

## HOUSE BILL No. 2453

By Committee on Appropriations

3-8

1 AN ACT concerning health and healthcare; relating to dentists and dental  
2 hygienists; enacting the dentist and dental hygienist compact to provide  
3 interstate practice privileges for dentists and dental hygienists.  
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. This section shall be known and may be cited as the dentist  
7 and dental hygienist compact.

### 8 SECTION 1—TITLE AND PURPOSE

9 The purposes of this compact are to facilitate the interstate practice of  
10 dentistry and dental hygiene and improve public access to dentistry and  
11 dental hygiene services by providing dentists and dental hygienists  
12 licensed in a participating state the ability to practice in participating states  
13 in which they are not licensed. The compact does this by establishing a  
14 pathway for a dentists and dental hygienists licensed in a participating  
15 state to obtain a compact privilege that authorizes them to practice in  
16 another participating state in which they are not licensed. The compact  
17 enables participating states to protect the public health and safety with  
18 respect to the practice of such dentists and dental hygienists, through the  
19 state's authority to regulate the practice of dentistry and dental hygiene in  
20 the state. The compact:

21 (a) Enables dentists and dental hygienists who qualify for a compact  
22 privilege to practice in other participating states without satisfying  
23 burdensome and duplicative requirements associated with securing a  
24 license to practice in those states;

25 (b) promotes mobility and addresses workforce shortages through  
26 each participating state's acceptance of a compact privilege to practice in  
27 that state;

28 (c) increases public access to qualified, licensed dentists and dental  
29 hygienists by creating a responsible, streamlined pathway for licensees to  
30 practice in participating states;

31 (d) enhances the ability of participating states to protect the public's  
32 health and safety;

33 (e) does not interfere with licensure requirements established by a  
34 participating state;

35 (f) facilitates the sharing of licensure and disciplinary information  
36 among participating states;

1 (g) requires dentists and dental hygienists who practice in a  
2 participating state pursuant to a compact privilege to practice within the  
3 scope of practice authorized in that state;

4 (h) extends the authority of a participating state to regulate the  
5 practice of dentistry and dental hygiene within its borders to dentists and  
6 dental hygienists who practice in the state through a compact privilege;

7 (i) promotes the cooperation of participating state in regulating the  
8 practice of dentistry and dental hygiene within those states; and

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

#### 11 SECTION 2—DEFINITIONS

12 As used in this compact, unless the context requires otherwise, the  
13 following definitions shall apply:

14 (a) "Active military member" means any person with full-time duty  
15 status in the armed forces of the United States, including members of the  
16 national guard and reserve.

17 (b) "Adverse action" means disciplinary action or encumbrance  
18 imposed on a license or compact privilege by a state licensing authority.

19 (c) "Alternative program" means a non-disciplinary monitoring or  
20 practice remediation process applicable to a dentist or dental hygienist  
21 approved by a state licensing authority of a participating state in which the  
22 dentist or dental hygienist is licensed. This includes, but is not limited to,  
23 programs to which licensees with substance abuse or addiction issues are  
24 referred in lieu of adverse action.

25 (d) "Clinical assessment" means examination or process, required for  
26 licensure as a dentist or dental hygienist as applicable, that provides  
27 evidence of clinical competence in dentistry or dental hygiene.

28 (e) "Commissioner" means the individual appointed by a participating  
29 state to serve as the member of the commission for that participating state.

30 (f) "Compact" means this dentist and dental hygienist compact.

31 (g) "Compact privilege" means the authorization granted by a remote  
32 state to allow a licensee from a participating state to practice as a dentist or  
33 dental hygienist in a remote state.

34 (h) "Continuing professional development" means a requirement, as a  
35 condition of license renewal, to provide evidence of successful  
36 participation in educational or professional activities relevant to practice or  
37 area of work.

38 (i) "Criminal background check" means the submission of  
39 fingerprints or other biometric-based information for a license applicant  
40 for the purpose of obtaining that applicant's criminal history record  
41 information, as defined in 28 C.F.R. § 20.3(d) from the federal bureau of  
42 investigation and the state's criminal history record repository as defined in  
43 28 C.F.R. § 20.3(f).

1 (j) "Data system" means the commission's repository of information  
2 about licensees, including, but not limited to, examination, licensure,  
3 investigative, compact privilege, adverse action and alternative program.

4 (k) "Dental hygienist" means an individual who is licensed by a state  
5 licensing authority to practice dental hygiene.

