member States.
- 600 c) All agreements between the AADB Compact Commission and the Member States are binding in
601 accordance with their terms.
- 602 d) In the event any provision of the Compact exceeds the constitutional limits imposed on the
603 legislature of any Member State, such provision shall be ineffective to the extent of the conflict with
604 the constitutional provision in question in that Member State.
- 605

606 Section 20. RULES OF ORDER

607 The most current edition of the *American Institute of Parliamentarians Standard Code of Parliamentary*
608 *Procedure* governs all meetings of the AADB Compact Commission, including it committees, in those
609 situations not otherwise covered in the Bylaws.

DDH Dentist and Dental Hygienist Compact

Dentist and Dental Hygienist Compact

This project is funded by the Department of Defense.

The following language must be enacted into law by a state to officially join the Dentist and Dental Hygienist Compact.

No substantive changes should be made to the model language. Any substantive changes may jeopardize the enacting state's participation in the Compact.

The Council of State Governments National Center for Interstate Compacts reviews state compact legislation to ensure consistency with the model language. Please direct inquiries to Jessica Thomas at JThomas@csg.org.

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 purposes of this Compact are to facilitate the interstate practice of dentistry and dental hygiene and improve public access to dentistry and dental hygiene services by providing Dentists and Dental Hygienists licensed in a Participating State the ability to practice in Participating States in which they are not licensed. The Compact does this by establishing a pathway for a Dentists and Dental Hygienists licensed in a Participating State to obtain a Compact Privilege that authorizes them to practice in another Participating State in which they are not licensed. The Compact enables Participating States to protect the public health and safety with respect to the practice of such Dentists and Dental Hygienists, through the State's authority to regulate the practice of dentistry and dental hygiene in the State. The Compact:

- A. Enables Dentists and Dental Hygienists who qualify for a Compact Privilege to practice in other Participating States without satisfying burdensome and duplicative requirements associated with securing a License to practice in those States;
- B. Promotes mobility and addresses workforce shortages through each Participating State's acceptance of a Compact Privilege to practice in that State;
- C. Increases public access to qualified, licensed Dentists and Dental Hygienists by creating a responsible, streamlined pathway for Licensees to practice in Participating States.
- D. Enhances the ability of Participating States to protect the public's health and safety;
- E. Does not interfere with licensure requirements established by a Participating State;
- F. Facilitates the sharing of licensure and disciplinary information among Participating States;
- G. Requires Dentists and Dental Hygienists who practice in a Participating State pursuant to a Compact Privilege to practice within the Scope of Practice authorized in that State;
- H. Extends the authority of a Participating State to regulate the practice of dentistry and dental hygiene within its borders to Dentists and Dental Hygienists who practice in the State through a Compact Privilege;
- I. Promotes the cooperation of Participating State in regulating the practice of dentistry and dental hygiene within those States;
- J. Facilitates the relocation of military members and their spouses who are licensed to practice dentistry or dental hygiene;

SECTION 2. DEFINITIONS

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

- A. **“Active Military Member”** means any person with full-time duty status in the armed forces of the United States, including members of the National Guard and Reserve.
- B. **“Adverse Action”** means disciplinary action or encumbrance imposed on a License or Compact Privilege by a State Licensing Authority.
- C. **“Alternative Program”** means a non-disciplinary monitoring or practice remediation process applicable to a Dentist or Dental Hygienist approved by a State Licensing Authority of a Participating State in which the Dentist or Dental Hygienist is licensed. This includes, but is not limited to, programs to which Licensees with substance abuse or addiction issues are referred in lieu of Adverse Action.
- D. **“Clinical Assessment”** means examination or process, required for licensure as a Dentist or Dental Hygienist as applicable, that provides evidence of clinical competence in dentistry or dental hygiene.
- E. **“Commissioner”** means the individual appointed by a Participating State to serve as the member of the Commission for that Participating State.
- F. **“Compact”** means this Dentist and Dental Hygienist Compact.
- G. **“Compact Privilege”** means the authorization granted by a Remote State to allow a Licensee from a Participating State to practice as a Dentist or Dental Hygienist in a Remote State.
- H. **“Continuing Professional Development”** means a requirement, as a condition of License renewal to provide evidence of successful participation in educational or professional activities relevant to practice or area of work.
- I. **“Criminal Background Check”** means the submission of fingerprints or other biometric-based information for a License applicant for the purpose of obtaining that applicant’s criminal history record information, as defined in 28 C.F.R. § 20.3(d) from the Federal Bureau of Investigation and the State’s criminal history record repository as defined in 28 C.F.R. § 20.3(f).
- J. **“Data System”** means the Commission’s repository of information about Licensees, including but not limited to examination, licensure, investigative, Compact Privilege, Adverse Action, and Alternative Program.
- K. **“Dental Hygienist”** means an individual who is licensed by a State Licensing Authority to practice dental hygiene.

