

**House File 656 - Introduced**

HOUSE FILE 656  
BY COMMITTEE ON STATE  
GOVERNMENT

(SUCCESSOR TO HSB 220)

**A BILL FOR**

1 An Act establishing the dentist and dental hygienist compact.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 147G.1 Dentist and dental hygienist  
2 compact.

3 1. *Title and purpose.* This chapter shall be known and cited  
4 as the dentist and dental hygienist compact. The purposes  
5 of this compact are to facilitate the interstate practice of  
6 dentistry and dental hygiene and improve public access to  
7 dentistry and dental hygiene services by providing dentists  
8 and dental hygienists licensed in a participating state the  
9 ability to practice in participating states in which they are  
10 not licensed. The compact does this by establishing a pathway  
11 for dentists and dental hygienists licensed in a participating  
12 state to obtain a compact privilege that authorizes them to  
13 practice in another participating state in which they are not  
14 licensed. The compact enables participating states to protect  
15 the public health and safety with respect to the practice  
16 of such dentists and dental hygienists through the state's  
17 authority to regulate the practice of dentistry and dental  
18 hygiene in the state. The compact:

19 a. Enables dentists and dental hygienists who qualify for  
20 a compact privilege to practice in other participating states  
21 without satisfying burdensome and duplicative requirements  
22 associated with securing a license to practice in those states.

23 b. Promotes mobility and addresses workforce shortages  
24 through each participating state's acceptance of a compact  
25 privilege to practice in that state.

26 c. Increases public access to qualified, licensed dentists  
27 and dental hygienists by creating a responsible, streamlined  
28 pathway for licensees to practice in participating states.

29 d. Enhances the ability of participating states to protect  
30 the public's health and safety.

31 e. Does not interfere with licensure requirements  
32 established by a participating state.

33 f. Facilitates the sharing of licensure and disciplinary  
34 information among participating states.

35 g. Requires dentists and dental hygienists who practice in a

1 participating state pursuant to a compact privilege to practice  
2 within the scope of practice authorized in that state.

3 *h.* Extends the authority of a participating state to  
4 regulate the practice of dentistry and dental hygiene within  
5 its borders to dentists and dental hygienists who practice in  
6 the state through a compact privilege.

7 *i.* Promotes the cooperation of participating states in  
8 regulating the practice of dentistry and dental hygiene within  
9 those states.

10 *j.* Facilitates the relocation of military members and  
11 their spouses who are licensed to practice dentistry or dental  
12 hygiene.

13 2. *Definitions.* As used in this compact, unless the context  
14 requires otherwise, the following definitions shall apply:

15 *a.* "*Active military member*" means an individual in full-time  
16 duty status in the armed forces of the United States, including  
17 members of the national guard and reserve.

18 *b.* "*Adverse action*" means any disciplinary action or  
19 encumbrance imposed on a licensee or compact privilege by a  
20 state licensing authority.

21 *c.* "*Alternative program*" means a nondisciplinary monitoring  
22 or practice remediation process applicable to a dentist or  
23 dental hygienist approved by a state licensing authority of a  
24 participating state in which the dentist or dental hygienist is  
25 licensed. "*Alternative program*" includes but is not limited to  
26 programs to which licensees with substance abuse or addiction  
27 issues are referred in lieu of adverse action.

28 *d.* "*Clinical assessment*" means an examination or process,  
29 required for licensure as a dentist or dental hygienist as  
30 applicable, that provides evidence of clinical competence in  
31 dentistry or dental hygiene.

32 *e.* "*Commissioner*" means the individual appointed by a  
33 participating state to serve as the member of the commission  
34 for that participating state.

35 *f.* "*Compact*" means this dentist and dental hygienist

1 compact.

2 *g. "Compact privilege"* means the authorization granted by a  
3 remote state to allow a licensee from a participating state to  
4 practice as a dentist or dental hygienist in a remote state.

5 *h. "Continuing professional development"* means a requirement  
6 as a condition of license renewal to provide evidence of  
7 successful participation in educational or professional  
8 activities relevant to practice or area of work.

9 *i. "Criminal background check"* means the submission of  
10 fingerprints or other biometric-based information for a license  
11 applicant for the purpose of obtaining the applicant's criminal  
12 history record information, as defined in 28 C.F.R. §20.3(d)  
13 from the federal bureau of investigation and the state's  
14 criminal history record repository as defined in 28 C.F.R.  
15 §20.3(f).

16 *j. "Data system"* means the commission's repository of  
17 information about licensees, including but not limited to  
18 examinations, licensure, investigative information, compact  
19 privileges, adverse actions, and alternative programs.

20 *k. "Dental hygienist"* means an individual who is licensed by  
21 a state licensing authority to practice dental hygiene.

22 *l. "Dentist"* means an individual who is licensed by a state  
23 licensing authority to practice dentistry.

