

SENATE BILL NO. 988

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN (26).

4727S.011

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 332, RSMo, by adding thereto one new section relating to licensure of dentists and dental hygienists.

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

Section A. Chapter 332, RSMo, is amended by adding thereto
2 one new section, to be known as section 332.700, to read as
3 follows:

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

under which they may be undertaken may be established through means, including, but not limited to, statute, regulations, case law, and other processes available to the State Licensing Authority or other government agency.

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

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

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

SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

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

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

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

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

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

Commission with respect to any action brought against the Licensee by the Commission or a Participating State, and consent to accept service of a subpoena by mail at the Licensee's primary residence on record with the Commission with respect to any action brought or investigation conducted by the Commission or a Participating State.

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

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

D. A Licensee providing dentistry or dental hygiene pursuant to a Compact Privilege in a Remote State is subject to that State's regulatory authority. A Remote State may, in accordance with due process and that State's laws, by Adverse Action revoke or remove a Licensee's Compact Privilege in the Remote State for a specific period of time and impose fines or take any other necessary actions to protect the health and safety of its citizens. If a Remote State imposes an Adverse Action against a Compact Privilege that limits the Compact Privilege, that Adverse Action applies to all Compact Privileges in all Remote States. A Licensee whose Compact Privilege in a Remote State is removed for a specified period of time is not eligible for a Compact Privilege in any other Remote State until the

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

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

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

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

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

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

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

SECTION 5. ACTIVE MILITARY MEMBER OR THEIR SPOUSES

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

SECTION 6. ADVERSE ACTIONS

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

evidence. Subpoenas issued by a State Licensing Authority in a Participating State for the attendance and testimony of witnesses, or the production of evidence from another Participating State, shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State where the witnesses or evidence are located; and

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

F. Joint Investigations

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

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

G. Authority to Continue Investigation

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

2. If the investigation yields what would be Significant Investigative Information had the Licensee continued to have a Compact Privilege in that Remote State,

the Remote State shall report the presence of such information to the Data System as required by Section 8.B.6 as if it was Significant Investigative Information.

SECTION 7. ESTABLISHMENT AND OPERATION OF THE COMMISSION

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

B. Participation, Voting, and Meetings

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

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

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

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

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

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
431 telecommunication, video conference or other similar
432 electronic means.

433 C. The Commission shall have the following powers:

434 1. Establish the fiscal year of the Commission;

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

437 3. Adopt Rules and bylaws;

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

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

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

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

451 8. Purchase and maintain insurance and bonds;

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

455 10. Conduct an annual financial review;

456 11. Hire employees, elect or appoint officers, fix
457 compensation, define duties, grant such individuals

appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

12. As set forth in the Commission Rules, charge a fee to a Licensee for the grant of a Compact Privilege in a Remote State and thereafter, as may be established by Commission Rule, charge the Licensee a Compact Privilege renewal fee for each renewal period in which that Licensee exercises or intends to exercise the Compact Privilege in that Remote State. Nothing herein shall be construed to prevent a Remote State from charging a Licensee a fee for a Compact Privilege or renewals of a Compact Privilege, or a fee for the Jurisprudence Requirement if the Remote State imposes such a requirement for the grant of a Compact Privilege;

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

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

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

16. Establish a budget and make expenditures;

17. Borrow money;

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

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

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

499 21. Establish and elect an Executive Board;

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

502 23. Determine whether a State's enacted compact is
503 materially different from the Model Compact language such
504 that the State would not qualify for participation in the
505 Compact; and

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

508 D. Meetings of the Commission

509 1. All meetings of the Commission that are not closed
510 pursuant to this subsection shall be open to the public.
511 Notice of public meetings shall be posted on the
512 Commission's website at least thirty (30) days prior to the
513 public meeting.

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

521 of the reasons justifying an emergency public meeting has
522 been met.

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

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

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

534 b. The employment, compensation, discipline or other
535 matters, practices or procedures related to specific
536 employees or other matters related to the Commission's
537 internal personnel practices and procedures;

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

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

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

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

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

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

i. Investigative records compiled for law enforcement purposes;

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

k. Legal advice;

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

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

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

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

E. Financing of the Commission

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

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

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

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

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

609 F. The Executive Board

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

614 a. Overseeing the day-to-day activities of the
615 administration of the Compact including compliance with the

616 provisions of the Compact and the Commission's Rules and
617 bylaws;

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

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

624 d. Preparing and recommending the budget;

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

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

629 g. Establishing additional committees as necessary;

630 h. Exercising the powers and duties of the Commission
631 during the interim between Commission meetings, except for
632 adopting or amending Rules, adopting or amending bylaws, and
633 exercising any other powers and duties expressly reserved to
634 the Commission by Rule or bylaw; and

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

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

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

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

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

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

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

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

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

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

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

665 c. Protect public health and safety.