- 91 L. **“Dentist”** means an individual who is licensed by a State Licensing Authority to practice
92 dentistry.
93
- 94 M. **“Dentist and Dental Hygienist Compact Commission” or “Commission”** means a
95 joint government agency established by this Compact comprised of each State that has
96 enacted the Compact and a national administrative body comprised of a Commissioner
97 from each State that has enacted the Compact.
98
- 99 N. **“Encumbered License”** means a License that a State Licensing Authority has limited in
100 any way other than through an Alternative Program.
101
- 102 O. **“Executive Board”** means the Chair, Vice Chair, Secretary and Treasurer and any other
103 Commissioners as may be determined by Commission Rule or bylaw.
104
- 105 P. **“Jurisprudence Requirement”** means the assessment of an individual’s knowledge of
106 the laws and Rules governing the practice of dentistry or dental hygiene, as applicable, in
107 a State.
108
- 109 Q. **“License”** means current authorization by a State, other than authorization pursuant to a
110 Compact Privilege, or other privilege, for an individual to practice as a Dentist or Dental
111 Hygienist in that State.
112
- 113 R. **“Licensee”** means an individual who holds an unrestricted License from a Participating
114 State to practice as a Dentist or Dental Hygienist in that State.
115
- 116 S. **“Model Compact”** the model for the Dentist and Dental Hygienist Compact on file with
117 the Council of State Governments or other entity as designated by the Commission.
118
- 119 T. **“Participating State”** means a State that has enacted the Compact and been admitted to
120 the Commission in accordance with the provisions herein and Commission Rules.
121
- 122 U. **“Qualifying License”** means a License that is not an Encumbered License issued by a
123 Participating State to practice dentistry or dental hygiene.
124
- 125 V. **“Remote State”** means a Participating State where a Licensee who is not licensed as a
126 Dentist or Dental Hygienist is exercising or seeking to exercise the Compact Privilege.
127
- 128 W. **“Rule”** means a regulation promulgated by an entity that has the force of law.
129
- 130 X. **“Scope of Practice”** means the procedures, actions, and processes a Dentist or Dental
131 Hygienist licensed in a State is permitted to undertake in that State and the circumstances
132 under which the Licensee is permitted to undertake those procedures, actions and
133 processes. Such procedures, actions and processes and the circumstances under which
134 they may be undertaken may be established through means, including, but not limited to,
135 statute, regulations, case law, and other processes available to the State Licensing
136 Authority or other government agency.

Y. **“Significant Investigative Information”** means information, records, and documents received or generated by a State Licensing Authority pursuant to an investigation for which a determination has been made that there is probable cause to believe that the Licensee has violated a statute or regulation that is considered more than a minor infraction for which the State Licensing Authority could pursue Adverse Action against the Licensee.

Z. **“State”** means any state, commonwealth, district, or territory of the United States of America that regulates the practices of dentistry and dental hygiene.

AA. **“State Licensing Authority”** means an agency or other entity of a State that is responsible for the licensing and regulation of Dentists or Dental Hygienists.

SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

1. Enact a compact that is not materially different from the Model Compact as determined in accordance with Commission Rules;
2. Participate fully in the Commission’s Data System;
3. Have a mechanism in place for receiving and investigating complaints about its Licensees and License applicants;
4. Notify the Commission, in compliance with the terms of the Compact and Commission Rules, of any Adverse Action or the availability of Significant Investigative Information regarding a Licensee and License applicant;
5. Fully implement a Criminal Background Check requirement, within a time frame established by Commission Rule, by receiving the results of a qualifying Criminal Background Check;
6. Comply with the Commission Rules applicable to a Participating State;
7. Accept the National Board Examinations of the Joint Commission on National Dental Examinations or another examination accepted by Commission Rule as a licensure examination;
8. Accept for licensure that applicants for a Dentist License graduate from a predoctoral dental education program accredited by the Commission on Dental Accreditation, or another accrediting agency recognized by the United States Department of Education for the accreditation of dentistry and dental hygiene education programs, leading to the Doctor of Dental Surgery (D.D.S.) or Doctor of Dental Medicine (D.M.D.) degree;
9. Accept for licensure that applicants for a Dental Hygienist License graduate from a dental hygiene education program accredited by the Commission on Dental Accreditation or

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

10. Require for licensure that applicants successfully complete a Clinical Assessment;

11. Have Continuing Professional Development requirements as a condition for License renewal; and

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

B. Providing alternative pathways for an individual to obtain an unrestricted License does not disqualify a State from participating in the Compact.