24 *m. "Dentist and dental hygienist compact commission" or*  
25 *"commission"* means a joint government agency established by this  
26 compact comprised of each state that has enacted the compact  
27 and a national administrative body comprised of a commissioner  
28 from each state that has enacted the compact.

29 *n. "Encumbered license"* means a license that a state  
30 licensing authority has limited in any way other than through  
31 an alternative program.

32 *o. "Executive board"* means the chair, vice chair, secretary,  
33 and treasurer, and any other commissioners as may be determined  
34 by commission rule or bylaw.

35 *p. "Jurisprudence requirement"* means the assessment of an

1 individual's knowledge of the laws and rules governing the  
2 practice of dentistry or dental hygiene, as applicable, in a  
3 state.

4 *q. "License"* means current authorization by a state, other  
5 than authorization pursuant to a compact privilege, or other  
6 privilege, for an individual to practice as a dentist or dental  
7 hygienist in that state.

8 *r. "Licensee"* means an individual who holds an unrestricted  
9 license from a participating state to practice as a dentist or  
10 dental hygienist in that state.

11 *s. "Model compact"* means the model for the dentist and  
12 dental hygienist compact on file with the council of state  
13 governments or other entity as designated by the commission.

14 *t. "Participating state"* means a state that has enacted the  
15 compact and been admitted to the commission in accordance with  
16 the provisions of the compact and commission rules.

17 *u. "Qualifying license"* means a license that is not an  
18 encumbered license issued by a participating state to practice  
19 dentistry or dental hygiene.

20 *v. "Remote state"* means a participating state where a  
21 licensee who is not licensed as a dentist or dental hygienist  
22 is exercising or seeking to exercise the compact privilege.

23 *w. "Rule"* means a regulation promulgated by an entity that  
24 has the force of law.

25 *x. "Scope of practice"* means the procedures, actions, and  
26 processes a dentist or dental hygienist licensed in a state  
27 is permitted to undertake in that state and the circumstances  
28 under which the licensee is permitted to undertake those  
29 procedures, actions, and processes. Such procedures, actions,  
30 and processes and the circumstances under which they may  
31 be established through means, including but not limited to  
32 statutes, regulations, case law, and other processes available  
33 to the state licensing authority or other government agency.

34 *y. "Significant investigative information"* means information,  
35 records, and documents received or generated by a state

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

7     *z.* "State" means a state, commonwealth, district, or  
8 territory of the United States that regulates the practices of  
9 dentistry and dental hygiene.

10     *aa.* "State licensing authority" means an agency or other  
11 entity of a state that is responsible for the licensing and  
12 regulation of dentists or dental hygienists.

13     3. *State participation in the compact.*

14     *a.* In order to join the compact and thereafter continue as a  
15 participating state, a state must do all of the following:

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

19         (2) Participate fully in the commission's data system.

20         (3) Have a mechanism in place for receiving and  
21 investigating complaints about its licensees and license  
22 applicants.

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

27         (5) Fully implement a criminal background check  
28 requirement, within a time frame established by commission  
29 rule, by receiving the results of a qualifying criminal  
30 background check.

31         (6) Comply with commission rules applicable to a  
32 participating state.

33         (7) Accept the national board examinations of the joint  
34 commission on national dental examinations or another  
35 examination accepted by commission rule as a licensure

1 examination.

2 (8) Accept for licensure that applicants for a dentist  
3 license graduate from a predoctoral dental education program  
4 accredited by the commission on dental accreditation or another  
5 accrediting agency recognized by the United States department  
6 of education for the accreditation of dentistry and dental  
7 hygiene education programs, leading to the doctor of dental  
8 surgery or doctor of dental medicine degree.

9 (9) Accept for licensure that applicants for a dental  
10 hygienist license graduate from a dental hygiene program  
11 accredited by the commission on dental accreditation or another  
12 accrediting agency recognized by the United States department  
13 of education for the accreditation of dentistry and dental  
14 hygiene education programs.

15 (10) Require for licensure that applicants successfully  
16 complete a clinical assessment.

17 (11) Have continuing professional development requirements  
18 as a condition for license renewal.

19 (12) Pay a participation fee to the commission as  
20 established by commission rule.

21 *b.* Providing alternative pathways for an individual to  
22 obtain an unrestricted license does not disqualify a state from  
23 participating in the compact.

24 *c.* When conducting a criminal background check the state  
25 licensing authority shall do all of the following:

26 (1) Consider that information in making a licensure  
27 decision.

28 (2) Maintain documentation of the criminal background check  
29 and background check information to the extent allowed by state  
30 and federal law.

31 (3) Report to the commission whether a state has completed  
32 the criminal background check and whether the individual was  
33 granted or denied a license.

34 *d.* A licensee of a participating state who has a qualifying  
35 license in that state and does not hold an encumbered license

1 in any other participating state shall be issued a compact  
2 privilege in a remote state in accordance with the terms of  
3 the compact and commission rules. If a remote state has a  
4 jurisprudence requirement, a compact privilege will not be  
5 issued to the licensee unless the licensee has satisfied the  
6 jurisprudence requirement.