6 (l) "Dentist" means an individual who is licensed by a state licensing  
7 authority to practice dentistry.

8 (m) "Dentist and dental hygienist compact commission" or  
9 "commission" means a joint government agency established by this  
10 compact comprised of each state that has enacted the compact and a  
11 national administrative body comprised of a commissioner from each state  
12 that has enacted the compact.

13 (n) "Encumbered license" means a license that a state licensing  
14 authority has limited in any way other than through an alternative  
15 program.

16 (o) "Executive board" means the chairperson, vice chairperson,  
17 secretary and treasurer and any other commissioners as may be determined  
18 by commission rule or bylaw.

19 (p) "Jurisprudence requirement" means the assessment of an  
20 individual's knowledge of the laws and rules governing the practice of  
21 dentistry or dental hygiene, as applicable, in a state.

22 (q) "License" means current authorization by a state, other than  
23 authorization pursuant to a compact privilege, or other privilege, for an  
24 individual to practice as a dentist or dental hygienist in that state.

25 (r) "Licensee" means an individual who holds an unrestricted license  
26 from a participating state to practice as a dentist or dental hygienist in that  
27 state.

28 (s) "Model compact" means the model for the dentist and dental  
29 hygienist compact on file with the council of state governments or other  
30 entity as designated by the commission.

31 (t) "Participating state" means a state that has enacted the compact  
32 and been admitted to the commission in accordance with the provisions of  
33 this compact and commission rules.

34 (u) "Qualifying license" means a license that is not an encumbered  
35 license issued by a participating state to practice dentistry or dental  
36 hygiene.

37 (v) "Remote state" means a participating state where a licensee who  
38 is not licensed as a dentist or dental hygienist is exercising or seeking to  
39 exercise the compact privilege.

40 (w) "Rule" means a regulation promulgated by an entity that has the  
41 force of law.

42 (x) "Scope of practice" means the procedures, actions and processes a  
43 dentist or dental hygienist licensed in a state is permitted to undertake in

1 that state and the circumstances under which the licensee is permitted to  
2 undertake those procedures, actions and processes. Such procedures,  
3 actions and processes and the circumstances under which they may be  
4 undertaken may be established through means including, but not limited to,  
5 statute, regulations, case law and other processes available to the state  
6 licensing authority or other government agency.

7 (y) "Significant investigative information" means information,  
8 records and documents received or generated by a state licensing authority  
9 pursuant to an investigation for which a determination has been made that  
10 there is probable cause to believe that the licensee has violated a statute or  
11 regulation that is considered more than a minor infraction for which the  
12 state licensing authority could pursue adverse action against the licensee.

13 (z) "State" means any state, commonwealth, district or territory of the  
14 United States of America that regulates the practices of dentistry and  
15 dental hygiene.

16 (aa) "State licensing authority" means an agency or other entity of a  
17 state that is responsible for the licensing and regulation of dentists or  
18 dental hygienists.

#### 19 SECTION 3—STATE PARTICIPATION IN THE COMPACT

20 (a) In order to join the compact and thereafter continue as a  
21 participating state, a state must:

22 (1) Enact a compact that is not materially different from the model  
23 compact as determined in accordance with commission rules;

24 (2) participate fully in the commission's data system;

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

27 (4) notify the commission, in compliance with the terms of the  
28 compact and commission rules, of any adverse action or the availability of  
29 significant investigative information regarding a licensee and license  
30 applicant;

31 (5) fully implement a criminal background check requirement, within  
32 a time frame established by commission rule, by receiving the results of a  
33 qualifying criminal background check;

34 (6) comply with the commission rules applicable to a participating  
35 state;

36 (7) accept the national board examinations of the joint commission on  
37 national dental examinations or another examination accepted by  
38 commission rule as a licensure examination;

39 (8) accept for licensure that applicants for a dentist license graduate  
40 from a predoctoral dental education program accredited by the commission  
41 on dental accreditation, or another accrediting agency recognized by the  
42 United States department of education for the accreditation of dentistry  
43 and dental hygiene education programs, leading to the doctor of dental

1 surgery, D.D.S., or doctor of dental medicine, D.M.D., degree;

2 (9) accept for licensure that applicants for a dental hygienist license  
3 graduate from a dental hygiene education program accredited by the  
4 commission on dental accreditation or another accrediting agency  
5 recognized by the United States department of education for the  
6 accreditation of dentistry and dental hygiene education programs;

7 (10) require for licensure that applicants successfully complete a  
8 clinical assessment;

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

11 (12) pay a participation fee to the commission as established by  
12 commission rule.