C. When conducting a Criminal Background Check the State Licensing Authority shall:

1. Consider that information in making a licensure decision;

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

3. Report to the Commission whether it has completed the Criminal Background Check and whether the individual was granted or denied a License.

D. A Licensee of a Participating State who has a Qualifying License in that State and does not hold an Encumbered License in any other Participating State, shall be issued a Compact Privilege in a Remote State in accordance with the terms of the Compact and Commission Rules. If a Remote State has a Jurisprudence Requirement a Compact Privilege will not be issued to the Licensee unless the Licensee has satisfied the Jurisprudence Requirement.

SECTION 4. COMPACT PRIVILEGE

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

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

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

3. Submit to an application process whenever the Licensee is seeking a Compact Privilege;

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

5. Meet any Jurisprudence Requirement established by a Remote State in which the Licensee is seeking a Compact Privilege;

6. Have passed a National Board Examination of the Joint Commission on National Dental Examinations or another examination accepted by Commission Rule;

7. For a Dentist, have graduated from a predoctoral dental education program accredited by the Commission on Dental Accreditation, or another accrediting agency recognized by the United States Department of Education for the accreditation of dentistry and dental hygiene education programs, leading to the Doctor of Dental Surgery (D.D.S.) or Doctor of Dental Medicine (D.M.D.) degree;
 8. For a Dental Hygienist, have graduated from a dental hygiene education program accredited by the Commission on Dental Accreditation or another accrediting agency recognized by the United States Department of Education for the accreditation of dentistry and dental hygiene education programs;
 9. Have successfully completed a Clinical Assessment for licensure;
 10. Report to the Commission Adverse Action taken by any non-Participating State when applying for a Compact Privilege and, otherwise, within thirty (30) days from the date the Adverse Action is taken;
 11. Report to the Commission when applying for a Compact Privilege the address of the Licensee's primary residence and thereafter immediately report to the Commission any change in the address of the Licensee's primary residence; and
 12. Consent to accept service of process by mail at the Licensee's primary residence on record with the Commission with respect to any action brought against the Licensee by the Commission or a Participating State, and consent to accept service of a subpoena by mail at the Licensee's primary residence on record with the Commission with respect to any action brought or investigation conducted by the Commission or a Participating State.
- B. The Licensee must comply with the requirements of subsection A of this section to maintain the Compact Privilege in the Remote State. If those requirements are met, the Compact Privilege will continue as long as the Licensee maintains a Qualifying License in the State through which the Licensee applied for the Compact Privilege and pays any applicable Compact Privilege renewal fees.
- C. A Licensee providing dentistry or dental hygiene in a Remote State under the Compact Privilege shall function within the Scope of Practice authorized by the Remote State for a Dentist or Dental Hygienist licensed in that State.
- D. A Licensee providing dentistry or dental hygiene pursuant to a Compact Privilege in a Remote State is subject to that State's regulatory authority. A Remote State may, in accordance with due process and that State's laws, by Adverse Action revoke or remove a Licensee's Compact Privilege in the Remote State for a specific period of time and impose fines or take any other necessary actions to protect the health and safety of its citizens. If a Remote State imposes an Adverse Action against a Compact Privilege that limits the Compact Privilege, that Adverse Action applies to all Compact Privileges in all Remote States. A Licensee whose Compact Privilege in a Remote State is removed for a specified period of time is not eligible for a Compact Privilege in any other Remote State until the

specific time for removal of the Compact Privilege has passed and all encumbrance requirements are satisfied.

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

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

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

1. The specific period of time for which the Compact Privilege was removed has ended; and
2. All conditions for removal of the Compact Privilege have been satisfied.

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

SECTION 5. ACTIVE MILITARY MEMBER OR THEIR SPOUSES

An Active Military Member and their spouse shall not be required to pay to the Commission for a Compact Privilege the fee otherwise charged by the Commission. If a Remote State chooses to charge a fee for a Compact Privilege, it may choose to charge a reduced fee or no fee to an Active Military Member and their spouse for a Compact Privilege.

SECTION 6. ADVERSE ACTIONS

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

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

C. Nothing in this Compact shall override a Participating State's decision that participation in an Alternative Program may be used in lieu of Adverse Action and that such participation shall remain non-public if required by the Participating State's laws. Participating States must require Licensees who enter any Alternative Program in lieu of discipline to agree not to practice pursuant to a Compact Privilege in any other Participating State during the term of the Alternative Program without prior authorization from such other Participating State.