7 4. *Compact privilege.*

8 a. To obtain and exercise the compact privilege under the  
9 terms and provisions of the compact, a licensee shall do all  
10 of the following:

11 (1) Have a qualifying license as a dentist or dental  
12 hygienist in a participating state.

13 (2) Be eligible for a compact privilege in any remote state  
14 in accordance with paragraphs "d", "g", and "h".

15 (3) Submit to an application process whenever the licensee  
16 is seeking a compact privilege.

17 (4) Pay any applicable commission and remote state fees for  
18 a compact privilege in the remote state.

19 (5) Meet any jurisprudence requirement established by  
20 a remote state in which the licensee is seeking a compact  
21 privilege.

22 (6) Have passed a national board examination of the  
23 joint commission on national dental examinations or another  
24 examination accepted by commission rule.

25 (7) For a dentist, have graduated from a predoctoral dental  
26 education program accredited by the commission on dental  
27 accreditation, or another accrediting agency recognized by the  
28 United States department of education for the accreditation of  
29 dentistry and dental hygiene education programs, leading to the  
30 doctor of dental surgery or doctor of dental medicine degree.

31 (8) For a dental hygienist, have graduated from a dental  
32 hygiene education program accredited by the commission  
33 on dental accreditation or another accrediting agency  
34 recognized by the United States department of education for  
35 the accreditation of dentistry and dental hygiene education

1 programs.

2 (9) Have successfully completed a clinical assessment for  
3 licensure.

4 (10) Report to the commission any adverse action taken  
5 by any nonparticipating state when applying for a compact  
6 privilege and otherwise within thirty days from the date the  
7 adverse action is taken.

8 (11) Report to the commission when applying for a compact  
9 privilege the address of the licensee's primary residence and  
10 thereafter immediately report to the commission any change in  
11 the address of the licensee's primary residence.

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

20 *b.* The licensee must comply with the requirements in  
21 paragraph "a" to maintain the compact privilege in the remote  
22 state. If those requirements are met, the compact privilege  
23 will continue as long as the licensee maintains a qualifying  
24 license in the state through which the licensee applied for the  
25 compact privilege and pays any applicable compact privilege  
26 renewal fees.

27 *c.* A licensee providing dentistry or dental hygiene in a  
28 remote state under the compact privilege shall function within  
29 the scope of practice authorized by the remote state for a  
30 dentist or dental hygienist licensed in that state.

31 *d.* A licensee providing dentistry or dental hygiene  
32 pursuant to a compact privilege in a remote state is subject  
33 to that state's regulatory authority. A remote state may, in  
34 accordance with due process and that state's laws, by adverse  
35 action revoke or remove a licensee's compact privilege in the

1 remote state for a specific period of time, impose fines,  
2 or take any other necessary actions to protect the health  
3 and safety of its citizens. If a remote state imposes an  
4 adverse action against a compact privilege that limits the  
5 compact privilege, that adverse action applies to all compact  
6 privileges in all remote states. A licensee whose compact  
7 privilege in a remote state is removed for a specified period  
8 of time is not eligible for a compact privilege in any other  
9 remote state until the specific time for removal of the compact  
10 privilege has passed and all encumbrance requirements are  
11 satisfied.

12 e. If a license in a participating state is an encumbered  
13 license, the licensee shall lose the compact privilege in a  
14 remote state and shall not be eligible for a compact privilege  
15 in any remote state until the license is no longer encumbered.

16 f. Once an encumbered license in a participating state  
17 is restored to good standing, the licensee must meet the  
18 requirements of paragraph "a" to obtain a compact privilege in a  
19 remote state.

20 g. If a licensee's compact privilege in a remote state is  
21 removed by the remote state, the individual shall lose or be  
22 ineligible for the compact privilege in any remote state until  
23 both of the following occur:

24 (1) The specified period of time for which the compact  
25 privilege was removed has ended.

26 (2) All conditions for removal of the compact privilege have  
27 been satisfied.

28 h. Once the requirements of paragraph "g" have been met, the  
29 licensee must meet the requirements of paragraph "a" to obtain a  
30 compact privilege in a remote state.

31 5. *Active military member or spouses.* An active military  
32 member and the spouse of an active military member shall not  
33 be required to pay to the commission for a compact privilege  
34 the fee otherwise charged by the commission. If a remote state  
35 chooses to charge a fee for a compact privilege, it may choose

1 to charge a reduced fee or no fee to an active military member  
2 and the spouse of an active military member for a compact  
3 privilege.

4 6. *Adverse actions.*

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

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

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

22 d. Any participating state in which a licensee is applying  
23 to practice or is practicing pursuant to a compact privilege  
24 may investigate actual or alleged violations of the statutes  
25 and regulations authorizing the practice of dentistry or dental  
26 hygiene in any other participating state in which the dentist  
27 or dental hygienist holds a license or compact privilege.