13 (b) Providing alternative pathways for an individual to obtain an  
14 unrestricted license does not disqualify a state from participating in the  
15 compact.

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

18 (1) Consider that information in making a licensure decision;

19 (2) maintain documentation of completion of the criminal background  
20 check and background check information to the extent allowed by state  
21 and federal law; and

22 (3) report to the commission whether it has completed the criminal  
23 background check and whether the individual was granted or denied a  
24 license.

25 (d) A licensee of a participating state who has a qualifying license in  
26 that state and does not hold an encumbered license in any other  
27 participating state shall be issued a compact privilege in a remote state in  
28 accordance with the terms of the compact and commission rules. If a  
29 remote state has a jurisprudence requirement, a compact privilege will not  
30 be issued to the licensee unless the licensee has satisfied the jurisprudence  
31 requirement.

#### 32 SECTION 4—COMPACT PRIVILEGE

33 (a) To obtain and exercise the compact privilege under the terms and  
34 provisions of the compact, the licensee shall:

35 (1) Have a qualifying license as a dentist or dental hygienist in a  
36 participating state;

37 (2) be eligible for a compact privilege in any remote state in  
38 accordance with subsections (d), (g) and (h);

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

41 (4) pay any applicable commission and remote state fees for a  
42 compact privilege in the remote state;

43 (5) meet any jurisprudence requirement established by a remote state

1 in which the licensee is seeking a compact privilege;

2 (6) have passed a national board examination of the joint commission  
3 on national dental examinations or another examination accepted by  
4 commission rule;

5 (7) for a dentist, have graduated from a predoctoral dental education  
6 program accredited by the commission on dental accreditation, or another  
7 accrediting agency recognized by the United States department of  
8 education for the accreditation of dentistry and dental hygiene education  
9 programs, leading to the doctor of dental surgery, D.D.S., or doctor of  
10 dental medicine, D.M.D., degree;

11 (8) for a dental hygienist, have graduated from a dental hygiene  
12 education program accredited by the commission on dental accreditation  
13 or another accrediting agency recognized by the United States department  
14 of education for the accreditation of dentistry and dental hygiene education  
15 programs;

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

17 (10) report to the commission any adverse action taken by any non-  
18 participating state when applying for a compact privilege and, otherwise,  
19 within 30 days after the date the adverse action is taken;

20 (11) report to the commission when applying for a compact privilege  
21 the address of the licensee's primary residence and thereafter immediately  
22 report to the commission any change in the address of the licensee's  
23 primary residence; and

24 (12) consent to accept service of process by mail at the licensee's  
25 primary residence on record with the commission with respect to any  
26 action brought against the licensee by the commission or a participating  
27 state and consent to accept service of a subpoena by mail at the licensee's  
28 primary residence on record with the commission with respect to any  
29 action brought or investigation conducted by the commission or a  
30 participating state.

31 (b) The licensee must comply with the requirements of subsection (a)  
32 to maintain the compact privilege in the remote state. If those requirements  
33 are met, the compact privilege will continue as long as the licensee  
34 maintains a qualifying license in the state through which the licensee  
35 applied for the compact privilege and pays any applicable compact  
36 privilege renewal fees.

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

41 (d) A licensee providing dentistry or dental hygiene pursuant to a  
42 compact privilege in a remote state is subject to that state's regulatory  
43 authority. A remote state may, in accordance with due process and that

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

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

15 (f) Once an encumbered license in a participating state is restored to  
16 good standing, the licensee must meet the requirements of subsection (a)  
17 to obtain a compact privilege in a remote state.

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

21 (1) The specific period of time for which the compact privilege was  
22 removed has ended; and

23 (2) all conditions for removal of the compact privilege have been  
24 satisfied.

25 (h) Once the requirements of subsection (g) have been met, the  
26 licensee must meet the requirements in subsection (a) to obtain a compact  
27 privilege in a remote state.

#### 28 SECTION 5—ACTIVE MILITARY MEMBER OR THEIR SPOUSES

29 An active military member and their spouse shall not be required to pay  
30 to the commission for a compact privilege the fee otherwise charged by the  
31 commission. If a remote state chooses to charge a fee for a compact  
32 privilege, it may choose to charge a reduced fee or no fee to an active  
33 military member and their spouse for a compact privilege.