D. Any Participating State in which a Licensee is applying to practice or is practicing pursuant to a Compact Privilege may investigate actual or alleged violations of the statutes and

regulations authorizing the practice of dentistry or dental hygiene in any other Participating State in which the Dentist or Dental Hygienist holds a License or Compact Privilege.

E. A Remote State shall have the authority to:

1. Take Adverse Actions as set forth in Section 4.D against a Licensee's Compact Privilege in the State;
2. In furtherance of its rights and responsibilities under the Compact and the Commission's Rules issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a State Licensing Authority in a Participating State for the attendance and testimony of witnesses, or the production of evidence from another Participating State, shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State where the witnesses or evidence are located; and
3. If otherwise permitted by State law, recover from the Licensee the costs of investigations and disposition of cases resulting from any Adverse Action taken against that Licensee.

F. Joint Investigations

1. In addition to the authority granted to a Participating State by its Dentist or Dental Hygienist licensure act or other applicable State law, a Participating State may jointly investigate Licensees with other Participating States.
2. Participating States shall share any Significant Investigative Information, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

G. Authority to Continue Investigation

1. After a Licensee's Compact Privilege in a Remote State is terminated, the Remote State may continue an investigation of the Licensee that began when the Licensee had a Compact Privilege in that Remote State.
2. If the investigation yields what would be Significant Investigative Information had the Licensee continued to have a Compact Privilege in that Remote State, the Remote State shall report the presence of such information to the Data System as required by Section 8.B.6 as if it was Significant Investigative Information.

SECTION 7. ESTABLISHMENT AND OPERATION OF THE COMMISSION.

- A. The Compact Participating States hereby create and establish a joint government agency whose membership consists of all Participating States that have enacted the Compact. The Commission is an instrumentality of the Participating States acting jointly and not an

instrumentality of any one State. The Commission shall come into existence on or after the effective date of the Compact as set forth in Section 11A.

B. Participation, Voting, and Meetings

1. Each Participating State shall have and be limited to one (1) Commissioner selected by that Participating State's State Licensing Authority or, if the State has more than one State Licensing Authority, selected collectively by the State Licensing Authorities.
2. The Commissioner shall be a member or designee of such Authority or Authorities.
3. The Commission may by Rule or bylaw establish a term of office for Commissioners and may by Rule or bylaw establish term limits.
4. The Commission may recommend to a State Licensing Authority or Authorities, as applicable, removal or suspension of an individual as the State's Commissioner.
5. A Participating State's State Licensing Authority, or Authorities, as applicable, shall fill any vacancy of its Commissioner on the Commission within sixty (60) days of the vacancy.
6. Each Commissioner shall be entitled to one vote on all matters that are voted upon by the Commission.
7. The Commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The Commission may meet by telecommunication, video conference or other similar electronic means.

C. The Commission shall have the following powers:

1. Establish the fiscal year of the Commission;
2. Establish a code of conduct and conflict of interest policies;
3. Adopt Rules and bylaws;
4. Maintain its financial records in accordance with the bylaws;
5. Meet and take such actions as are consistent with the provisions of this Compact, the Commission's Rules, and the bylaws;
6. Initiate and conclude legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Authority to sue or be sued under applicable law shall not be affected;

7. Maintain and certify records and information provided to a Participating State as the authenticated business records of the Commission, and designate a person to do so on the Commission's behalf;
8. Purchase and maintain insurance and bonds;
9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Participating State;
10. Conduct an annual financial review;
11. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
12. As set forth in the Commission Rules, charge a fee to a Licensee for the grant of a Compact Privilege in a Remote State and thereafter, as may be established by Commission Rule, charge the Licensee a Compact Privilege renewal fee for each renewal period in which that Licensee exercises or intends to exercise the Compact Privilege in that Remote State. Nothing herein shall be construed to prevent a Remote State from charging a Licensee a fee for a Compact Privilege or renewals of a Compact Privilege, or a fee for the Jurisprudence Requirement if the Remote State imposes such a requirement for the grant of a Compact Privilege;
13. Accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;
14. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;
15. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
16. Establish a budget and make expenditures;
17. Borrow money;
18. Appoint committees, including standing committees, which may be composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;
19. Provide and receive information from, and cooperate with, law enforcement agencies;

- 409
- 410 20. Elect a Chair, Vice Chair, Secretary and Treasurer and such other officers of the
- 411 Commission as provided in the Commission's bylaws;
- 412
- 413 21. Establish and elect an Executive Board;
- 414
- 415 22. Adopt and provide to the Participating States an annual report;
- 416
- 417 23. Determine whether a State's enacted compact is materially different from the Model
- 418 Compact language such that the State would not qualify for participation in the Compact;
- 419 and
- 420
- 421 24. Perform such other functions as may be necessary or appropriate to achieve the purposes
- 422 of this Compact.
- 423