28 e. A remote state shall have the authority to do all of the  
29 following:

30 (1) Take adverse actions as set forth in subsection 4,  
31 paragraph "d", against a licensee's compact privilege in the  
32 state.

33 (2) In furtherance of its rights and responsibilities  
34 under the compact and commission's rules, issue subpoenas  
35 for both hearings and investigations that require the

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

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

15 *f. Joint investigations.*

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

20 (2) Participating states shall share any significant  
21 investigative information, litigation, or compliance materials  
22 in furtherance of any joint or individual investigation  
23 initiated under the compact.

24 *g. Authority to continue investigation.*

25 (1) After a licensee's compact privilege in a remote state  
26 is terminated, the remote state may continue an investigation  
27 of the licensee that began when the licensee had a compact  
28 privilege in that remote state.

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

35 *7. Establishment and operation of the commission.*

1     *a.* The compact participating states hereby create and  
2 establish a joint government agency whose membership consists  
3 of all participating states that have enacted the compact.  
4 The commission is an instrumentality of the participating  
5 states acting jointly and not an instrumentality of any one  
6 state. The commission shall come into existence on or after  
7 the effective date of the compact as set forth in subsection  
8 11, paragraph "a".

9     *b. Participation, voting, and meetings.*

10     (1) Each participating state shall have and be limited  
11 to one commissioner selected by the participating state's  
12 state licensing authority or, if the state has more than one  
13 state licensing authority, selected collectively by the state  
14 licensing authorities.

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

17     (3) The commission may by rule or bylaw establish a term  
18 of office for commissioners and may by rule or bylaw establish  
19 term limits.

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

23     (5) A participating state's state licensing authority  
24 or authorities, as applicable, shall fill any vacancy of  
25 its commissioner on the commission within sixty days of the  
26 vacancy.

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

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

33     *c.* The commission shall have the following powers:

34     (1) Establish the fiscal year of the commission.

35     (2) Establish a code of conduct and conflict of interest

1 policies.

2 (3) Adopt rules and bylaws.

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

5 (5) Meet and take such actions as are consistent with the  
6 provisions of this compact, the commission's rules, and the  
7 bylaws.

8 (6) Initiate and conclude legal proceedings or actions in  
9 the name of the commission, provided that the standing of a  
10 state licensing authority to sue or be sued under applicable  
11 law shall not be affected.

12 (7) Maintain and certify records and information provided  
13 to a participating state as the authenticated business records  
14 of the commission, and designate a person to do so on the  
15 commission's behalf.

16 (8) Purchase and maintain insurance and bonds.

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

20 (10) Conduct an annual financial review.

21 (11) Hire employees, elect or appoint officers, fix  
22 compensation, define duties, grant such individuals appropriate  
23 authority to carry out the purposes of the compact, and  
24 establish the commission's personnel policies and programs  
25 relating to conflicts of interest, qualifications of personnel,  
26 and other related personnel matters.

27 (12) As set forth in the commission rules, charge a fee to  
28 a licensee for the grant of a compact privilege in a remote  
29 state and thereafter, as may be established by commission  
30 rule, charge the licensee a compact privilege renewal fee  
31 for each renewal period in which that licensee exercises or  
32 intends to exercise the compact privilege in that remote state.  
33 Nothing herein shall be construed to prevent a remote state  
34 from charging a licensee a fee for a compact privilege or  
35 renewals of a compact privilege, or a fee for the jurisprudence

1 requirement if the remote state imposes such a requirement for  
2 the grant of a compact privilege.

3 (13) Accept any and all appropriate gifts, donations,  
4 grants of money, other sources of revenue, equipment, supplies,  
5 materials, and services, and receive, utilize, and dispose of  
6 the same, provided that at all times the commission shall avoid  
7 any appearance of impropriety or conflict of interest.

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

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

14 (16) Establish a budget or make expenditures.

15 (17) Borrow money.

16 (18) Appoint committees, including standing committees,  
17 which may be composed of members, state regulators,  
18 state legislators or their representatives, and consumer  
19 representatives, and such other interested persons as may be  
20 designated in this compact and the bylaws.

21 (19) Provide and receive information from, and cooperate  
22 with, law enforcement agencies.

23 (20) Elect a chair, vice chair, secretary, and treasurer,  
24 and such other officers of the commission as provided in the  
25 commission's bylaws.

26 (21) Establish and elect an executive board.

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

29 (23) Determine whether a state's enacted compact is  
30 materially different from the model compact language such that  
31 the state would not qualify for participation in the compact.

32 (24) Perform such other functions as may be necessary or  
33 appropriate to achieve the purposes of this compact.

34 *d. Meetings of the commission.*

35 (1) All meetings of the commission that are not closed

1 pursuant to this paragraph shall be open to the public. Notice  
2 of public meetings shall be posted on the commission's internet  
3 site at least thirty days prior to the public meeting.