#### 34 SECTION 6—ADVERSE ACTIONS

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

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

41 (c) Nothing in this compact shall override a participating state's  
42 decision that participation in an alternative program may be used in lieu of  
43 adverse action and that such participation shall remain non-public if

1 required by the participating state's laws. Participating states must require  
2 licensees who enter any alternative program in lieu of discipline to agree  
3 not to practice pursuant to a compact privilege in any other participating  
4 state during the term of the alternative program without prior authorization  
5 from such other participating state.

6 (d) Any participating state in which a licensee is applying to practice  
7 or is practicing pursuant to a compact privilege may investigate actual or  
8 alleged violations of the statutes and regulations authorizing the practice of  
9 dentistry or dental hygiene in any other participating state in which the  
10 dentist or dental hygienist holds a license or compact privilege.

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

12 (1) Take adverse actions as set forth in section 4(d) of this compact  
13 against a licensee's compact privilege in the state;

14 (2) in furtherance of its rights and responsibilities under the compact  
15 and the commission's rules, issue subpoenas for both hearings and  
16 investigations that require the attendance and testimony of witnesses and  
17 the production of evidence. Subpoenas issued by a state licensing authority  
18 in a participating state for the attendance and testimony of witnesses, or  
19 the production of evidence from another participating state, shall be  
20 enforced in the latter state by any court of competent jurisdiction,  
21 according to the practice and procedure of that court applicable to  
22 subpoenas issued in proceedings pending before it. The issuing authority  
23 shall pay any witness fees, travel expenses, mileage and other fees  
24 required by the service statutes of the state where the witnesses or  
25 evidence are located; and

26 (3) if otherwise permitted by state law, recover from the licensee the  
27 costs of investigations and disposition of cases resulting from any adverse  
28 action taken against that licensee.

29 (f) (1) In addition to the authority granted to a participating state by  
30 its dentist or dental hygienist licensure act or other applicable state law, a  
31 participating state may jointly investigate licensees with other participating  
32 states.

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

36 (g) (1) After a licensee's compact privilege in a remote state is  
37 terminated, the remote state may continue an investigation of the licensee  
38 that began when the licensee had a compact privilege in that remote state.

39 (2) If the investigation yields what would be significant investigative  
40 information had the licensee continued to have a compact privilege in that  
41 remote state, the remote state shall report the presence of such information  
42 to the data system as required by section 8(b)(6) of this compact as if it  
43 was significant investigative information.





1 not limited to, employees of a participating state;

2 (10) conduct an annual financial review;

3 (11) hire employees, elect or appoint officers, fix compensation,  
4 define duties, grant such individuals appropriate authority to carry out the  
5 purposes of the compact and establish the commission's personnel policies  
6 and programs relating to conflicts of interest, qualifications of personnel  
7 and other related personnel matters;

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

17 (13) accept any and all appropriate gifts, donations, grants of money,  
18 other sources of revenue, equipment, supplies, materials and services and  
19 receive, utilize and dispose of the same, and at all times the commission  
20 shall avoid any appearance of impropriety or conflict of interest;

21 (14) lease, purchase, retain, own, hold, improve or use any property,  
22 real, personal or mixed, or any undivided interest in such property;

23 (15) sell, convey, mortgage, pledge, lease, exchange, abandon or  
24 otherwise dispose of any property, real, personal or mixed;

25 (16) establish a budget and make expenditures;

26 (17) borrow money;

27 (18) appoint committees, including standing committees, which may  
28 be composed of members, state regulators, state legislators or their  
29 representatives, consumer representatives and such other interested  
30 persons as may be designated in this compact and the bylaws;

31 (19) provide and receive information from, and cooperate with, law  
32 enforcement agencies;

33 (20) elect a chairperson, vice chairperson, secretary and treasurer and  
34 such other officers of the commission as provided in the commission's  
35 bylaws;

36 (21) establish and elect an executive board;

37 (22) adopt and provide to the participating states an annual report;

38 (23) determine whether a state's enacted compact is materially  
39 different from the model compact language such that the state would not  
40 qualify for participation in the compact; and

41 (24) perform such other functions as may be necessary or appropriate  
42 to achieve the purposes of this compact.

43 (d) (1) All meetings of the commission that are not closed pursuant to

1 this subsection shall be open to the public. Notice of public meetings shall  
2 be posted on the commission's website at least 30 days prior to the public  
3 meeting.

