

SENATE BILL NO. 778

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR ESLINGER.

3931S.02I

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 332.211 and 332.281, RSMo, and to enact in lieu thereof three new sections relating to licensure of dentists and dental hygienists.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 332.211 and 332.281, RSMo, are
2 repealed and three new sections enacted in lieu thereof, to be
3 known as sections 332.211, 332.281, and 332.700, to read as
4 follows:

332.211. [The board shall grant without examination a
2 certificate of registration and a license to a dentist who
3 has been licensed in another state for at least five
4 consecutive years immediately preceding his applying, if the
5 board is satisfied by proof adduced by the applicant that
6 his qualifications are at least equivalent to the
7 requirements for initial registration as a dentist in
8 Missouri under the provisions of this chapter, that he is at
9 least twenty-one years of age and is of good moral character
10 and reputation; provided that the board may by rule require
11 an applicant under this section to take any examination over
12 Missouri laws given to dentists initially seeking licensure
13 under section 332.151 and to take a practical examination if
14 his licensure in any state was ever denied, revoked or
15 suspended for incompetency or inability to practice in a
16 safe manner, or if he has failed any practical examination
17 given as a prerequisite to licensure as a dentist in any

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 state. Any such dentist applying to be so registered and
19 licensed shall accompany his application with a fee not
20 greater than the dental examination and license fees and if
21 registered and licensed shall renew his license as provided
22 in section 332.181.] 1. As used in this section, the

23 following terms mean:

24 (1) "License", a license, certificate, registration,
25 permit, accreditation, or military occupational specialty
26 that enables a person to legally practice an occupation or
27 profession in a particular jurisdiction;

28 (2) "Military", the Armed Forces of the United States,
29 including the National Guard, all reserve components, and
30 any other military branch that is designated by the United
31 States Congress as part of the Armed Forces of the United
32 States. The term "military" shall include the military
33 reserves and militia of any territory or state of the United
34 States;

35 (3) "Nonresident military spouse", a nonresident
36 spouse of an active duty member of the Armed Forces of the
37 United States who has been transferred or is scheduled to be
38 transferred to this state, or who has been transferred or is
39 scheduled to be transferred to an adjacent state and is or
40 will be domiciled in this state, or has moved to this state
41 on a permanent change-of-station basis;

42 (4) "Resident military spouse", a spouse of an active
43 duty member of the Armed Forces of the United States who has
44 been transferred or is scheduled to be transferred to this
45 state or an adjacent state and who is a permanent resident
46 of this state, who is domiciled in this state, or who has
47 this state as his or her home of record.

48 2. Any person who holds a valid current dentist or
49 dental specialist license issued by another state, a branch

50 or unit of the military, a territory of the United States,
51 or the District of Columbia, and who has been licensed for
52 at least one year in such other jurisdiction, may submit an
53 application for a dentist or dental specialist license in
54 this state along with proof of current licensure and proof
55 of licensure for at least one year in the other
56 jurisdiction, to the board.

57 3. The board shall:

58 (1) Within six months of receiving an application
59 described in subsection 2 of this section, waive any
60 examination, educational, or experience requirements for
61 licensure in this state for the applicant if it determines
62 that there were minimum education requirements and, if
63 applicable, work experience and clinical supervision
64 requirements in effect and the other state verifies that the
65 person met those requirements in order to be licensed or
66 certified in that state. The board may require an applicant
67 to take and pass an examination specific to the laws of this
68 state; or

69 (2) Within thirty days of receiving an application
70 described in subsection 2 of this section from a nonresident
71 military spouse or a resident military spouse, waive any
72 examination, educational, or experience requirements for
73 licensure in this state for the applicant and issue such
74 applicant a license under this section if such applicant
75 otherwise meets the requirements of this section.

76 4. (1) The board shall not waive any examination,
77 educational, or experience requirements for any applicant
78 who has had his or her license revoked by a board of
79 dentistry outside the state; who is currently under
80 investigation, who has a complaint pending, or who is
81 currently under disciplinary action, except as provided in

82 subdivision (2) of this subsection, with a board of
83 dentistry outside the state; who does not hold a license in
84 good standing with a board of dentistry outside the state;
85 who has a criminal record that would disqualify him or her
86 for licensure in this state; or who does not hold a valid
87 current license in the other jurisdiction on the date the
88 board receives his or her application under this section.

89 (2) If another jurisdiction has taken disciplinary
90 action against an applicant, the board shall determine if
91 the cause for the action was corrected and the matter
92 resolved. If the matter has not been resolved by that
93 jurisdiction, the board may deny a license until the matter
94 is resolved.

95 5. Nothing in this section shall prohibit the board
96 from denying a license to an applicant under this section
97 for any reason described in section 337.525.

98 6. Any person who is licensed under the provisions of
99 this section shall be subject to the board's jurisdiction
100 and all rules and regulations pertaining to the practice as
101 a licensed dentist or dental specialist in this state.

102 7. This section shall not be construed to waive any
103 requirement for an applicant to pay any fees.

332.281. [The board shall grant without examination a
2 certificate of registration and license to a dental
3 hygienist who has been licensed in another state for at
4 least two consecutive years immediately preceding his
5 application to practice in Missouri if the board is
6 satisfied by proof adduced by the applicant that his
7 qualifications are at least equivalent to the requirements
8 for initial registration as a dental hygienist in Missouri
9 under the provisions of this chapter; provided that the
10 board may by rule require an applicant under this section to

11 take any examination over Missouri laws given to dental
12 hygienist initially seeking licensure under section 332.251
13 and to take a practical examination if his licensure in any
14 state was ever denied, revoked or suspended for incompetency
15 or inability to practice in a safe manner, or if he has
16 failed any practical examination given as a prerequisite to
17 licensure as a dental hygienist in any state. Any such
18 dental hygienist applying to be so registered and licensed
19 shall accompany his application with a fee not greater than
20 the dental hygienist examination and license fees and if
21 registered and licensed shall renew his license as provided
22 in section 332.261.] 1. As used in this section, the

23 following terms mean:

24 (1) "License", a license, certificate, registration,
25 permit, accreditation, or military occupational specialty
26 that enables a person to legally practice an occupation or
27 profession in a particular jurisdiction;

28 (2) "Military", the Armed Forces of the United States,
29 including the National Guard, all reserve components, and
30 any other military branch that is designated by the United
31 States Congress as part of the Armed Forces of the United
32 States. The term "military" shall include the military
33 reserves and militia of any territory or state of the United
34 States;

35 (3) "Nonresident military spouse", a nonresident
36 spouse of an active duty member of the Armed Forces of the
37 United States who has been transferred or is scheduled to be
38 transferred to this state, or who has been transferred or is
39 scheduled to be transferred to an adjacent state and is or
40 will be domiciled in this state, or has moved to this state
41 on a permanent change-of-station basis;

42 (4) "Resident military spouse", a spouse of an active
43 duty member of the Armed Forces of the United States who has
44 been transferred or is scheduled to be transferred to this
45 state or an adjacent state and who is a permanent resident
46 of this state, who is domiciled in this state, or who has
47 this state as his or her home of record.