4 (2) Notwithstanding subparagraph (1), the commission may  
5 convene an emergency public meeting by providing at least  
6 twenty-four hours prior notice on the commission's internet  
7 site, and any other means as provided in the commission's  
8 rules, for any of the reasons it may dispense with notice  
9 of proposed rulemaking under subsection 9, paragraph "1".

10 The commission's legal counsel shall certify that one of the  
11 reasons justifying an emergency public meeting has been met.

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

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

20 (a) Noncompliance of a participating state with its  
21 obligations under the compact.

22 (b) The employment, compensation, discipline, or other  
23 matters, practices, or procedures related to specific employees  
24 or other matters related to the commission's internal personnel  
25 practices and procedures.

26 (c) Current or threatened discipline of a licensee  
27 or compact privilege holder by the commission or by a  
28 participating state's licensing authority.

29 (d) Current, threatened, or reasonably anticipated  
30 litigation.

31 (e) Negotiation of contracts for the purchase, lease, or  
32 sale of goods, services, or real estate.

33 (f) Accusing any person of a crime or formally censuring any  
34 person.

35 (g) Trade secrets or commercial or financial information

1 that is privileged or confidential.

2 (h) Information of a personal nature where disclosure would  
3 constitute a clearly unwarranted invasion of personal privacy.

4 (i) Investigative records compiled for law enforcement  
5 purposes.

6 (j) Information related to any investigative reports  
7 prepared by or on behalf of or for use of the commission or  
8 other committee charged with responsibility of investigation or  
9 determination of compliance issues pursuant to the compact.

10 (k) Legal advice.

11 (l) Matters specifically exempted from disclosure to the  
12 public by federal or participating state law.

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

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

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

27 *e. Financing of the commission.*

28 (1) The commission shall pay or provide for the payment of  
29 the reasonable expenses of its establishment, organization, and  
30 ongoing activities.

31 (2) The commission may accept any and all appropriate  
32 sources of revenue, donations, and grants of money, equipment,  
33 supplies, materials, and services.

34 (3) The commission may levy on and collect an annual  
35 assessment from each participating state and impose fees on

1 licensees of participating states when a compact privilege is  
2 granted to cover the cost of the operations and activities  
3 of the commission and its staff, which must be in a total  
4 amount sufficient to cover its annual budget as approved each  
5 fiscal year for which sufficient revenue is not provided by  
6 other sources. The aggregate annual assessment amount for  
7 participating states shall be allocated based upon a formula  
8 that the commission shall promulgate by rule.

9 (4) The commission shall not incur obligations of any kind  
10 prior to securing the funds adequate to meet the same, nor  
11 shall the commission pledge the credit of any participating  
12 state, except by and with the authority of the participating  
13 state.

14 (5) The commission shall keep accurate accounts of all  
15 receipts and disbursements. The receipts and disbursements  
16 of the commission shall be subject to the financial review  
17 and accounting procedures established under its bylaws. All  
18 receipts and disbursements of funds handled by the commission  
19 shall be subject to an annual financial review by a certified  
20 or licensed public accountant, and the report of the financial  
21 review shall be included in and become part of the annual  
22 report of the commission.

23 *f. The executive board.*

24 (1) The executive board shall have the power to act on  
25 behalf of the commission according to the terms of this  
26 compact. The powers, duties, and responsibilities of the  
27 executive board shall include all of the following:

28 (a) Overseeing the day-to-day activities of the  
29 administration of the compact including compliance with the  
30 provisions of the compact, the commission's rules, and bylaws.

31 (b) Recommending to the commission changes to the rules or  
32 bylaws, changes to this compact legislation, fees charged to  
33 the compact participating states, fees charged to licensees,  
34 and other fees.

35 (c) Ensuring compact administration services are

1 appropriately provided, including by contract.

2 (d) Preparing and recommending the budget.

3 (e) Maintaining financial records on behalf of the  
4 commission.

5 (f) Monitoring compact compliance of participating states  
6 and providing compliance reports to the commission.

7 (g) Establishing additional committees as necessary.

8 (h) Exercising the powers and duties of the commission  
9 during the interim between commission meetings, except for  
10 adopting or amending rules, adopting or amending bylaws, and  
11 exercising any other powers and duties expressly reserved to  
12 the commission by rule or bylaw.

13 (i) Other duties as provided in the rules or bylaws of the  
14 commission.

15 (2) The executive board shall be composed of up to seven  
16 members:

17 (a) The chair, vice chair, secretary, and treasurer of the  
18 commission, and any other members of the commission who serve  
19 on the executive board shall be voting members of the executive  
20 board.

21 (b) Other than the chair, vice chair, secretary, and  
22 treasurer of the commission, the commission may elect up  
23 to three voting members from the current membership of the  
24 commission.

25 (3) The commission may remove any member of the executive  
26 board as provided in the commission's bylaws.