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

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

16 (4) The commission may convene in a closed, non-public meeting for  
17 the commission to receive legal advice or to discuss:

18 (A) Noncompliance of a participating state with its obligations under  
19 the compact;

20 (B) the employment, compensation, discipline or other matters,  
21 practices or procedures related to specific employees or other matters  
22 related to the commission's internal personnel practices and procedures;

23 (C) current or threatened discipline of a licensee or compact privilege  
24 holder by the commission or by a participating state's licensing authority;

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

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

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

29 (G) trade secrets or commercial or financial information that is  
30 privileged or confidential;

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

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

34 (J) information related to any investigative reports prepared by or on  
35 behalf of or for use of the commission or other committee charged with  
36 responsibility of investigation or determination of compliance issues  
37 pursuant to the compact;

38 (K) legal advice;

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

41 (M) other matters as promulgated by the commission by rule.

42 (5) If a meeting, or portion of a meeting, is closed, the presiding  
43 officer shall state that the meeting will be closed and reference each

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

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

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

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

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

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

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

37 (f) (1) The executive board shall have the power to act on behalf of  
38 the commission according to the terms of this compact. The powers, duties  
39 and responsibilities of the executive board shall include:

40 (A) Overseeing the day-to-day activities of the administration of the  
41 compact including compliance with the provisions of the compact, the  
42 commission's rules and bylaws;

43 (B) recommending to the commission changes to the rules or bylaws,

- 1 changes to this compact legislation, fees charged to compact participating  
2 states, fees charged to licensees and other fees;
- 3 (C) ensuring compact administration services are appropriately  
4 provided, including by contract;
- 5 (D) preparing and recommending the budget;
- 6 (E) maintaining financial records on behalf of the commission;
- 7 (F) monitoring compact compliance of participating states and  
8 providing compliance reports to the commission;
- 9 (G) establishing additional committees as necessary;
- 10 (H) exercising the powers and duties of the commission during the  
11 interim between commission meetings, except for adopting or amending  
12 rules, adopting or amending bylaws and exercising any other powers and  
13 duties expressly reserved to the commission by rule or bylaw; and
- 14 (I) other duties as provided in the rules or bylaws of the commission.
- 15 (2) The executive board shall be composed of up to seven members:
- 16 (A) The chairperson, vice chairperson, secretary and treasurer of the  
17 commission and any other members of the commission who serve on the  
18 executive board shall be voting members of the executive board; and
- 19 (B) other than the chairperson, vice chairperson, secretary and  
20 treasurer, the commission may elect up to three voting members from the  
21 current membership of the commission.
- 22 (3) The commission may remove any member of the executive board  
23 as provided in the commission's bylaws.
- 24 (4) The executive board shall meet at least annually.
- 25 (A) An executive board meeting at which it takes or intends to take  
26 formal action on a matter shall be open to the public, except that the  
27 executive board may meet in a closed, non-public session of a public  
28 meeting when dealing with any of the matters covered under subsection  
29 (d)(4).
- 30 (B) The executive board shall give five business days' notice of its  
31 public meetings, posted on its website and as it may otherwise determine  
32 to provide notice to persons with an interest in the public matters the  
33 executive board intends to address at those meetings.
- 34 (5) The executive board may hold an emergency meeting when acting  
35 for the commission to:
- 36 (A) Meet an imminent threat to public health, safety or welfare;
- 37 (B) prevent a loss of commission or participating state funds; or
- 38 (C) protect public health and safety.
- 39 (g) (1) The members, officers, executive director, employees and  
40 representatives of the commission shall be immune from suit and liability,  
41 both personally and in their official capacity, for any claim for damage to  
42 or loss of property or personal injury or other civil liability caused by or  
43 arising out of any actual or alleged act, error or omission that occurred, or

1 that the person against whom the claim is made had a reasonable basis for  
2 believing occurred within the scope of commission employment, duties or  
3 responsibilities. Nothing in this subsection shall be construed to protect  
4 any such person from suit or liability for any damage, loss, injury or  
5 liability caused by the intentional or willful or wanton misconduct of that  
6 person. The procurement of insurance of any type by the commission shall  
7 not in any way compromise or limit the immunity granted hereunder.

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

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

31 (4) Nothing in this subsection shall be construed as a limitation on the  
32 liability of any licensee for professional malpractice or misconduct, which  
33 shall be governed solely by any other applicable state laws.

34 (5) Nothing in this compact shall be interpreted to waive or otherwise  
35 abrogate a participating state's state action immunity or state action  
36 affirmative defense with respect to antitrust claims under the Sherman act,  
37 Clayton act or any other state or federal antitrust or anticompetitive law or  
38 regulation.