424 D. Meetings of the Commission

425

- 426 1. All meetings of the Commission that are not closed pursuant to this subsection shall be
- 427 open to the public. Notice of public meetings shall be posted on the Commission's
- 428 website at least thirty (30) days prior to the public meeting.
- 429
- 430 2. Notwithstanding subsection D.1 of this section, the Commission may convene an
- 431 emergency public meeting by providing at least twenty-four (24) hours prior notice on
- 432 the Commission's website, and any other means as provided in the Commission's Rules,
- 433 for any of the reasons it may dispense with notice of proposed rulemaking under Section
- 434 9.L. The Commission's legal counsel shall certify that one of the reasons justifying an
- 435 emergency public meeting has been met.
- 436
- 437 3. Notice of all Commission meetings shall provide the time, date, and location of the
- 438 meeting, and if the meeting is to be held or accessible via telecommunication, video
- 439 conference, or other electronic means, the notice shall include the mechanism for access
- 440 to the meeting through such means.
- 441
- 442 4. The Commission may convene in a closed, non-public meeting for the Commission to
- 443 receive legal advice or to discuss:
- 444
- 445 a. Non-compliance of a Participating State with its obligations under the Compact;
- 446
- 447 b. The employment, compensation, discipline or other matters, practices or procedures
- 448 related to specific employees or other matters related to the Commission's internal
- 449 personnel practices and procedures;
- 450
- 451 c. Current or threatened discipline of a Licensee or Compact Privilege holder by the
- 452 Commission or by a Participating State's Licensing Authority;
- 453
- 454 d. Current, threatened, or reasonably anticipated litigation;

- e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
- f. Accusing any person of a crime or formally censuring any person;
- g. Trade secrets or commercial or financial information that is privileged or confidential;
- h. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- i. Investigative records compiled for law enforcement purposes;
- j. Information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact;
- k. Legal advice;
- l. Matters specifically exempted from disclosure to the public by federal or Participating State law; and
- m. Other matters as promulgated by the Commission by Rule.

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

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

E. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2. The Commission may accept any and all appropriate sources of revenue, donations, and grants of money, equipment, supplies, materials, and services.
3. The Commission may levy on and collect an annual assessment from each Participating State and impose fees on Licensees of Participating States when a Compact Privilege is

501 granted, to cover the cost of the operations and activities of the Commission and its staff,
502 which must be in a total amount sufficient to cover its annual budget as approved each
503 fiscal year for which sufficient revenue is not provided by other sources. The aggregate
504 annual assessment amount for Participating States shall be allocated based upon a
505 formula that the Commission shall promulgate by Rule.

- 506
- 507 4. The Commission shall not incur obligations of any kind prior to securing the funds
508 adequate to meet the same; nor shall the Commission pledge the credit of any
509 Participating State, except by and with the authority of the Participating State.
- 510
- 511 5. The Commission shall keep accurate accounts of all receipts and disbursements. The
512 receipts and disbursements of the Commission shall be subject to the financial review and
513 accounting procedures established under its bylaws. All receipts and disbursements of
514 funds handled by the Commission shall be subject to an annual financial review by a
515 certified or licensed public accountant, and the report of the financial review shall be
516 included in and become part of the annual report of the Commission.
- 517

518 F. The Executive Board

519

- 520 1. The Executive Board shall have the power to act on behalf of the Commission according
521 to the terms of this Compact. The powers, duties, and responsibilities of the Executive
522 Board shall include:
- 523
- 524 a. Overseeing the day-to-day activities of the administration of the Compact including
525 compliance with the provisions of the Compact, the Commission's Rules and bylaws;
- 526
- 527 b. Recommending to the Commission changes to the Rules or bylaws, changes to this
528 Compact legislation, fees charged to Compact Participating States, fees charged to
529 Licensees, and other fees;
- 530
- 531 c. Ensuring Compact administration services are appropriately provided, including by
532 contract;
- 533
- 534 d. Preparing and recommending the budget;
- 535
- 536 e. Maintaining financial records on behalf of the Commission;
- 537
- 538 f. Monitoring Compact compliance of Participating States and providing compliance
539 reports to the Commission;
- 540
- 541 g. Establishing additional committees as necessary;
- 542
- 543 h. Exercising the powers and duties of the Commission during the interim between
544 Commission meetings, except for adopting or amending Rules, adopting or amending
545 bylaws, and exercising any other powers and duties expressly reserved to the
546 Commission by Rule or bylaw; and