48 2. Any person who holds a valid current dental
49 hygienist license issued by another state, a branch or unit
50 of the military, a territory of the United States, or the
51 District of Columbia, and who has been licensed for at least
52 one year in such other jurisdiction, may submit an
53 application for a dental hygienist license in this state
54 along with proof of current licensure and proof of licensure
55 for at least one year in the other jurisdiction, to the
56 board.

57 3. The board shall:

58 (1) Within six months of receiving an application
59 described in subsection 2 of this section, waive any
60 examination, educational, or experience requirements for
61 licensure in this state for the applicant if it determines
62 that there were minimum education requirements and, if
63 applicable, work experience and clinical supervision
64 requirements in effect and the other state verifies that the
65 person met those requirements in order to be licensed or
66 certified in that state. The board may require an applicant
67 to take and pass an examination specific to the laws of this
68 state; or

69 (2) Within thirty days of receiving an application
70 described in subsection 2 of this section from a nonresident
71 military spouse or a resident military spouse, waive any
72 examination, educational, or experience requirements for
73 licensure in this state for the applicant and issue such

74 applicant a license under this section if such applicant
75 otherwise meets the requirements of this section.

76 4. (1) The board shall not waive any examination,
77 educational, or experience requirements for any applicant
78 who has had his or her license revoked by a board of
79 dentistry outside the state; who is currently under
80 investigation, who has a complaint pending, or who is
81 currently under disciplinary action, except as provided in
82 paragraph (b) of this subsection, with a board of dentistry
83 outside the state; who does not hold a license in good
84 standing with a board of dentistry outside the state; who
85 has a criminal record that would disqualify him or her for
86 licensure in this state; or who does not hold a valid
87 current license in the other jurisdiction on the date the
88 board receives his or her application under this section.

89 (2) If another jurisdiction has taken disciplinary
90 action against an applicant, the board shall determine if
91 the cause for the action was corrected and the matter
92 resolved. If the matter has not been resolved by that
93 jurisdiction, the board may deny a license until the matter
94 is resolved.

95 5. Nothing in this section shall prohibit the board
96 from denying a license to an applicant under this section
97 for any reason described in section 337.525.

98 6. Any person who is licensed under the provisions of
99 this section shall be subject to the board's jurisdiction
100 and all rules and regulations pertaining to the practice as
101 a licensed dental hygienist in this state.

102 7. This section shall not be construed to waive any
103 requirement for an applicant to pay any fees.

332.700. SECTION 1. TITLE AND PURPOSE

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

19 A. Enables Dentists and Dental Hygienists who qualify
20 for a Compact Privilege to practice in other Participating
21 States without satisfying burdensome and duplicative
22 requirements associated with securing a License to practice
23 in those States;

24 B. Promotes mobility and addresses workforce shortages
25 through each Participating State's acceptance of a Compact
26 Privilege to practice in that State;

27 C. Increases public access to qualified, licensed
28 Dentists and Dental Hygienists by creating a responsible,
29 streamlined pathway for Licensees to practice in
30 Participating States.

31 D. Enhances the ability of Participating States to
32 protect the public's health and safety;

33 E. Does not interfere with licensure requirements
34 established by a Participating State;

35 F. Facilitates the sharing of licensure and
36 disciplinary information among Participating States;

37 G. Requires Dentists and Dental Hygienists who
38 practice in a Participating State pursuant to a Compact
39 Privilege to practice within the Scope of Practice
40 authorized in that State;

41 H. Extends the authority of a Participating State to
42 regulate the practice of dentistry and dental hygiene within
43 its borders to Dentists and Dental Hygienists who practice
44 in the State through a Compact Privilege;

45 I. Promotes the cooperation of Participating States in
46 regulating the practice of dentistry and dental hygiene
47 within those States;

48 J. Facilitates the relocation of military members and
49 their spouses who are licensed to practice dentistry or
50 dental hygiene;

51 SECTION 2. DEFINITIONS

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

54 A. "Active Military Member" means any person with full-
55 time duty status in the armed forces of the United States,
56 including members of the National Guard and Reserve.

57 B. "Adverse Action" means disciplinary action or
58 encumbrance imposed on a License or Compact Privilege by a
59 State Licensing Authority.

60 C. "Alternative Program" means a non-disciplinary
61 monitoring or practice remediation process applicable to a
62 Dentist or Dental Hygienist approved by a State Licensing
63 Authority of a Participating State in which the Dentist or
64 Dental Hygienist is licensed. This includes, but is not

65 limited to, programs to which Licensees with substance abuse
66 or addiction issues are referred in lieu of Adverse Action.

67 D. "Clinical Assessment" means examination or process,
68 required for licensure as a Dentist or Dental Hygienist as
69 applicable, that provides evidence of clinical competence in
70 dentistry or dental hygiene.

71 E. "Commissioner" means the individual appointed by a
72 Participating State to serve as the member of the Commission
73 for that Participating State.

74 F. "Compact" means this Dentist and Dental Hygienist
75 Compact.

76 G. "Compact Privilege" means the authorization granted
77 by a Remote State to allow a Licensee from a Participating
78 State to practice as a Dentist or Dental Hygienist in a
79 Remote State.

80 H. "Continuing Professional Development" means a
81 requirement, as a condition of License renewal to provide
82 evidence of successful participation in educational or
83 professional activities relevant to practice or area of work.

84 I. "Criminal Background Check" means the submission of
85 fingerprints or other biometric-based information for a
86 License applicant for the purpose of obtaining that
87 applicant's criminal history record information, as defined
88 in 28 C.F.R. § 20.3(d) from the Federal Bureau of
89 Investigation and the State's criminal history record
90 repository as defined in 28 C.F.R. § 20.3(f).

91 J. "Data System" means the Commission's repository of
92 information about Licensees, including but not limited to
93 examination, licensure, investigative, Compact Privilege,
94 Adverse Action, and Alternative Program.

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

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

100 M. "Dentist and Dental Hygienist Compact Commission"
101 or "Commission" means a joint government agency established
102 by this Compact comprised of each State that has enacted the
103 Compact and a national administrative body comprised of a
104 Commissioner from each State that has enacted the Compact.

105 N. "Encumbered License" means a License that a State
106 Licensing Authority has limited in any way other than
107 through an Alternative Program.