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

#### 41 SECTION 8—DATA SYSTEM

42 (a) The commission shall provide for the development, maintenance,  
43 operation and utilization of a coordinated database and reporting system

1 containing licensure, adverse action and the presence of significant  
2 investigative information on all licensees and applicants for a license in  
3 participating states.

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

8 (1) Identifying information;

9 (2) licensure data;

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

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

15 (5) any denial of an application for licensure and the reasons for such  
16 denial, excluding the reporting of any criminal history record information  
17 where prohibited by law;

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

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

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

28 (d) Significant investigative information pertaining to a licensee in  
29 any participating state shall only be available to other participating states.

30 (e) It is the responsibility of the participating states to monitor the  
31 database to determine whether adverse action has been taken against a  
32 licensee or license applicant. Adverse action information pertaining to a  
33 licensee or license applicant in any participating state will be available to  
34 any other participating state.

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

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

#### 41 SECTION 9—RULEMAKING

42 (a) The commission shall promulgate reasonable rules in order to  
43 effectively and efficiently implement and administer the purposes and

1 provisions of the compact. A commission rule shall be invalid and have no  
2 force or effect only if a court of competent jurisdiction holds that the rule  
3 is invalid because the commission exercised its rulemaking authority in a  
4 manner that is beyond the scope and purposes of the compact, or the  
5 powers granted under this compact, or based upon another applicable  
6 standard of review.

7 (b) The rules of the commission shall have the force of law in each  
8 participating state, except that where the rules of the commission conflict  
9 with the laws of the participating state that establish the participating  
10 state's scope of practice as held by a court of competent jurisdiction, the  
11 rules of the commission shall be ineffective in that state to the extent of the  
12 conflict.

13 (c) The commission shall exercise its rulemaking powers pursuant to  
14 the criteria set forth in this section of this compact and the rules adopted  
15 thereunder. Rules shall become binding as of the date specified by the  
16 commission for each rule.

17 (d) If a majority of the legislatures of the participating states rejects a  
18 commission rule or portion of a commission rule, by enactment of a statute  
19 or resolution in the same manner used to adopt the compact, within four  
20 years of the date of adoption of the rule, then such rule shall have no  
21 further force and effect in any participating state or to any state applying to  
22 participate in the compact.

23 (e) Rules shall be adopted at a regular or special meeting of the  
24 commission.

25 (f) Prior to adoption of a proposed rule, the commission shall hold a  
26 public hearing and allow persons to provide oral and written comments,  
27 data, facts, opinions and arguments.

28 (g) Prior to adoption of a proposed rule by the commission, and at  
29 least 30 days in advance of the meeting at which the commission will hold  
30 a public hearing on the proposed rule, the commission shall provide a  
31 notice of proposed rulemaking:

32 (1) On the website of the commission or other publicly accessible  
33 platform;

34 (2) to persons who have requested notice of the commission's notices  
35 of proposed rulemaking; and

36 (3) in such other ways as the commission may by rule specify.

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

38 (1) The time, date and location of the public hearing at which the  
39 commission will hear public comments on the proposed rule and, if  
40 different, the time, date and location of the meeting where the commission  
41 will consider and vote on the proposed rule;

42 (2) if the hearing is held via telecommunication, video conference or  
43 other electronic means, the commission shall include the mechanism for



- 1 access to the hearing in the notice of proposed rulemaking;
- 2 (3) the text of the proposed rule and the reason therefor;
- 3 (4) a request for comments on the proposed rule from any interested
- 4 person; and
- 5 (5) the manner in which interested persons may submit written
- 6 comments.
- 7 (i) All hearings shall be recorded. A copy of the recording and all
- 8 written comments and documents received by the commission in response
- 9 to the proposed rule shall be available to the public.
- 10 (j) Nothing in this section of this compact shall be construed as
- 11 requiring a separate hearing on each commission rule. Rules may be
- 12 grouped for the convenience of the commission at hearings required by
- 13 this section.
- 14 (k) The commission shall, by majority vote of all commissioners, take
- 15 final action on the proposed rule based on the rulemaking record.
- 16 (1) The commission may adopt changes to the proposed rule if the
- 17 changes do not enlarge the original purpose of the proposed rule.
- 18 (2) The commission shall provide an explanation of the reasons for
- 19 substantive changes made to the proposed rule as well as reasons for
- 20 substantive changes not made that were recommended by commenters.
- 21 (3) The commission shall determine a reasonable effective date for
- 22 the rule. Except for an emergency as provided in subsection (l), the
- 23 effective date of the rule shall be no sooner than 30 days after the
- 24 commission issuing the notice that it adopted or amended the rule.
- 25 (l) Upon determination that an emergency exists, the commission
- 26 may consider and adopt an emergency rule with 24 hours' notice, with
- 27 opportunity to comment, and the usual rulemaking procedures provided in
- 28 the compact and in this section of this compact shall be retroactively
- 29 applied to the rule as soon as reasonably possible, in no event later than 90
- 30 days after the effective date of the rule. For the purposes of this subsection,
- 31 an emergency rule is one that must be adopted immediately in order to:
- 32 (1) Meet an imminent threat to public health, safety or welfare;
- 33 (2) prevent a loss of commission or participating state funds;
- 34 (3) meet a deadline for the promulgation of a rule that is established
- 35 by federal law or rule; or
- 36 (4) protect public health and safety.
- 37 (m) The commission or an authorized committee of the commission
- 38 may direct revisions to a previously adopted rule for purposes of
- 39 correcting typographical errors, errors in format, errors in consistency or
- 40 grammatical errors. Public notice of any revisions shall be posted on the
- 41 website of the commission. The revision shall be subject to challenge by
- 42 any person for a period of 30 days after posting. The revision may be
- 43 challenged only on grounds that the revision results in a material change to

