

1 SENATE BILL 433

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Harold Pope

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9  
10 AN ACT

11 RELATING TO INTERGOVERNMENTAL AGREEMENTS; ENACTING THE DENTIST  
12 AND DENTAL HYGIENIST INTERSTATE COMPACT.

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be  
16 cited as the "Dentist and Dental Hygienist Interstate Compact".

17 SECTION 2. [NEW MATERIAL] PURPOSE.--The purposes of this  
18 compact are to facilitate the interstate practice of dentistry  
19 and dental hygiene and improve public access to dentistry and  
20 dental hygiene services by providing dentists and dental  
21 hygienists licensed in a participating state the ability to  
22 practice in participating states in which they are not  
23 licensed. The compact does this by establishing a pathway for  
24 a dentists and dental hygienists licensed in a participating  
25 state to obtain a compact privilege that authorizes them to

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1 practice in another participating state in which they are not  
2 licensed. The compact enables participating states to protect  
3 the public health and safety with respect to the practice of  
4 such dentists and dental hygienists through the state's  
5 authority to regulate the practice of dentistry and dental  
6 hygiene in the state. The compact:

7           A. enables dentists and dental hygienists who  
8 qualify for a compact privilege to practice in other  
9 participating states without satisfying burdensome and  
10 duplicative requirements associated with securing a license to  
11 practice in those states;

12           B. promotes mobility and addresses workforce  
13 shortages through each participating state's acceptance of a  
14 compact privilege to practice in that state;

15           C. increases public access to qualified, licensed  
16 dentists and dental hygienists by creating a responsible,  
17 streamlined pathway for licensees to practice in participating  
18 states;

19           D. enhances the ability of participating states to  
20 protect the public's health and safety;

21           E. does not interfere with licensure requirements  
22 established by a participating state;

23           F. facilitates the sharing of licensure and  
24 disciplinary information among participating states;

25           G. requires dentists and dental hygienists who

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

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

8 I. promotes the cooperation of a participating  
9 state in regulating the practice of dentistry and dental  
10 hygiene within participating states; and

11 J. facilitates the relocation of military members  
12 and their spouses who are licensed to practice dentistry or  
13 dental hygiene."

14 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the  
15 Dentist and Dental Hygienist Interstate Compact, unless the  
16 context requires otherwise, the following definitions apply:

17 A. "active military member" means a person with  
18 full-time duty status in the armed forces of the United States,  
19 including members of the national guard and reserve;

20 B. "adverse action" means disciplinary action or  
21 encumbrance imposed on a license or compact privilege by a  
22 state licensing authority;

23 C. "alternative program" means a non-disciplinary  
24 monitoring or practice remediation process applicable to a  
25 dentist or dental hygienist approved by a state licensing

1 authority of a participating state in which the dentist or  
2 dental hygienist is licensed, including programs to which  
3 licensees with substance abuse or addiction issues are referred  
4 in lieu of adverse action;

5 D. "clinical assessment" means an examination or  
6 process required for licensure as a dentist or dental  
7 hygienist, as applicable, that provides evidence of clinical  
8 competence in dentistry or dental hygiene;

9 E. "commissioner" means an individual appointed by  
10 a participating state to serve as a member of the commission  
11 for that participating state;

12 F. "compact" means the Dentist and Dental Hygienist  
13 Interstate Compact;

14 G. "compact privilege" means the authorization  
15 granted by a remote state to allow a licensee from a  
16 participating state to practice as a dentist or a dental  
17 hygienist in a remote state;

18 H. "continuing professional development" means a  
19 requirement as a condition of license renewal to provide  
20 evidence of successful participation in educational or  
21 professional activities relevant to practice or area of work;

22 I. "criminal background check" means the submission  
23 of fingerprints or other biometric-based information for a  
24 license applicant for the purpose of obtaining that applicant's  
25 criminal history record information, as defined in 28 C.F.R.