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

28 (a) An executive board meeting at which it takes or intends  
29 to take formal action on a matter shall be open to the public,  
30 except that the executive board may meet in a closed, nonpublic  
31 session of a public meeting when dealing with any of the  
32 matters covered under paragraph "d", subparagraph (4).

33 (b) The executive board shall give five business days'  
34 notice of its public meetings, posted on its internet site and  
35 as it may otherwise determine to provide notice to persons with

1 an interest in the public matters the executive board intends  
2 to address at those meetings.

3 (5) The executive board may hold an emergency meeting when  
4 acting for the commission to do any of the following:

5 (a) Meet an imminent threat to public health, safety, or  
6 welfare.

7 (b) Prevent a loss of commission or participating state  
8 funds.

9 (c) Protect public health and safety.

10 *g. Qualified immunity, defense, and indemnification.*

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

26 (2) The commission shall defend any member, officer,  
27 executive director, employee, and representative of the  
28 commission in any civil action seeking to impose liability  
29 arising out of any actual or alleged act, error, or omission  
30 that occurred within the scope of commission employment,  
31 duties, or responsibilities, or as determined by the commission  
32 that the person against whom the claim is made had a reasonable  
33 basis for believing occurred within the scope of commission  
34 employment, duties, or responsibilities; provided that nothing  
35 in this paragraph shall be construed to prohibit that person

1 from retaining counsel at that person's own expense; and  
2 provided further that the actual or alleged act, error,  
3 or omission did not result from that person's intentional,  
4 willful, or wanton misconduct.

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

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

22 (5) Nothing in this compact shall be interpreted to waive  
23 or otherwise abrogate a participating state's state action  
24 immunity or state action affirmative defense with respect to  
25 antitrust claims under the Sherman Act, Clayton Act, or any  
26 other state or federal antitrust or anticompetitive law or  
27 regulation.

28 (6) Nothing in this compact shall be construed to be a  
29 waiver of sovereign immunity by the participating states or by  
30 the commission.

31 8. *Data system.*

32 a. The commission shall provide for the development,  
33 maintenance, operation, and utilization of a coordinated  
34 database and reporting system containing licensure, adverse  
35 action, and the presence of significant investigative

1 information on all licensees and applicants for a license in  
2 participating states.

3 *b.* Notwithstanding any other provision of state law to the  
4 contrary, a participating state shall submit a uniform data  
5 set to the data system on all individuals to whom this compact  
6 is applicable as required by the rules of the commission,  
7 including all of the following:

8 (1) Identifying information.

9 (2) Licensure data.

10 (3) Adverse actions against a licensee, license applicant,  
11 or compact privilege, and information related thereto.

12 (4) Nonconfidential information related to alternative  
13 program participation, the beginning and ending dates of  
14 such participation, and other information related to such  
15 participation.

16 (5) Any denial of an application for licensure and the  
17 reason for such denial, excluding the reporting of any criminal  
18 history record information where prohibited by law.

19 (6) The presence of significant investigative information.

20 (7) Other information that may facilitate the  
21 administration of this compact or the protection of the public,  
22 as determined by the rules of the commission.

23 *c.* The records and information provided to a participating  
24 state pursuant to this compact or through the data system,  
25 when certified by the commission or an agent thereof,  
26 shall constitute the authenticated business records of the  
27 commission, and shall be entitled to any associated hearsay  
28 exception in any relevant judicial, quasi-judicial, or  
29 administrative proceedings in a participating state.

30 *d.* Significant investigative information pertaining to a  
31 licensee in any participating state will only be available to  
32 other participating states.

33 *e.* It is the responsibility of the participating states  
34 to monitor the database to determine whether adverse action  
35 has been taken against a licensee or license applicant.

1 Adverse action information pertaining to a licensee or license  
2 applicant in any participating state will be available to any  
3 other participating state.

4 *f.* Participating states contributing information to the data  
5 system may designate information that may not be shared with  
6 the public without the express permission of the contributing  
7 state.

8 *g.* Any information submitted to the data system that is  
9 subsequently expunged pursuant to federal law or the laws of  
10 the participating state contributing the information shall be  
11 removed from the data system.

12 9. *Rulemaking.*

13 *a.* The commission shall promulgate reasonable rules in  
14 order to effectively and efficiently implement and administer  
15 the purposes and provisions of the compact. A commission rule  
16 shall be invalid and have no force or effect only if a court of  
17 competent jurisdiction holds that the rule is invalid because  
18 the commission exercised its rulemaking authority in a manner  
19 that is beyond the scope and purposes of the compact or the  
20 powers granted hereunder, or based upon another applicable  
21 standard of review.

22 *b.* The rules of the commission shall have the force of  
23 law in each participating state, provided however that where  
24 the rules of the commission conflict with the laws of the  
25 participating state that establish the participating state's  
26 scope of practice as held by a court of competent jurisdiction,  
27 the rules of the commission shall be ineffective in that state  
28 to the extent of the conflict.