1 a rule. A challenge shall be made in writing and delivered to the  
2 commission prior to the end of the notice period. If no challenge is made,  
3 the revision shall take effect without further action. If the revision is  
4 challenged, the revision may not take effect without the approval of the  
5 commission.

6 (n) No participating state's rulemaking requirements shall apply under  
7 this compact.

8 SECTION 10—OVERSIGHT, DISPUTE RESOLUTION AND  
9 ENFORCEMENT

10 (a) (1) The executive and judicial branches of state government in  
11 each participating state shall enforce this compact and take all actions  
12 necessary and appropriate to implement the compact.

13 (2) Venue is proper and judicial proceedings by or against the  
14 commission shall be brought solely and exclusively in a court of  
15 competent jurisdiction where the principal office of the commission is  
16 located. The commission may waive venue and jurisdictional defenses to  
17 the extent it adopts or consents to participate in alternative dispute  
18 resolution proceedings. Nothing in this paragraph shall affect or limit the  
19 selection or propriety of venue in any action against a licensee for  
20 professional malpractice, misconduct or any such similar matter.

21 (3) The commission shall be entitled to receive service of process in  
22 any proceeding regarding the enforcement or interpretation of the compact  
23 or commission rule and shall have standing to intervene in such a  
24 proceeding for all purposes. Failure to provide the commission service of  
25 process shall render a judgment or order void as to the commission, this  
26 compact or promulgated rules.

27 (b) (1) If the commission determines that a participating state has  
28 defaulted in the performance of its obligations or responsibilities under  
29 this compact or the promulgated rules, the commission shall provide  
30 written notice to the defaulting state. The notice of default shall describe  
31 the default, the proposed means of curing the default and any other action  
32 that the commission may take and shall offer training and specific  
33 technical assistance regarding the default.

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

36 (c) If a state in default fails to cure the default, the defaulting state  
37 may be terminated from the compact upon an affirmative vote of a  
38 majority of the commissioners, and all rights, privileges and benefits  
39 conferred on that state by this compact may be terminated on the effective  
40 date of termination. A cure of the default does not relieve the offending  
41 state of obligations or liabilities incurred during the period of default.

42 (d) Termination of participation in the compact shall be imposed only  
43 after all other means of securing compliance have been exhausted. Notice

1 of intent to suspend or terminate shall be given by the commission to the  
2 governor, the majority and minority leaders of the defaulting state's  
3 legislature, the defaulting state's state licensing authority or authorities, as  
4 applicable, and each of the participating states' state licensing authority or  
5 authorities, as applicable.

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

10 (f) Upon the termination of a state's participation in this compact, that  
11 state shall immediately provide notice to all licensees of the state,  
12 including licensees of other participating states issued a compact privilege  
13 to practice within that state, of such termination. The terminated state shall  
14 continue to recognize all compact privileges then in effect in that state for  
15 a minimum of 180 days after the date of said notice of termination.

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

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

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

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

30 (j) (1) The commission, in the reasonable exercise of its discretion,  
31 shall enforce the provisions of this compact and the commission's rules.