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

111 P. "Jurisprudence Requirement" means the assessment of
112 an individual's knowledge of the laws and Rules governing
113 the practice of dentistry or dental hygiene, as applicable,
114 in a State.

115 Q. "License" means current authorization by a State,
116 other than authorization pursuant to a Compact Privilege, or
117 other privilege, for an individual to practice as a Dentist
118 or Dental Hygienist in that State.

119 R. "Licensee" means an individual who holds an
120 unrestricted License from a Participating State to practice
121 as a Dentist or Dental Hygienist in that State.

122 S. "Model Compact" the model for the Dentist and
123 Dental Hygienist Compact on file with the Council of State
124 Governments or other entity as designated by the Commission.

125 T. "Participating State" means a State that has
126 enacted the Compact and been admitted to the Commission in
127 accordance with the provisions herein and Commission Rules.

128 U. "Qualifying License" means a License that is not an
129 Encumbered License issued by a Participating State to
130 practice dentistry or dental hygiene.

131 V. "Remote State" means a Participating State where a
132 Licensee who is not licensed as a Dentist or Dental
133 Hygienist is exercising or seeking to exercise the Compact
134 Privilege.

135 W. "Rule" means a regulation promulgated by an entity
136 that has the force of law.

137 X. "Scope of Practice" means the procedures, actions,
138 and processes a Dentist or Dental Hygienist licensed in a
139 State is permitted to undertake in that State and the
140 circumstances under which the Licensee is permitted to
141 undertake those procedures, actions and processes. Such
142 procedures, actions and processes and the circumstances
143 under which they may be undertaken may be established
144 through means, including, but not limited to, statute,
145 regulations, case law, and other processes available to the
146 State Licensing Authority or other government agency.

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

155 Z. "State" means any state, commonwealth, district, or
156 territory of the United States of America that regulates the
157 practices of dentistry and dental hygiene.

158 AA. "State Licensing Authority" means an agency or
159 other entity of a State that is responsible for the
160 licensing and regulation of Dentists or Dental Hygienists.

161 SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

164 1. Enact a compact that is not materially different
165 from the Model Compact as determined in accordance with
166 Commission Rules;

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

168 3. Have a mechanism in place for receiving and
169 investigating complaints about its Licensees and License
170 applicants;

171 4. Notify the Commission, in compliance with the terms
172 of the Compact and Commission Rules, of any Adverse Action
173 or the availability of Significant Investigative Information
174 regarding a Licensee and License applicant;

175 5. Fully implement a Criminal Background Check
176 requirement, within a time frame established by Commission
177 Rule, by receiving the results of a qualifying Criminal
178 Background Check;

179 6. Comply with the Commission Rules applicable to a
180 Participating State;

181 7. Accept the National Board Examinations of the Joint
182 Commission on National Dental Examinations or another
183 examination accepted by Commission Rule as a licensure
184 examination;

185 8. Accept for licensure that applicants for a Dentist
186 License graduate from a predoctoral dental education program

187 accredited by the Commission on Dental Accreditation, or
188 another accrediting agency recognized by the United States
189 Department of Education for the accreditation of dentistry
190 and dental hygiene education programs, leading to the Doctor
191 of Dental Surgery (D.D.S.) or Doctor of Dental Medicine
192 (D.M.D.) degree;

193 9. Accept for licensure that applicants for a Dental
194 Hygienist License graduate from a dental hygiene education
195 program accredited by the Commission on Dental Accreditation
196 or another accrediting agency recognized by the United
197 States Department of Education for the accreditation of
198 dentistry and dental hygiene education programs;

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

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

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

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

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

210 1. Consider that information in making a licensure
211 decision;

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

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

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

226 SECTION 4. COMPACT PRIVILEGE

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

- 229 1. Have a Qualifying License as a Dentist or Dental
230 Hygienist in a Participating State;
- 231 2. Be eligible for a Compact Privilege in any Remote
232 State in accordance with D, G and H of this section;
- 233 3. Submit to an application process whenever the
234 Licensee is seeking a Compact Privilege;
- 235 4. Pay any applicable Commission and Remote State fees
236 for a Compact Privilege in the Remote State;
- 237 5. Meet any Jurisprudence Requirement established by a
238 Remote State in which the Licensee is seeking a Compact
239 Privilege;
- 240 6. Have passed a National Board Examination of the
241 Joint Commission on National Dental Examinations or another
242 examination accepted by Commission Rule;
- 243 7. For a Dentist, have graduated from a predoctoral
244 dental education program accredited by the Commission on
245 Dental Accreditation, or another accrediting agency
246 recognized by the United States Department of Education for
247 the accreditation of dentistry and dental hygiene education
248 programs, leading to the Doctor of Dental Surgery (D.D.S.)
249 or Doctor of Dental Medicine (D.M.D.) degree;

250 8. For a Dental Hygienist, have graduated from a
251 dental hygiene education program accredited by the
252 Commission on Dental Accreditation or another accrediting
253 agency recognized by the United States Department of
254 Education for the accreditation of dentistry and dental
255 hygiene education programs;

256 9. Have successfully completed a Clinical Assessment
257 for licensure;

258 10. Report to the Commission Adverse Action taken by
259 any non-Participating State when applying for a Compact
260 Privilege and, otherwise, within thirty (30) days from the
261 date the Adverse Action is taken;

262 11. Report to the Commission when applying for a
263 Compact Privilege the address of the Licensee's primary
264 residence and thereafter immediately report to the
265 Commission any change in the address of the Licensee's
266 primary residence; and

267 12. Consent to accept service of process by mail at
268 the Licensee's primary residence on record with the
269 Commission with respect to any action brought against the
270 Licensee by the Commission or a Participating State, and
271 consent to accept service of a subpoena by mail at the
272 Licensee's primary residence on record with the Commission
273 with respect to any action brought or investigation
274 conducted by the Commission or a Participating State.

275 B. The Licensee must comply with the requirements of
276 subsection A of this section to maintain the Compact
277 Privilege in the Remote State. If those requirements are
278 met, the Compact Privilege will continue as long as the
279 Licensee maintains a Qualifying License in the State through
280 which the Licensee applied for the Compact Privilege and
281 pays any applicable Compact Privilege renewal fees.

282 C. A Licensee providing dentistry or dental hygiene in
283 a Remote State under the Compact Privilege shall function
284 within the Scope of Practice authorized by the Remote State
285 for a Dentist or Dental Hygienist licensed in that State.