- 547
- 548 i. Other duties as provided in the Rules or bylaws of the Commission.
- 549
- 550 2. The Executive Board shall be composed of up to seven (7) members:
- 551
- 552 a. The Chair, Vice Chair, Secretary and Treasurer of the Commission and any other
- 553 members of the Commission who serve on the Executive Board shall be voting
- 554 members of the Executive Board; and
- 555
- 556 b. Other than the Chair, Vice Chair, Secretary, and Treasurer, the Commission may elect
- 557 up to three (3) voting members from the current membership of the Commission.
- 558
- 559 3. The Commission may remove any member of the Executive Board as provided in the
- 560 Commission's bylaws.
- 561
- 562 4. The Executive Board shall meet at least annually.
- 563
- 564 a. An Executive Board meeting at which it takes or intends to take formal action on a
- 565 matter shall be open to the public, except that the Executive Board may meet in a
- 566 closed, non-public session of a public meeting when dealing with any of the matters
- 567 covered under subsection D.4.
- 568
- 569 b. The Executive Board shall give five (5) business days' notice of its public meetings,
- 570 posted on its website and as it may otherwise determine to provide notice to persons
- 571 with an interest in the public matters the Executive Board intends to address at those
- 572 meetings.
- 573
- 574 5. The Executive Board may hold an emergency meeting when acting for the Commission
- 575 to:
- 576
- 577 a. Meet an imminent threat to public health, safety, or welfare;
- 578
- 579 b. Prevent a loss of Commission or Participating State funds; or
- 580
- 581 c. Protect public health and safety.
- 582

583 G. Qualified Immunity, Defense, and Indemnification

584

- 585 1. The members, officers, executive director, employees and representatives of the
- 586 Commission shall be immune from suit and liability, both personally and in their official
- 587 capacity, for any claim for damage to or loss of property or personal injury or other civil
- 588 liability caused by or arising out of any actual or alleged act, error, or omission that
- 589 occurred, or that the person against whom the claim is made had a reasonable basis for
- 590 believing occurred within the scope of Commission employment, duties or
- 591 responsibilities; provided that nothing in this paragraph shall be construed to protect any
- 592 such person from suit or liability for any damage, loss, injury, or liability caused by the

intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the Commission shall not in any way compromise or limit the immunity granted hereunder.

2. The Commission shall defend any member, officer, executive director, employee, and representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or as determined by the Commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.
3. Notwithstanding subsection G.1 of this section, should any member, officer, executive director, employee, or representative of the Commission be held liable for the amount of any settlement or judgment arising out of any actual or alleged act, error, or omission that occurred within the scope of that individual's employment, duties, or responsibilities for the Commission, or that the person to whom that individual is liable had a reasonable basis for believing occurred within the scope of the individual's employment, duties, or responsibilities for the Commission, the Commission shall indemnify and hold harmless such individual, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of the individual.
4. Nothing herein shall be construed as a limitation on the liability of any Licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable State laws.
5. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a Participating State's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other State or federal antitrust or anticompetitive law or regulation.
6. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the Participating States or by the Commission.

SECTION 8. DATA SYSTEM

- A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, Adverse Action, and the presence of Significant Investigative Information on all Licensees and applicants for a License in Participating States.
- B. Notwithstanding any other provision of State law to the contrary, a Participating State shall submit a uniform data set to the Data System on all individuals to whom this Compact is

applicable as required by the Rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse Actions against a Licensee, License applicant or Compact Privilege and information related thereto;
4. Non-confidential information related to Alternative Program participation, the beginning and ending dates of such participation, and other information related to such participation;
5. Any denial of an application for licensure, and the reason(s) for such denial, (excluding the reporting of any criminal history record information where prohibited by law);
6. The presence of Significant Investigative Information; and
7. Other information that may facilitate the administration of this Compact or the protection of the public, as determined by the Rules of the Commission.

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

D. Significant Investigative Information pertaining to a Licensee in any Participating State will only be available to other Participating States.

E. It is the responsibility of the Participating States to monitor the database to determine whether Adverse Action has been taken against a Licensee or License applicant. Adverse Action information pertaining to a Licensee or License applicant in any Participating State will be available to any other Participating State.

F. Participating States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.

G. Any information submitted to the Data System that is subsequently expunged pursuant to federal law or the laws of the Participating State contributing the information shall be removed from the Data System.

SECTION 9. RULEMAKING

A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently implement and administer the purposes and provisions of the Compact. A Commission Rule

684 shall be invalid and have no force or effect only if a court of competent jurisdiction holds that
685 the Rule is invalid because the Commission exercised its rulemaking authority in a manner
686 that is beyond the scope and purposes of the Compact, or the powers granted hereunder, or
687 based upon another applicable standard of review.