666 G. Qualified Immunity, Defense, and Indemnification

667 1. The members, officers, executive director,
668 employees and representatives of the Commission shall be
669 immune from suit and liability, both personally and in their
670 official capacity, for any claim for damage to or loss of
671 property or personal injury or other civil liability caused
672 by or arising out of any actual or alleged act, error, or
673 omission that occurred, or that the person against whom the
674 claim is made had a reasonable basis for believing occurred
675 within the scope of Commission employment, duties or
676 responsibilities; provided that nothing in this paragraph
677 shall be construed to protect any such person from suit or
678 liability for any damage, loss, injury, or liability caused
679 by the intentional or willful or wanton misconduct of that

680 person. The procurement of insurance of any type by the
681 Commission shall not in any way compromise or limit the
682 immunity granted hereunder.

683 2. The Commission shall defend any member, officer,
684 executive director, employee, and representative of the
685 Commission in any civil action seeking to impose liability
686 arising out of any actual or alleged act, error, or omission
687 that occurred within the scope of Commission employment,
688 duties, or responsibilities, or as determined by the
689 Commission that the person against whom the claim is made
690 had a reasonable basis for believing occurred within the
691 scope of Commission employment, duties, or responsibilities;
692 provided that nothing herein shall be construed to prohibit
693 that person from retaining their own counsel at their own
694 expense; and provided further, that the actual or alleged
695 act, error, or omission did not result from that person's
696 intentional or willful or wanton misconduct.

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

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

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

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

724 SECTION 8. DATA SYSTEM

725 A. The Commission shall provide for the development,
726 maintenance, operation, and utilization of a coordinated
727 database and reporting system containing licensure, Adverse
728 Action, and the presence of Significant Investigative
729 Information on all Licensees and applicants for a License in
730 Participating States.

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

736 1. Identifying information;

737 2. Licensure data;

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

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

743 such participation, and other information related to such
744 participation;

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

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

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

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

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

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

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

773 G. Any information submitted to the Data System that
774 is subsequently expunged pursuant to federal law or the laws

of the Participating State contributing the information shall be removed from the Data System.

SECTION 9. RULEMAKING

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

B. The Rules of the Commission shall have the force of law in each Participating State, provided however that where the Rules of the Commission conflict with the laws of the Participating State that establish the Participating State's Scope of Practice as held by a court of competent jurisdiction, the Rules of the Commission shall be ineffective in that State to the extent of the conflict.

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

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

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

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

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

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

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

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

824 H. The Notice of Proposed Rulemaking shall include:

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

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

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

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

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

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

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

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

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

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

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

864 L. Upon determination that an emergency exists, the
865 Commission may consider and adopt an emergency Rule with 24
866 hours' notice, with opportunity to comment, provided that
867 the usual rulemaking procedures provided in the Compact and
868 in this section shall be retroactively applied to the Rule
869 as soon as reasonably possible, in no event later than

ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

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

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

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

4. Protect public health and safety.

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

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

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

SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive and judicial branches of State government in each Participating State shall enforce this

901 Compact and take all actions necessary and appropriate to
902 implement the Compact.

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

913 3. The Commission shall be entitled to receive service
914 of process in any proceeding regarding the enforcement or
915 interpretation of the Compact or Commission Rule and shall
916 have standing to intervene in such a proceeding for all
917 purposes. Failure to provide the Commission service of
918 process shall render a judgment or order void as to the
919 Commission, this Compact, or promulgated Rules.

920 B. Default, Technical Assistance, and Termination

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

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

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

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

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

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

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

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

973 I. Dispute Resolution

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

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

981 J. Enforcement

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

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

995 be the exclusive remedies of the Commission. The Commission
996 may pursue any other remedies available under federal or the
997 defaulting Participating State's law.

998 3. A Participating State may initiate legal action
999 against the Commission in the U.S. District Court for the
1000 District of Columbia or the federal district where the
1001 Commission has its principal offices to enforce compliance
1002 with the provisions of the Compact and its promulgated
1003 Rules. The relief sought may include both injunctive relief
1004 and damages. In the event judicial enforcement is
1005 necessary, the prevailing party shall be awarded all costs
1006 of such litigation, including reasonable attorney's fees.

1007 4. No individual or entity other than a Participating
1008 State may enforce this Compact against the Commission.

1009 SECTION 11. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

1010 A. The Compact shall come into effect on the date on
1011 which the Compact statute is enacted into law in the seventh
1012 Participating State.

1013 1. On or after the effective date of the Compact, the
1014 Commission shall convene and review the enactment of each of
1015 the States that enacted the Compact prior to the Commission
1016 convening ("Charter Participating States") to determine if
1017 the statute enacted by each such Charter Participating State
1018 is materially different than the Model Compact.