286 D. A Licensee providing dentistry or dental hygiene
287 pursuant to a Compact Privilege in a Remote State is subject
288 to that State's regulatory authority. A Remote State may,
289 in accordance with due process and that State's laws, by
290 Adverse Action revoke or remove a Licensee's Compact
291 Privilege in the Remote State for a specific period of time
292 and impose fines or take any other necessary actions to
293 protect the health and safety of its citizens. If a Remote
294 State imposes an Adverse Action against a Compact Privilege
295 that limits the Compact Privilege, that Adverse Action
296 applies to all Compact Privileges in all Remote States. A
297 Licensee whose Compact Privilege in a Remote State is
298 removed for a specified period of time is not eligible for a
299 Compact Privilege in any other Remote State until the
300 specific time for removal of the Compact Privilege has
301 passed and all encumbrance requirements are satisfied.

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

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

311 G. If a Licensee's Compact Privilege in a Remote State
312 is removed by the Remote State, the individual shall lose or

313 be ineligible for the Compact Privilege in any Remote State
314 until the following occur:

315 1. The specific period of time for which the Compact
316 Privilege was removed has ended; and

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

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

323 SECTION 5. ACTIVE MILITARY MEMBER OR THEIR SPOUSES

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

330 SECTION 6. ADVERSE ACTIONS

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

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

339 C. Nothing in this Compact shall override a
340 Participating State's decision that participation in an
341 Alternative Program may be used in lieu of Adverse Action
342 and that such participation shall remain non-public if
343 required by the Participating State's laws. Participating
344 States must require Licensees who enter any Alternative

345 Program in lieu of discipline to agree not to practice
346 pursuant to a Compact Privilege in any other Participating
347 State during the term of the Alternative Program without
348 prior authorization from such other Participating State.

349 D. Any Participating State in which a Licensee is
350 applying to practice or is practicing pursuant to a Compact
351 Privilege may investigate actual or alleged violations of
352 the statutes and regulations authorizing the practice of
353 dentistry or dental hygiene in any other Participating State
354 in which the Dentist or Dental Hygienist holds a License or
355 Compact Privilege.

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

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

359 2. In furtherance of its rights and responsibilities
360 under the Compact and the Commission's Rules issue subpoenas
361 for both hearings and investigations that require the
362 attendance and testimony of witnesses, and the production of
363 evidence. Subpoenas issued by a State Licensing Authority in
364 a Participating State for the attendance and testimony of
365 witnesses, or the production of evidence from another
366 Participating State, shall be enforced in the latter State
367 by any court of competent jurisdiction, according to the
368 practice and procedure of that court applicable to subpoenas
369 issued in proceedings pending before it. The issuing
370 authority shall pay any witness fees, travel expenses,

371 mileage, and other fees required by the service statutes of
372 the State where the witnesses or evidence are located; and

373 3. If otherwise permitted by State law, recover from
374 the Licensee the costs of investigations and disposition of
375 cases resulting from any Adverse Action taken against that
376 Licensee.

377 F. Joint Investigations

378 1. In addition to the authority granted to a
379 Participating State by its Dentist or Dental Hygienist
380 licensure act or other applicable State law, a Participating
381 State may jointly investigate Licensees with other
382 Participating States.

383 2. Participating States shall share any Significant
384 Investigative Information, litigation, or compliance
385 materials in furtherance of any joint or individual
386 investigation initiated under the Compact.

387 G. Authority to Continue Investigation

388 1. After a Licensee's Compact Privilege in a Remote
389 State is terminated, the Remote State may continue an
390 investigation of the Licensee that began when the Licensee
391 had a Compact Privilege in that Remote State.

392 2. If the investigation yields what would be
393 Significant Investigative Information had the Licensee
394 continued to have a Compact Privilege in that Remote State,
395 the Remote State shall report the presence of such
396 information to the Data System as required by Section 8.B.6
397 as if it was Significant Investigative Information.

398 SECTION 7. ESTABLISHMENT AND OPERATION OF THE
399 COMMISSION.

400 A. The Compact Participating States hereby create and
401 establish a joint government agency whose membership
402 consists of all Participating States that have enacted the
403 Compact. The Commission is an instrumentality of the
404 Participating States acting jointly and not an
405 instrumentality of any one State. The Commission shall come
406 into existence on or after the effective date of the Compact
407 as set forth in Section 11A.

408 B. Participation, Voting, and Meetings

409 1. Each Participating State shall have and be limited
410 to one (1) Commissioner selected by that Participating
411 State's State Licensing Authority or, if the State has more
412 than one State Licensing Authority, selected collectively by
413 the State Licensing Authorities.

414 2. The Commissioner shall be a member or designee of
415 such Authority or Authorities.

416 3. The Commission may by Rule or bylaw establish a
417 term of office for Commissioners and may by Rule or bylaw
418 establish term limits.

419 4. The Commission may recommend to a State Licensing
420 Authority or Authorities, as applicable, removal or
421 suspension of an individual as the State's Commissioner.

422 5. A Participating State's State Licensing Authority,
423 or Authorities, as applicable, shall fill any vacancy of its
424 Commissioner on the Commission within sixty (60) days of the
425 vacancy.

426 6. Each Commissioner shall be entitled to one vote on
427 all matters that are voted upon by the Commission.

428 7. The Commission shall meet at least once during each
429 calendar year. Additional meetings may be held as set forth
430 in the bylaws. The Commission may meet by telecommunication,
431 video conference or other similar electronic means.

432 C. The Commission shall have the following powers:

433 1. Establish the fiscal year of the Commission;

434 2. Establish a code of conduct and conflict of
435 interest policies;

436 3. Adopt Rules and bylaws;

437 4. Maintain its financial records in accordance with
438 the bylaws;

439 5. Meet and take such actions as are consistent with
440 the provisions of this Compact, the Commission's Rules, and
441 the bylaws;

442 6. Initiate and conclude legal proceedings or actions
443 in the name of the Commission, provided that the standing of
444 any State Licensing Authority to sue or be sued under
445 applicable law shall not be affected;

446 7. Maintain and certify records and information
447 provided to a Participating State as the authenticated
448 business records of the Commission, and designate a person
449 to do so on the Commission's behalf;

450 8. Purchase and maintain insurance and bonds;

451 9. Borrow, accept, or contract for services of
452 personnel, including, but not limited to, employees of a
453 Participating State;

454 10. Conduct an annual financial review;

455 11. Hire employees, elect or appoint officers, fix
456 compensation, define duties, grant such individuals
457 appropriate authority to carry out the purposes of the
458 Compact, and establish the Commission's personnel policies
459 and programs relating to conflicts of interest,
460 qualifications of personnel, and other related personnel
461 matters;

462 12. As set forth in the Commission Rules, charge a fee
463 to a Licensee for the grant of a Compact Privilege in a
464 Remote State and thereafter, as may be established by
465 Commission Rule, charge the Licensee a Compact Privilege
466 renewal fee for each renewal period in which that Licensee
467 exercises or intends to exercise the Compact Privilege in
468 that Remote State. Nothing herein shall be construed to
469 prevent a Remote State from charging a Licensee a fee for a
470 Compact Privilege or renewals of a Compact Privilege, or a