- 688
- 689 B. The Rules of the Commission shall have the force of law in each Participating State,
690 provided however that where the Rules of the Commission conflict with the laws of the
691 Participating State that establish the Participating State's Scope of Practice as held by a court
692 of competent jurisdiction, the Rules of the Commission shall be ineffective in that State to
693 the extent of the conflict.
- 694
- 695 C. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in
696 this section and the Rules adopted thereunder. Rules shall become binding as of the date
697 specified by the Commission for each Rule.
- 698
- 699 D. If a majority of the legislatures of the Participating States rejects a Commission Rule or
700 portion of a Commission Rule, by enactment of a statute or resolution in the same manner
701 used to adopt the Compact, within four (4) years of the date of adoption of the Rule, then
702 such Rule shall have no further force and effect in any Participating State or to any State
703 applying to participate in the Compact.
- 704
- 705 E. Rules shall be adopted at a regular or special meeting of the Commission.
- 706
- 707 F. Prior to adoption of a proposed Rule, the Commission shall hold a public hearing and allow
708 persons to provide oral and written comments, data, facts, opinions, and arguments.
- 709
- 710 G. Prior to adoption of a proposed Rule by the Commission, and at least thirty (30) days in
711 advance of the meeting at which the Commission will hold a public hearing on the proposed
712 Rule, the Commission shall provide a Notice of Proposed Rulemaking:
- 713
- 714 1. On the website of the Commission or other publicly accessible platform;
 - 715
 - 716 2. To persons who have requested notice of the Commission's notices of proposed
717 rulemaking, and
 - 718
 - 719 3. In such other way(s) as the Commission may by Rule specify.
 - 720
- 721 H. The Notice of Proposed Rulemaking shall include:
- 722
- 723 1. The time, date, and location of the public hearing at which the Commission will hear
724 public comments on the proposed Rule and, if different, the time, date, and location of
725 the meeting where the Commission will consider and vote on the proposed Rule;
 - 726
 - 727 2. If the hearing is held via telecommunication, video conference, or other electronic means,
728 the Commission shall include the mechanism for access to the hearing in the Notice of
729 Proposed Rulemaking;

- 730
- 731 3. The text of the proposed Rule and the reason therefor;
- 732
- 733 4. A request for comments on the proposed Rule from any interested person; and
- 734
- 735 5. The manner in which interested persons may submit written comments.
- 736
- 737 I. All hearings will be recorded. A copy of the recording and all written comments and
- 738 documents received by the Commission in response to the proposed Rule shall be available
- 739 to the public.
- 740
- 741 J. Nothing in this section shall be construed as requiring a separate hearing on each
- 742 Commission Rule. Rules may be grouped for the convenience of the Commission at hearings
- 743 required by this section.
- 744
- 745 K. The Commission shall, by majority vote of all Commissioners, take final action on the
- 746 proposed Rule based on the rulemaking record.
- 747
- 748 1. The Commission may adopt changes to the proposed Rule provided the changes do not
- 749 enlarge the original purpose of the proposed Rule.
- 750
- 751 2. The Commission shall provide an explanation of the reasons for substantive changes
- 752 made to the proposed Rule as well as reasons for substantive changes not made that were
- 753 recommended by commenters.
- 754
- 755 3. The Commission shall determine a reasonable effective date for the Rule. Except for an
- 756 emergency as provided in subsection L, the effective date of the Rule shall be no sooner
- 757 than thirty (30) days after the Commission issuing the notice that it adopted or amended
- 758 the Rule.
- 759
- 760 L. Upon determination that an emergency exists, the Commission may consider and adopt an
- 761 emergency Rule with 24 hours' notice, with opportunity to comment, provided that the usual
- 762 rulemaking procedures provided in the Compact and in this section shall be retroactively
- 763 applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days
- 764 after the effective date of the Rule. For the purposes of this provision, an emergency Rule is
- 765 one that must be adopted immediately in order to:
- 766
- 767 1. Meet an imminent threat to public health, safety, or welfare;
- 768
- 769 2. Prevent a loss of Commission or Participating State funds;
- 770
- 771 3. Meet a deadline for the promulgation of a Rule that is established by federal law or rule;
- 772 or
- 773
- 774 4. Protect public health and safety.
- 775

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

N. No Participating State's rulemaking requirements shall apply under this Compact

SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive and judicial branches of State government in each Participating State shall enforce this Compact and take all actions necessary and appropriate to implement the Compact.
2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a Licensee for professional malpractice, misconduct or any such similar matter.
3. The Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the Compact or Commission Rule and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Commission service of process shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. Default, Technical Assistance, and Termination

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

C. If a State in default fails to cure the default, the defaulting State may be terminated from the

Compact upon an affirmative vote of a majority of the Commissioners, and all rights, privileges and benefits conferred on that State by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