29 *c.* The commission shall exercise its rulemaking powers  
30 pursuant to the criteria set forth in this section and the  
31 rules adopted thereunder. Rules shall become binding as of the  
32 date specified by the commission for each rule.

33 *d.* If a majority of the legislatures of the participating  
34 states rejects a commission rule or portion of a commission  
35 rule, by enactment of a statute or resolution in the same

1 manner used to adopt the compact, within four years of the date  
2 of adoption of the rule, then such rule shall have no further  
3 force and effect in any participating state or to any state  
4 applying to participate in the compact.

5 e. Rules shall be adopted at a regular or special meeting  
6 of the commission.

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

10 g. Prior to adoption of a proposed rule by the commission,  
11 and at least thirty days in advance of the meeting at which the  
12 commission will hold a public hearing on the proposed rule,  
13 the commission shall provide a notice of proposed rulemaking  
14 as follows:

15 (1) On the internet site of the commission or other publicly  
16 accessible platform.

17 (2) To persons who have requested notice of the commission's  
18 notices of proposed rulemaking.

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

21 h. The notice of proposed rulemaking shall include all of  
22 the following:

23 (1) The time, date, and location of the public hearing at  
24 which the commission will hear public comments on the proposed  
25 rule and, if different, the time, date, and location of the  
26 meeting where the commission will consider and vote on the  
27 proposed rule.

28 (2) If the hearing is held via telecommunication, video  
29 conference, or other electronic means, the commission shall  
30 include the mechanism for access to the hearing in the notice  
31 of proposed rulemaking.

32 (3) The text of the proposed rule and the reason for the  
33 proposed rule.

34 (4) A request for comments on the proposed rule from any  
35 interested person.

1 (5) The manner in which interested persons may submit  
2 written comments.

3 *i.* All hearings will be recorded. A copy of the recording  
4 and all written comments and documents received by the  
5 commission in response to the proposed rule shall be available  
6 to the public.

7 *j.* Nothing in this subsection shall be construed as  
8 requiring a separate hearing on each commission rule. Rules  
9 may be grouped for convenience of the commission at hearings  
10 required by this section.

11 *k.* The commission shall, by a majority vote of all  
12 commissioners, take final action on the proposed rule based on  
13 the rulemaking record.

14 (1) The commission may adopt changes to the proposed rule  
15 provided the changes do not enlarge the original purposes of  
16 the proposed rule.

17 (2) The commission shall provide an explanation of the  
18 reasons for substantive changes made to the proposed rule as  
19 well as reasons for substantive changes not made that were  
20 recommended by commenters.

21 (3) The commission shall determine a reasonable effective  
22 date for the rule. Except for an emergency as provided in  
23 paragraph "1", the effective date of the rule shall be no sooner  
24 than thirty days after the commission issuing the notice that  
25 it adopted or amended the rule.

26 *1.* Upon determination that an emergency exists, the  
27 commission may consider and adopt an emergency rule with  
28 twenty-four hours' notice, with opportunity to comment,  
29 provided that the usual rulemaking procedures provided in the  
30 compact and in this subsection shall be retroactively applied  
31 to the rule as soon as reasonably possible, but in no event  
32 later than ninety days after the effective date of the rule.  
33 For the purposes of this provision, an emergency rule is one  
34 that must be adopted immediately in order to do any of the  
35 following:

1 (1) Meet an imminent threat to public health, safety, or  
2 welfare.

3 (2) Prevent a loss of commission or participating state  
4 funds.

5 (3) Meet a deadline for the promulgation of a rule that is  
6 established by federal law or rule.

7 (4) Protect public health and safety.

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

22 *n.* No participating state's rulemaking requirements shall  
23 apply under this compact.

24 10. *Oversight, dispute resolution, and enforcement.*

25 *a. Oversight.*

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

29 (2) Venue is proper and judicial proceedings by or against  
30 the commission shall be brought solely and exclusively in a  
31 court of competent jurisdiction where the principal office of  
32 the commission is located. The commission may waive venue and  
33 jurisdictional defenses to the extent it adopts or consents  
34 to participate in alternative dispute resolution proceedings.  
35 Nothing herein shall affect or limit the selection or propriety

1 of venue in any action against a licensee for professional  
2 malpractice, misconduct, or any such similar matter.

3 (3) The commission shall be entitled to receive service  
4 of process in any proceeding regarding the enforcement or  
5 interpretation of the compact or commission rule and shall have  
6 standing to intervene in such a proceeding for all purposes.  
7 Failure to provide the commission service of process shall  
8 render a judgment or order void as to the commission, this  
9 compact, or promulgated rules.

10 *b. Default, technical assistance, and termination.*

11 (1) If the commission determines that a participating  
12 state has defaulted in the performance of its obligations or  
13 responsibilities under this compact or the promulgated rules,  
14 the commission shall provide written notice to the defaulting  
15 state. The notice of default shall describe the default, the  
16 proposed means of curing the default, and any other action that  
17 the commission may take, and shall offer training and specific  
18 technical assistance regarding the default.