471 fee for the Jurisprudence Requirement if the Remote State
472 imposes such a requirement for the grant of a Compact
473 Privilege;

474 13. Accept any and all appropriate gifts, donations,
475 grants of money, other sources of revenue, equipment,
476 supplies, materials, and services, and receive, utilize, and
477 dispose of the same; provided that at all times the
478 Commission shall avoid any appearance of impropriety and/or
479 conflict of interest;

480 14. Lease, purchase, retain, own, hold, improve, or
481 use any property, real, personal, or mixed, or any undivided
482 interest therein;

483 15. Sell, convey, mortgage, pledge, lease, exchange,
484 abandon, or otherwise dispose of any property real,
485 personal, or mixed;

486 16. Establish a budget and make expenditures;

487 17. Borrow money;

488 18. Appoint committees, including standing committees,
489 which may be composed of members, State regulators, State
490 legislators or their representatives, and consumer
491 representatives, and such other interested persons as may be
492 designated in this Compact and the bylaws;

493 19. Provide and receive information from, and
494 cooperate with, law enforcement agencies;

495 20. Elect a Chair, Vice Chair, Secretary and Treasurer
496 and such other officers of the Commission as provided in the
497 Commission's bylaws;

498 21. Establish and elect an Executive Board;

499 22. Adopt and provide to the Participating States an
500 annual report;

501 23. Determine whether a State's enacted compact is
502 materially different from the Model Compact language such

503 that the State would not qualify for participation in the
504 Compact; and

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

507 D. Meetings of the Commission

508 1. All meetings of the Commission that are not closed
509 pursuant to this subsection shall be open to the public.

510 Notice of public meetings shall be posted on the
511 Commission's website at least thirty (30) days prior to the
512 public meeting.

513 2. Notwithstanding subsection D.1 of this section, the
514 Commission may convene an emergency public meeting by
515 providing at least twenty-four (24) hours prior notice on
516 the Commission's website, and any other means as provided in
517 the Commission's Rules, for any of the reasons it may
518 dispense with notice of proposed rulemaking under Section
519 9.L. The Commission's legal counsel shall certify that one
520 of the reasons justifying an emergency public meeting has
521 been met.

522 3. Notice of all Commission meetings shall provide the
523 time, date, and location of the meeting, and if the meeting
524 is to be held or accessible via telecommunication, video
525 conference, or other electronic means, the notice shall
526 include the mechanism for access to the meeting through such
527 means.

528 4. The Commission may convene in a closed, non-public
529 meeting for the Commission to receive legal advice or to
530 discuss:

531 a. Non-compliance of a Participating State with its
532 obligations under the Compact;

533 b. The employment, compensation, discipline or other
534 matters, practices or procedures related to specific

535 employees or other matters related to the Commission's
536 internal personnel practices and procedures;

537 c. Current or threatened discipline of a Licensee or
538 Compact Privilege holder by the Commission or by a
539 Participating State's Licensing Authority;

540 d. Current, threatened, or reasonably anticipated
541 litigation;

542 e. Negotiation of contracts for the purchase, lease,
543 or sale of goods, services, or real estate;

544 f. Accusing any person of a crime or formally
545 censuring any person;

546 g. Trade secrets or commercial or financial
547 information that is privileged or confidential;

548 h. Information of a personal nature where disclosure
549 would constitute a clearly unwarranted invasion of personal
550 privacy;

551 i. Investigative records compiled for law enforcement
552 purposes;

553 j. Information related to any investigative reports
554 prepared by or on behalf of or for use of the Commission or
555 other committee charged with responsibility of investigation
556 or determination of compliance issues pursuant to the
557 Compact;

558 k. Legal advice;

559 l. Matters specifically exempted from disclosure to
560 the public by federal or Participating State law; and

561 m. Other matters as promulgated by the Commission by
562 Rule.

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

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

576 E. Financing of the Commission

577 1. The Commission shall pay, or provide for the
578 payment of, the reasonable expenses of its establishment,
579 organization, and ongoing activities.

580 2. The Commission may accept any and all appropriate
581 sources of revenue, donations, and grants of money,
582 equipment, supplies, materials, and services.

583 3. The Commission may levy on and collect an annual
584 assessment from each Participating State and impose fees on
585 Licensees of Participating States when a Compact Privilege
586 is granted, to cover the cost of the operations and
587 activities of the Commission and its staff, which must be in
588 a total amount sufficient to cover its annual budget as
589 approved each fiscal year for which sufficient revenue is
590 not provided by other sources. The aggregate annual
591 assessment amount for Participating States shall be
592 allocated based upon a formula that the Commission shall
593 promulgate by Rule.

594 4. The Commission shall not incur obligations of any
595 kind prior to securing the funds adequate to meet the same;
596 nor shall the Commission pledge the credit of any
597 Participating State, except by and with the authority of the
598 Participating State.

599 5. The Commission shall keep accurate accounts of all
600 receipts and disbursements. The receipts and disbursements
601 of the Commission shall be subject to the financial review
602 and accounting procedures established under its bylaws. All
603 receipts and disbursements of funds handled by the
604 Commission shall be subject to an annual financial review by
605 a certified or licensed public accountant, and the report of
606 the financial review shall be included in and become part of
607 the annual report of the Commission.

608 F. The Executive Board

609 1. The Executive Board shall have the power to act on
610 behalf of the Commission according to the terms of this
611 Compact. The powers, duties, and responsibilities of the
612 Executive Board shall include:

613 a. Overseeing the day-to-day activities of the
614 administration of the Compact including compliance with the
615 provisions of the Compact and the Commission's Rules and
616 bylaws;

617 b. Recommending to the Commission changes to the Rules
618 or bylaws, changes to this Compact legislation, fees charged
619 to Compact Participating States, fees charged to Licensees,
620 and other fees;

621 c. Ensuring Compact administration services are
622 appropriately provided, including by contract;

623 d. Preparing and recommending the budget;

624 e. Maintaining financial records on behalf of the
625 Commission;

626 f. Monitoring Compact compliance of Participating
627 States and providing compliance reports to the Commission;

628 g. Establishing additional committees as necessary;

629 h. Exercising the powers and duties of the Commission
630 during the interim between Commission meetings, except for

631 adopting or amending Rules, adopting or amending bylaws, and
632 exercising any other powers and duties expressly reserved to
633 the Commission by Rule or bylaw; and

634 i. Other duties as provided in the Rules or bylaws of
635 the Commission.