- D. Termination of participation in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, the defaulting State's State Licensing Authority or Authorities, as applicable, and each of the Participating States' State Licensing Authority or Authorities, as applicable.
- E. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
- F. Upon the termination of a State's participation in this Compact, that State shall immediately provide notice to all Licensees of the State, including Licensees of other Participating States issued a Compact Privilege to practice within that State, of such termination. The terminated State shall continue to recognize all Compact Privileges then in effect in that State for a minimum of one hundred eighty (180) days after the date of said notice of termination.
- G. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.
- H. The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.
- I. Dispute Resolution
 - 1. Upon request by a Participating State, the Commission shall attempt to resolve disputes related to the Compact that arise among Participating States and between Participating States and non-Participating States.
 - 2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.
- J. Enforcement
 - 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this Compact and the Commission's Rules.
 - 2. By majority vote, the Commission may initiate legal action against a Participating State

in default in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or the defaulting Participating State's law.

3. A Participating State may initiate legal action against the Commission in the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.
4. No individual or entity other than a Participating State may enforce this Compact against the Commission.

SECTION 11. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

- A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the seventh Participating State.

1. On or after the effective date of the Compact, the Commission shall convene and review the enactment of each of the States that enacted the Compact prior to the Commission convening ("Charter Participating States") to determine if the statute enacted by each such Charter Participating State is materially different than the Model Compact.
 - a. A Charter Participating State whose enactment is found to be materially different from the Model Compact shall be entitled to the default process set forth in Section 10.
 - b. If any Participating State is later found to be in default, or is terminated or withdraws from the Compact, the Commission shall remain in existence and the Compact shall remain in effect even if the number of Participating States should be less than seven (7).
2. Participating States enacting the Compact subsequent to the Charter Participating States shall be subject to the process set forth in Section 7.C.23 to determine if their enactments are materially different from the Model Compact and whether they qualify for participation in the Compact.
3. All actions taken for the benefit of the Commission or in furtherance of the purposes of the administration of the Compact prior to the effective date of the Compact or the Commission coming into existence shall be considered to be actions of the

Commission unless specifically repudiated by the Commission.

4. Any State that joins the Compact subsequent to the Commission's initial adoption of the Rules and bylaws shall be subject to the Commission's Rules and bylaws as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State.

- B. Any Participating State may withdraw from this Compact by enacting a statute repealing that State's enactment of the Compact.

1. A Participating State's withdrawal shall not take effect until one hundred eighty (180) days after enactment of the repealing statute.
2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Licensing Authority or Authorities to comply with the investigative and Adverse Action reporting requirements of this Compact prior to the effective date of withdrawal.
3. Upon the enactment of a statute withdrawing from this Compact, the State shall immediately provide notice of such withdrawal to all Licensees within that State. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing State shall continue to recognize all Compact Privileges to practice within that State granted pursuant to this Compact for a minimum of one hundred eighty (180) days after the date of such notice of withdrawal.

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

- D. This Compact may be amended by the Participating States. No amendment to this Compact shall become effective and binding upon any Participating State until it is enacted into the laws of all Participating States.

SECTION 12. CONSTRUCTION AND SEVERABILITY

- A. This Compact and the Commission's rulemaking authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration of the Compact. Provisions of the Compact expressly authorizing or requiring the promulgation of Rules shall not be construed to limit the Commission's rulemaking authority solely for those purposes.
- B. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any Participating State, a State seeking participation in the Compact, or of the United States, or the applicability thereof to any government, agency, person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any other government, agency,

958 person or circumstance shall not be affected thereby.

- 959
- 960 C. Notwithstanding subsection B of this section, the Commission may deny a State's
- 961 participation in the Compact or, in accordance with the requirements of Section 10.B,
- 962 terminate a Participating State's participation in the Compact, if it determines that a
- 963 constitutional requirement of a Participating State is a material departure from the
- 964 Compact. Otherwise, if this Compact shall be held to be contrary to the constitution of any
- 965 Participating State, the Compact shall remain in full force and effect as to the remaining
- 966 Participating States and in full force and effect as to the Participating State affected as to all
- 967 severable matters.

968

969 **SECTION 13. CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS**

- 970 A. Nothing herein shall prevent or inhibit the enforcement of any other law of a Participating
- 971 State that is not inconsistent with the Compact.
- 972
- 973 B. Any laws, statutes, regulations, or other legal requirements in a Participating State in conflict
- 974 with the Compact are superseded to the extent of the conflict.
- 975
- 976 C. All permissible agreements between the Commission and the Participating States are binding
- 977 in accordance with their terms.