1019 a. A Charter Participating State whose enactment is
1020 found to be materially different from the Model Compact
1021 shall be entitled to the default process set forth in
1022 Section 10.

1023 b. If any Participating State is later found to be in
1024 default, or is terminated or withdraws from the Compact, the
1025 Commission shall remain in existence and the Compact shall

1026 remain in effect even if the number of Participating States
1027 should be less than seven (7).

1028 2. Participating States enacting the Compact
1029 subsequent to the Charter Participating States shall be
1030 subject to the process set forth in Section 7.C.23 to
1031 determine if their enactments are materially different from
1032 the Model Compact and whether they qualify for participation
1033 in the Compact.

1034 3. All actions taken for the benefit of the Commission
1035 or in furtherance of the purposes of the administration of
1036 the Compact prior to the effective date of the Compact or
1037 the Commission coming into existence shall be considered to
1038 be actions of the Commission unless specifically repudiated
1039 by the Commission.

1040 4. Any State that joins the Compact subsequent to the
1041 Commission's initial adoption of the Rules and bylaws shall
1042 be subject to the Commission's Rules and bylaws as they
1043 exist on the date on which the Compact becomes law in that
1044 State. Any Rule that has been previously adopted by the
1045 Commission shall have the full force and effect of law on
1046 the day the Compact becomes law in that State.

1047 B. Any Participating State may withdraw from this
1048 Compact by enacting a statute repealing that State's
1049 enactment of the Compact.

1050 1. A Participating State's withdrawal shall not take
1051 effect until one hundred eighty (180) days after enactment
1052 of the repealing statute.

1053 2. Withdrawal shall not affect the continuing
1054 requirement of the withdrawing State's Licensing Authority
1055 or Authorities to comply with the investigative and Adverse
1056 Action reporting requirements of this Compact prior to the
1057 effective date of withdrawal.

1058 3. Upon the enactment of a statute withdrawing from
1059 this Compact, the State shall immediately provide notice of
1060 such withdrawal to all Licensees within that State.
1061 Notwithstanding any subsequent statutory enactment to the
1062 contrary, such withdrawing State shall continue to recognize
1063 all Compact Privileges to practice within that State granted
1064 pursuant to this Compact for a minimum of one hundred eighty
1065 (180) days after the date of such notice of withdrawal.

1066 C. Nothing contained in this Compact shall be
1067 construed to invalidate or prevent any licensure agreement
1068 or other cooperative arrangement between a Participating
1069 State and a non-Participating State that does not conflict
1070 with the provisions of this Compact.

1071 D. This Compact may be amended by the Participating
1072 States. No amendment to this Compact shall become effective
1073 and binding upon any Participating State until it is enacted
1074 into the laws of all Participating States.

1075 SECTION 12. CONSTRUCTION AND SEVERABILITY

1076 A. This Compact and the Commission's rulemaking
1077 authority shall be liberally construed so as to effectuate
1078 the purposes, and the implementation and administration of
1079 the Compact. Provisions of the Compact expressly
1080 authorizing or requiring the promulgation of Rules shall not
1081 be construed to limit the Commission's rulemaking authority
1082 solely for those purposes.

1083 B. The provisions of this Compact shall be severable
1084 and if any phrase, clause, sentence or provision of this
1085 Compact is held by a court of competent jurisdiction to be
1086 contrary to the constitution of any Participating State, a
1087 State seeking participation in the Compact, or of the United
1088 States, or the applicability thereof to any government,
1089 agency, person or circumstance is held to be

1090 unconstitutional by a court of competent jurisdiction, the
1091 validity of the remainder of this Compact and the
1092 applicability thereof to any other government, agency,
1093 person or circumstance shall not be affected thereby.

1094 C. Notwithstanding subsection B of this section, the
1095 Commission may deny a State's participation in the Compact
1096 or, in accordance with the requirements of Section 10.B,
1097 terminate a Participating State's participation in the
1098 Compact, if it determines that a constitutional requirement
1099 of a Participating State is a material departure from the
1100 Compact. Otherwise, if this Compact shall be held to be
1101 contrary to the constitution of any Participating State, the
1102 Compact shall remain in full force and effect as to the
1103 remaining Participating States and in full force and effect
1104 as to the Participating State affected as to all severable
1105 matters.

1106 SECTION 13. CONSISTENT EFFECT AND CONFLICT WITH OTHER
1107 STATE LAWS

1108 A. Nothing herein shall prevent or inhibit the
1109 enforcement of any other law of a Participating State that
1110 is not inconsistent with the Compact.

1111 B. Any laws, statutes, regulations, or other legal
1112 requirements in a Participating State in conflict with the
1113 Compact are superseded to the extent of the conflict.

1114 C. All permissible agreements between the Commission
1115 and the Participating States are binding in accordance with
1116 their terms.

✓