636 2. The Executive Board shall be composed of up to
637 seven (7) members:

638 a. The Chair, Vice Chair, Secretary and Treasurer of
639 the commission and any other members of the Commission who
640 serve on the Executive Board shall be voting members of the
641 Executive Board; and

642 b. Other than the Chair, Vice Chair, Secretary, and
643 Treasurer, the Commission may elect up to three (3) voting
644 members from the current membership of the Commission.

645 3. The Commission may remove any member of the
646 Executive Board as provided in the Commission's bylaws.

647 4. The Executive Board shall meet at least annually.

648 a. An Executive Board meeting at which it takes or
649 intends to take formal action on a matter shall be open to
650 the public, except that the Executive Board may meet in a
651 closed, non-public session of a public meeting when dealing
652 with any of the matters covered under subsection D.4.

653 b. The Executive Board shall give five (5) business
654 days' notice of its public meetings, posted on its website
655 and as it may otherwise determine to provide notice to
656 persons with an interest in the public matters the Executive
657 Board intends to address at those meetings.

658 5. The Executive Board may hold an emergency meeting
659 when acting for the Commission to:

660 a. Meet an imminent threat to public health, safety,
661 or welfare;

662 b. Prevent a loss of Commission or Participating State
663 funds; or

664 c. Protect public health and safety.

665 G. Qualified Immunity, Defense, and Indemnification.

666 1. The members, officers, executive director,
667 employees and representatives of the Commission shall be
668 immune from suit and liability, both personally and in their
669 official capacity, for any claim for damage to or loss of
670 property or personal injury or other civil liability caused
671 by or arising out of any actual or alleged act, error, or
672 omission that occurred, or that the person against whom the
673 claim is made had a reasonable basis for believing occurred
674 within the scope of Commission employment, duties or
675 responsibilities; provided that nothing in this paragraph
676 shall be construed to protect any such person from suit or
677 liability for any damage, loss, injury, or liability caused
678 by the intentional or willful or wanton misconduct of that
679 person. The procurement of insurance of any type by the
680 Commission shall not in any way compromise or limit the
681 immunity granted hereunder.

682 2. The Commission shall defend any member, officer,
683 executive director, employee, and representative of the
684 Commission in any civil action seeking to impose liability
685 arising out of any actual or alleged act, error, or omission
686 that occurred within the scope of Commission employment,
687 duties, or responsibilities, or as determined by the
688 Commission that the person against whom the claim is made
689 had a reasonable basis for believing occurred within the
690 scope of Commission employment, duties, or responsibilities;
691 provided that nothing herein shall be construed to prohibit
692 that person from retaining their own counsel at their own
693 expense; and provided further, that the actual or alleged

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

696 3. Notwithstanding subsection G.1 of this section,
697 should any member, officer, executive director, employee, or
698 representative of the Commission be held liable for the
699 amount of any settlement or judgment arising out of any
700 actual or alleged act, error, or omission that occurred
701 within the scope of that individual's employment, duties, or
702 responsibilities for the Commission, or that the person to
703 whom that individual is liable had a reasonable basis for
704 believing occurred within the scope of the individual's
705 employment, duties, or responsibilities for the Commission,
706 the Commission shall indemnify and hold harmless such
707 individual, provided that the actual or alleged act, error,
708 or omission did not result from the intentional or willful
709 or wanton misconduct of the individual.

710 4. Nothing herein shall be construed as a limitation
711 on the liability of any Licensee for professional
712 malpractice or misconduct, which shall be governed solely by
713 any other applicable State laws.

714 5. Nothing in this Compact shall be interpreted to
715 waive or otherwise abrogate a Participating State's state
716 action immunity or state action affirmative defense with
717 respect to antitrust claims under the Sherman Act, Clayton
718 Act, or any other State or federal antitrust or
719 anticompetitive law or regulation.

720 6. Nothing in this Compact shall be construed to be a
721 waiver of sovereign immunity by the Participating States or
722 by the Commission.

723 SECTION 8. DATA SYSTEM

724 A. The Commission shall provide for the development,
725 maintenance, operation, and utilization of a coordinated

726 database and reporting system containing licensure, Adverse
727 Action, and the presence of Significant Investigative
728 Information on all Licensees and applicants for a License in
729 Participating States.

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

735 1. Identifying information;

736 2. Licensure data;

737 3. Adverse Actions against a Licensee, License
738 applicant or Compact Privilege and information related
739 thereto;

740 4. Non-confidential information related to Alternative
741 Program participation, the beginning and ending dates of
742 such participation, and other information related to such
743 participation;

744 5. Any denial of an application for licensure, and the
745 reason(s) for such denial, (excluding the reporting of any
746 criminal history record information where prohibited by law);

747 6. The presence of Significant Investigative
748 Information; and

749 7. Other information that may facilitate the
750 administration of this Compact or the protection of the
751 public, as determined by the Rules of the Commission.

752 C. The records and information provided to a
753 Participating State pursuant to this Compact or through the
754 Data System, when certified by the Commission or an agent
755 thereof, shall constitute the authenticated business records
756 of the Commission, and shall be entitled to any associated

757 hearsay exception in any relevant judicial, quasi-judicial
758 or administrative proceedings in a Participating State.

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

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

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

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

776 SECTION 9. RULEMAKING

777 A. The Commission shall promulgate reasonable Rules in
778 order to effectively and efficiently implement and
779 administer the purposes and provisions of the Compact. A
780 Commission Rule shall be invalid and have no force or effect
781 only if a court of competent jurisdiction holds that the
782 Rule is invalid because the Commission exercised its
783 rulemaking authority in a manner that is beyond the scope
784 and purposes of the Compact, or the powers granted
785 hereunder, or based upon another applicable standard of
786 review.

787 B. The Rules of the Commission shall have the force of
788 law in each Participating State, provided however that where

789 the Rules of the Commission conflict with the laws of the
790 Participating State that establish the Participating State's
791 Scope of Practice as held by a court of competent
792 jurisdiction, the Rules of the Commission shall be
793 ineffective in that State to the extent of the conflict.

794 C. The Commission shall exercise its Rulemaking powers
795 pursuant to the criteria set forth in this section and the
796 Rules adopted thereunder. Rules shall become binding as of
797 the date specified by the Commission for each Rule.

798 D. If a majority of the legislatures of the
799 Participating States rejects a Commission Rule or portion of
800 a Commission Rule, by enactment of a statute or resolution
801 in the same manner used to adopt the Compact, within four
802 (4) years of the date of adoption of the Rule, then such
803 Rule shall have no further force and effect in any
804 Participating State or to any State applying to participate
805 in the Compact.

806 E. Rules shall be adopted at a regular or special
807 meeting of the Commission.

808 F. Prior to adoption of a proposed Rule, the
809 Commission shall hold a public hearing and allow persons to
810 provide oral and written comments, data, facts, opinions,
811 and arguments.