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

21 *c.* If a state in default fails to cure the default, the  
22 defaulting state may be terminated from the compact upon an  
23 affirmative vote of a majority of the commissioners, and all  
24 rights, privileges, and benefits conferred on that state  
25 by this compact may be terminated on the effective date of  
26 termination. A cure of the default does not relieve the  
27 offending state of obligations or liabilities incurred during  
28 the period of default.

29 *d.* Termination of participation in the compact shall be  
30 imposed only after all other means of securing compliance have  
31 been exhausted. Notice of intent to suspend or terminate shall  
32 be given by the commission to the governor, the majority and  
33 minority leaders of the defaulting state's legislature, the  
34 defaulting state's state licensing authority or authorities,  
35 as applicable, and each of the participating states' state

1 licensing authority or authorities, as applicable.

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

6 f. Upon the termination of a state's participation in  
7 this compact, that state shall immediately provide notice  
8 to all licensees of the state, including licensees of other  
9 participating states issued a compact privilege to practice  
10 within that state, of such termination. The terminated state  
11 shall continue to recognize all compact privileges then in  
12 effect in that state for a minimum of one hundred eighty days  
13 after the date of said notice of termination.

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

18 h. The defaulting state may appeal the action of the  
19 commission by petitioning the United States district court  
20 for the District of Columbia or the federal district where  
21 the commission has its principal offices. The prevailing  
22 party shall be awarded all costs of such litigation, including  
23 reasonable attorney fees.

24 i. *Dispute resolution.*

25 (1) Upon request by a participating state, the commission  
26 shall attempt to resolve disputes related to the compact that  
27 arise among participating states and between participating  
28 states and nonparticipating states.

29 (2) The commission shall promulgate a rule providing for  
30 both mediation and binding dispute resolution for disputes as  
31 appropriate.

32 j. *Enforcement.*

33 (1) The commission, in the reasonable exercise of its  
34 discretion, shall enforce the provisions of this compact and  
35 the commission's rules.

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

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

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

25 11. *Effective date, withdrawal, and amendment.*

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

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

1 (a) A charter participating state whose enactment is found  
2 to be materially different from the model compact shall be  
3 entitled to the default process set forth in subsection 10.

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

9 (2) Participating states enacting the compact subsequent  
10 to the charter participating states shall be subject to the  
11 process set forth in subsection 7, paragraph "c", subparagraph  
12 (23), to determine if their enactments are materially  
13 different from the model compact and whether they qualify for  
14 participation in the compact.

15 (3) All actions taken for the benefit of the commission  
16 or in furtherance of the purposes of the administration of  
17 the compact prior to the effective date of the compact or the  
18 commission coming into existence shall be considered to be  
19 actions of the commission unless specifically repudiated by the  
20 commission.

21 (4) Any state that joins the compact subsequent to the  
22 commission's initial adoption of the rules and bylaws shall be  
23 subject to the commission's rules and bylaws as they exist on  
24 the date on which the compact becomes law in that state. Any  
25 rule that has been previously adopted by the commission shall  
26 have the full force and effect of law on the day the compact  
27 becomes law in that state.

28 *b.* Any participating state may withdraw from this compact  
29 by enacting a statute repealing the state's enactment of the  
30 compact.

31 (1) A participating state's withdrawal shall not take  
32 effect until one hundred eighty days after enactment of the  
33 repealing statute.

34 (2) Withdrawal shall not affect the continuing requirement  
35 of the withdrawing state's licensing authority or authorities

1 to comply with the investigative and adverse action reporting  
2 requirements of this compact prior to the effective date of  
3 withdrawal.

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

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

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

21 12. *Construction and severability.*

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

28 b. The provisions of this compact shall be severable, and  
29 if any phrase, clause, sentence, or provision of this compact  
30 is held by a court of competent jurisdiction to be contrary to  
31 the constitution of any participating state, a state seeking  
32 participation in the compact, or of the United States, or  
33 the applicability thereof to any government, agency, person,  
34 or circumstance is held to be unconstitutional by a court of  
35 competent jurisdiction, the validity of the remainder of this



1 The compact creates a commission to administer the operation  
2 of the compact. The commission is an instrumentality of the  
3 party states. The compact includes provisions relating to the  
4 establishment and membership of the commission; powers of the  
5 commission; meetings and voting requirements of the commission;  
6 commission bylaws and rules; commission committees; commission  
7 finances; the establishment of a licensure data system;  
8 oversight by member states; compacting state compliance;  
9 venue for judicial proceedings; defense and indemnification;  
10 effective dates and amendments to the compact; withdrawal,  
11 default, and expulsion; severability and construction; and the  
12 binding effect of the compact and other laws.

13 The compact becomes effective upon the adoption of the  
14 compact by the seventh participating state.