32 (2) By majority vote, the commission may initiate legal action against  
33 a participating state in default in the United States district court for the  
34 District of Columbia or the federal district where the commission has its  
35 principal offices to enforce compliance with the provisions of the compact  
36 and its promulgated rules. The relief sought may include both injunctive  
37 relief and damages. In the event judicial enforcement is necessary, the  
38 prevailing party shall be awarded all costs of such litigation, including  
39 reasonable attorney fees. The remedies in this paragraph shall not be the  
40 exclusive remedies of the commission. The commission may pursue any  
41 other remedies available under federal or the defaulting participating  
42 state's law.

43 (3) A participating state may initiate legal action against the

1 commission in the United States district court for the District of Columbia  
2 or the federal district where the commission has its principal offices to  
3 enforce compliance with the provisions of the compact and its  
4 promulgated rules. The relief sought may include both injunctive relief and  
5 damages. In the event judicial enforcement is necessary, the prevailing  
6 party shall be awarded all costs of such litigation, including reasonable  
7 attorney fees.

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

10 SECTION 11—EFFECTIVE DATE, WITHDRAWAL AND  
11 AMENDMENT

12 (a) The compact shall come into effect on the date on which the  
13 compact statute is enacted into law in the seventh participating state.

14 (1) On or after the effective date of the compact, the commission  
15 shall convene and review the enactment of each of the states that enacted  
16 the compact prior to the commission convening, the charter participating  
17 states, to determine if the statute enacted by each such charter participating  
18 state is materially different than the model compact.

19 (A) A charter participating state whose enactment is found to be  
20 materially different from the model compact shall be entitled to the default  
21 process set forth in section 10 of this compact.

22 (B) If any participating state is later found to be in default, or is  
23 terminated or withdraws from the compact, the commission shall remain in  
24 existence and the compact shall remain in effect even if the number of  
25 participating states should be fewer than seven.

26 (2) Participating states enacting the compact subsequent to the charter  
27 participating states shall be subject to the process set forth in section 7(c)  
28 (23) of this compact to determine if their enactments are materially  
29 different from the model compact and whether they qualify for  
30 participation in the compact.

31 (3) All actions taken for the benefit of the commission or in  
32 furtherance of the purposes of the administration of the compact prior to  
33 the effective date of the compact or the commission coming into existence  
34 shall be considered to be actions of the commission unless specifically  
35 repudiated by the commission.

36 (4) Any state that joins the compact subsequent to the commission's  
37 initial adoption of the rules and bylaws shall be subject to the  
38 commission's rules and bylaws as they exist on the date on which the  
39 compact becomes law in that state. Any rule that has been previously  
40 adopted by the commission shall have the full force and effect of law on  
41 the day the compact becomes law in that state.

42 (b) Any participating state may withdraw from this compact by  
43 enacting a statute repealing that state's enactment of the compact.

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

3 (2) Withdrawal shall not affect the continuing requirement of the  
4 withdrawing state's licensing authority or authorities to comply with the  
5 investigative and adverse action reporting requirements of this compact  
6 prior to the effective date of withdrawal.

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

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

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

#### 21 SECTION 12—CONSTRUCTION AND SEVERABILITY

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

27 (b) The provisions of this compact shall be severable, and if any  
28 phrase, clause, sentence or provision of this compact is held by a court of  
29 competent jurisdiction to be contrary to the constitution of any  
30 participating state, a state seeking participation in the compact or of the  
31 United States, or the applicability thereof to any government, agency,  
32 person or circumstance is held to be unconstitutional by a court of  
33 competent jurisdiction, the validity of the remainder of this compact and  
34 the applicability thereof to any other government, agency, person or  
35 circumstance shall not be affected by such holding.

36 (c) Notwithstanding subsection (b), the commission may deny a  
37 state's participation in the compact or, in accordance with the requirements  
38 of section 10(b) of this compact, terminate a participating state's  
39 participation in the compact, if it determines that a constitutional  
40 requirement of a participating state is a material departure from the  
41 compact. Otherwise, if this compact shall be held to be contrary to the  
42 constitution of any participating state, the compact shall remain in full  
43 force and effect as to the remaining participating states and in full force

1 and effect as to the participating state affected as to all severable matters.

2 SECTION 13—CONSISTENT EFFECT AND CONFLICT WITH  
3 OTHER STATE LAWS

4 (a) Nothing in this compact shall prevent or inhibit the enforcement  
5 of any other law of a participating state that is not inconsistent with the  
6 compact.

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

10 (c) All permissible agreements between the commission and the  
11 participating states are binding in accordance with their terms.

12 Sec. 2. This act shall take effect and be in force from and after its  
13 publication in the statute book.