812 G. Prior to adoption of a proposed Rule by the
813 Commission, and at least thirty (30) days in advance of the
814 meeting at which the Commission will hold a public hearing
815 on the proposed Rule, the Commission shall provide a Notice
816 of Proposed Rulemaking:

817 1. On the website of the Commission or other publicly
818 accessible platform;

819 2. To persons who have requested notice of the
820 Commission's notices of proposed rulemaking, and

821 3. In such other way(s) as the Commission may by Rule
822 specify.

823 H. The Notice of Proposed Rulemaking shall include:

824 1. The time, date, and location of the public hearing
825 at which the Commission will hear public comments on the
826 proposed Rule and, if different, the time, date, and
827 location of the meeting where the Commission will consider
828 and vote on the proposed Rule;

829 2. If the hearing is held via telecommunication, video
830 conference, or other electronic means, the Commission shall
831 include the mechanism for access to the hearing in the
832 Notice of Proposed Rulemaking;

833 3. The text of the proposed Rule and the reason
834 therefor;

835 4. A request for comments on the proposed Rule from
836 any interested person; and

837 5. The manner in which interested persons may submit
838 written comments.

839 I. All hearings will be recorded. A copy of the
840 recording and all written comments and documents received by
841 the Commission in response to the proposed Rule shall be
842 available to the public.

843 J. Nothing in this section shall be construed as
844 requiring a separate hearing on each Commission Rule. Rules
845 may be grouped for the convenience of the Commission at
846 hearings required by this section.

847 K. The Commission shall, by majority vote of all
848 Commissioners, take final action on the proposed Rule based
849 on the rulemaking record.

850 1. The Commission may adopt changes to the proposed
851 Rule provided the changes do not enlarge the original
852 purpose of the proposed Rule.

853 2. The Commission shall provide an explanation of the
854 reasons for substantive changes made to the proposed Rule as
855 well as reasons for substantive changes not made that were
856 recommended by commenters.

857 3. The Commission shall determine a reasonable
858 effective date for the Rule. Except for an emergency as
859 provided in subsection L, the effective date of the Rule
860 shall be no sooner than thirty (30) days after the
861 Commission issuing the notice that it adopted or amended the
862 Rule.

863 L. Upon determination that an emergency exists, the
864 Commission may consider and adopt an emergency Rule with 24
865 hours' notice, with opportunity to comment, provided that
866 the usual rulemaking procedures provided in the Compact and
867 in this section shall be retroactively applied to the Rule
868 as soon as reasonably possible, in no event later than
869 ninety (90) days after the effective date of the Rule. For
870 the purposes of this provision, an emergency Rule is one
871 that must be adopted immediately in order to:

872 1. Meet an imminent threat to public health, safety,
873 or welfare;

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

876 3. Meet a deadline for the promulgation of a Rule that
877 is established by federal law or rule; or

878 4. Protect public health and safety.

879 M. The Commission or an authorized committee of the
880 Commission may direct revisions to a previously adopted Rule
881 for purposes of correcting typographical errors, errors in
882 format, errors in consistency, or grammatical errors.

883 Public notice of any revisions shall be posted on the
884 website of the Commission. The revision shall be subject to

885 challenge by any person for a period of thirty (30) days
886 after posting. The revision may be challenged only on
887 grounds that the revision results in a material change to a
888 Rule. A challenge shall be made in writing and delivered to
889 the Commission prior to the end of the notice period. If no
890 challenge is made, the revision will take effect without
891 further action. If the revision is challenged, the revision
892 may not take effect without the approval of the Commission.

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

895 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND
896 ENFORCEMENT

897 A. Oversight

898 1. The executive and judicial branches of State
899 government in each Participating State shall enforce this
900 Compact and take all actions necessary and appropriate to
901 implement the Compact.

902 2. Venue is proper and judicial proceedings by or
903 against the Commission shall be brought solely and
904 exclusively in a court of competent jurisdiction where the
905 principal office of the Commission is located. The
906 Commission may waive venue and jurisdictional defenses to
907 the extent it adopts or consents to participate in
908 alternative dispute resolution proceedings. Nothing herein
909 shall affect or limit the selection or propriety of venue in
910 any action against a Licensee for professional malpractice,
911 misconduct or any such similar matter.

912 3. The Commission shall be entitled to receive service
913 of process in any proceeding regarding the enforcement or
914 interpretation of the Compact or Commission Rule and shall
915 have standing to intervene in such a proceeding for all
916 purposes. Failure to provide the Commission service of

917 process shall render a judgment or order void as to the
918 Commission, this Compact, or promulgated Rules.

919 B. Default, Technical Assistance, and Termination

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

929 2. The Commission shall provide a copy of the notice
930 of default to the other Participating States.

931 C. If a State in default fails to cure the default,
932 the defaulting State may be terminated from the Compact upon
933 an affirmative vote of a majority of the Commissioners, and
934 all rights, privileges and benefits conferred on that State
935 by this Compact may be terminated on the effective date of
936 termination. A cure of the default does not relieve the
937 offending State of obligations or liabilities incurred
938 during the period of default.

939 D. Termination of participation in the Compact shall
940 be imposed only after all other means of securing compliance
941 have been exhausted. Notice of intent to suspend or
942 terminate shall be given by the Commission to the governor,
943 the majority and minority leaders of the defaulting State's
944 legislature, the defaulting State's State Licensing
945 Authority or Authorities, as applicable, and each of the
946 Participating States' State Licensing Authority or
947 Authorities, as applicable.

948 E. A State that has been terminated is responsible for
949 all assessments, obligations, and liabilities incurred
950 through the effective date of termination, including
951 obligations that extend beyond the effective date of
952 termination.

953 F. Upon the termination of a State's participation in
954 this Compact, that State shall immediately provide notice to
955 all Licensees of the State, including Licensees of other
956 Participating States issued a Compact Privilege to practice
957 within that State, of such termination. The terminated
958 State shall continue to recognize all Compact Privileges
959 then in effect in that State for a minimum of one hundred
960 eighty (180) days after the date of said notice of
961 termination.

962 G. The Commission shall not bear any costs related to
963 a State that is found to be in default or that has been
964 terminated from the Compact, unless agreed upon in writing
965 between the Commission and the defaulting State.

966 H. The defaulting State may appeal the action of the
967 Commission by petitioning the U.S. District Court for the
968 District of Columbia or the federal district where the
969 Commission has its principal offices. The prevailing party
970 shall be awarded all costs of such litigation, including
971 reasonable attorney's fees.

972 I. Dispute Resolution

973 1. Upon request by a Participating State, the
974 Commission shall attempt to resolve disputes related to the
975 Compact that arise among Participating States and between
976 Participating States and non-Participating States.

977 2. The Commission shall promulgate a Rule providing
978 for both mediation and binding dispute resolution for
979 disputes as appropriate.

980 J. Enforcement

981 1. The Commission, in the reasonable exercise of its
982 discretion, shall enforce the provisions of this Compact and
983 the Commission's Rules.

984 2. By majority vote, the Commission may initiate legal
985 action against a Participating State in default in the
986 United States District Court for the District of Columbia or
987 the federal district where the Commission has its principal
988 offices to enforce compliance with the provisions of the
989 Compact and its promulgated Rules. The relief sought may
990 include both injunctive relief and damages. In the event
991 judicial enforcement is necessary, the prevailing party
992 shall be awarded all costs of such litigation, including
993 reasonable attorney's fees. The remedies herein shall not
994 be the exclusive remedies of the Commission. The Commission
995 may pursue any other remedies available under federal or the
996 defaulting Participating State's law.

997 3. A Participating State may initiate legal action
998 against the Commission in the U.S. District Court for the
999 District of Columbia or the federal district where the
1000 Commission has its principal offices to enforce compliance
1001 with the provisions of the Compact and its promulgated
1002 Rules. The relief sought may include both injunctive relief
1003 and damages. In the event judicial enforcement is
1004 necessary, the prevailing party shall be awarded all costs
1005 of such litigation, including reasonable attorney's fees.

1006 4. No individual or entity other than a Participating
1007 State may enforce this Compact against the Commission.

1008 SECTION 11. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

1009 A. The Compact shall come into effect on the date on
1010 which the Compact statute is enacted into law in the seventh
1011 Participating State.

1012 1. On or after the effective date of the Compact, the
1013 Commission shall convene and review the enactment of each of
1014 the States that enacted the Compact prior to the Commission
1015 convening ("Charter Participating States") to determine if
1016 the statute enacted by each such Charter Participating State
1017 is materially different than the Model Compact.

1018 a. A Charter Participating State whose enactment is
1019 found to be materially different from the Model Compact
1020 shall be entitled to the default process set forth in
1021 Section 10.

1022 b. If any Participating State is later found to be in
1023 default, or is terminated or withdraws from the Compact, the
1024 Commission shall remain in existence and the Compact shall
1025 remain in effect even if the number of Participating States
1026 should be less than seven (7).

1027 2. Participating States enacting the Compact
1028 subsequent to the Charter Participating States shall be
1029 subject to the process set forth in Section 7.C.23 to
1030 determine if their enactments are materially different from
1031 the Model Compact and whether they qualify for participation
1032 in the Compact.

1033 3. All actions taken for the benefit of the Commission
1034 or in furtherance of the purposes of the administration of
1035 the Compact prior to the effective date of the Compact or
1036 the Commission coming into existence shall be considered to
1037 be actions of the Commission unless specifically repudiated
1038 by the Commission.

1039 4. Any State that joins the Compact subsequent to the
1040 Commission's initial adoption of the Rules and bylaws shall
1041 be subject to the Commission's Rules and bylaws as they
1042 exist on the date on which the Compact becomes law in that
1043 State. Any Rule that has been previously adopted by the

1044 Commission shall have the full force and effect of law on
1045 the day the Compact becomes law in that State.

1046 B. Any Participating State may withdraw from this
1047 Compact by enacting a statute repealing that State's
1048 enactment of the Compact.

1049 1. A Participating State's withdrawal shall not take
1050 effect until one hundred eighty (180) days after enactment
1051 of the repealing statute.

1052 2. Withdrawal shall not affect the continuing
1053 requirement of the withdrawing State's Licensing Authority
1054 or Authorities to comply with the investigative and Adverse
1055 Action reporting requirements of this Compact prior to the
1056 effective date of withdrawal.

1057 3. Upon the enactment of a statute withdrawing from
1058 this Compact, the State shall immediately provide notice of
1059 such withdrawal to all Licensees within that State.
1060 Notwithstanding any subsequent statutory enactment to the
1061 contrary, such withdrawing State shall continue to recognize
1062 all Compact Privileges to practice within that State granted
1063 pursuant to this Compact for a minimum of one hundred eighty
1064 (180) days after the date of such notice of withdrawal.

1065 C. Nothing contained in this Compact shall be
1066 construed to invalidate or prevent any licensure agreement
1067 or other cooperative arrangement between a Participating
1068 State and a non-Participating State that does not conflict
1069 with the provisions of this Compact.

1070 D. This Compact may be amended by the Participating
1071 States. No amendment to this Compact shall become effective
1072 and binding upon any Participating State until it is enacted
1073 into the laws of all Participating States.

1074 SECTION 12. CONSTRUCTION AND SEVERABILITY

1075 A. This Compact and the Commission's rulemaking
1076 authority shall be liberally construed so as to effectuate
1077 the purposes, and the implementation and administration of
1078 the Compact. Provisions of the Compact expressly
1079 authorizing or requiring the promulgation of Rules shall not
1080 be construed to limit the Commission's rulemaking authority
1081 solely for those purposes.

1082 B. The provisions of this Compact shall be severable
1083 and if any phrase, clause, sentence or provision of this
1084 Compact is held by a court of competent jurisdiction to be
1085 contrary to the constitution of any Participating State, a
1086 State seeking participation in the Compact, or of the United
1087 States, or the applicability thereof to any government,
1088 agency, person or circumstance is held to be
1089 unconstitutional by a court of competent jurisdiction, the
1090 validity of the remainder of this Compact and the
1091 applicability thereof to any other government, agency,
1092 person or circumstance shall not be affected thereby.

1093 C. Notwithstanding subsection B of this section, the
1094 Commission may deny a State's participation in the Compact
1095 or, in accordance with the requirements of Section 10.B,
1096 terminate a Participating State's participation in the
1097 Compact, if it determines that a constitutional requirement
1098 of a Participating State is a material departure from the
1099 Compact. Otherwise, if this Compact shall be held to be
1100 contrary to the constitution of any Participating State, the
1101 Compact shall remain in full force and effect as to the
1102 remaining Participating States and in full force and effect
1103 as to the Participating State affected as to all severable
1104 matters.

1105 SECTION 13. CONSISTENT EFFECT AND CONFLICT WITH OTHER
1106 STATE LAWS

1107 A. Nothing herein shall prevent or inhibit the
1108 enforcement of any other law of a Participating State that
1109 is not inconsistent with the Compact.

1110 B. Any laws, statutes, regulations, or other legal
1111 requirements in a Participating State in conflict with the
1112 Compact are superseded to the extent of the conflict.

1113 C. All permissible agreements between the Commission
1114 and the Participating States are binding in accordance with
1115 their terms.

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