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1 Section 20.3(d) from the federal bureau of investigation and  
2 the state's criminal history record repository as defined in 28  
3 C.F.R. Section 20.3;

4 J. "data system" means the commission's repository  
5 of information about licensees, including examination,  
6 licensure, investigative, compact privilege, adverse action and  
7 alternative program information;

8 K. "dental hygienist" means an individual who is  
9 licensed by a state licensing authority to practice dental  
10 hygiene;

11 L. "dentist" means an individual who is licensed by  
12 a state licensing authority to practice dentistry;

13 M. "dentist and dental hygienist compact  
14 commission" or "commission" means a joint government agency  
15 established by this compact composed of each participating  
16 state and a national administrative body composed of a  
17 commissioner from each participating state;

18 N. "encumbered license" means a license that a  
19 state licensing authority has limited in a way other than  
20 through an alternative program;

21 O. "executive board" means the chair, vice chair,  
22 secretary and treasurer and any other commissioners as may be  
23 determined by commission rule or bylaw;

24 P. "jurisprudence requirement" means the assessment  
25 of an individual's knowledge of the laws and rules governing

1 the practice of dentistry or dental hygiene, as applicable, in  
2 a state;

3 Q. "license" means current authorization by a  
4 state, other than authorization pursuant to a compact  
5 privilege, or other privilege for an individual to practice as  
6 a dentist or dental hygienist in that state;

7 R. "licensee" means an individual who holds an  
8 unrestricted license from a participating state to practice as  
9 a dentist or dental hygienist in that state;

10 S. "model compact" means the model for the Dentist  
11 and Dental Hygienist Interstate Compact on file with the  
12 council of state governments or other entity as designated by  
13 the commission;

14 T. "participating state" means a state that has  
15 enacted the Dentist and Dental Hygienist Interstate Compact and  
16 been admitted to the commission in accordance with the  
17 provisions of this compact and commission rules;

18 U. "qualifying license" means a license that is not  
19 an encumbered license issued by a participating state to  
20 practice dentistry or dental hygiene;

21 V. "remote state" means a participating state where  
22 a licensee who is not licensed as a dentist or dental hygienist  
23 is exercising or seeking to exercise the compact privilege;

24 W. "rule" means a regulation promulgated by an  
25 entity that has the force of law;

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1 X. "scope of practice" means the procedures,  
2 actions and processes that a dentist or dental hygienist  
3 licensed in a state is permitted to undertake in that state and  
4 the circumstances under which a licensee is permitted to  
5 undertake those procedures, actions and processes, which may be  
6 established through means including statute, regulations, case  
7 law and other processes available to the state licensing  
8 authority or other government agency;

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

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

20 AA. "state licensing authority" means an agency or  
21 other entity of a state that is responsible for the licensing  
22 and regulation of dentists or dental hygienists.

23 SECTION 4. [NEW MATERIAL] STATE PARTICIPATION IN THE  
24 COMPACT.--

25 A. In order to join the compact and thereafter

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1 continue as a participating state, a state shall:

2 (1) enact a compact that is not materially  
3 different from the model compact as determined in accordance  
4 with commission rules;

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

7 (3) have a mechanism in place for receiving  
8 and investigating complaints about licensees and license  
9 applicants;

10 (4) notify the commission, in compliance with  
11 the terms of the compact and commission rules, of any adverse  
12 action or the availability of significant investigative  
13 information regarding a licensee or license applicant;

14 (5) fully implement a criminal background  
15 check requirement, within a time frame established by  
16 commission rule, by receiving the results of a qualifying  
17 criminal background check;

18 (6) comply with the commission rules  
19 applicable to a participating state;

20 (7) accept the national board examinations of  
21 the joint commission on national dental examinations or another  
22 examination accepted by commission rule as a licensure  
23 examination;

24 (8) accept for licensure that applicants for a  
25 dental license graduate from a predoctoral dental education

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1 program accredited by the commission on dental accreditation or  
2 another accrediting agency recognized by the United States  
3 department of education for the accreditation of dentistry and  
4 dental hygiene education programs, leading to the doctor of  
5 dental surgery or doctor of dental medicine degree;

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

12 (10) require for licensure that applicants  
13 successfully complete a clinical assessment;

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

16 (12) pay a participation fee for the  
17 commission as established by commission rule.

18 B. Providing alternative pathways for an individual  
19 to obtain an unrestricted license does not disqualify a state  
20 from participating in the compact.

21 C. When conducting a criminal background check, the  
22 state licensing authority shall:

23 (1) consider that criminal background  
24 information in making a licensure decision;

25 (2) maintain documentation of completion of a

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1 criminal background check and criminal background information to  
2 the extent allowed by state and federal law; and

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

6 D. A licensee of a participating state who has a  
7 qualifying license in that state and does not hold an encumbered  
8 license in any other participating state shall be issued a  
9 compact privilege in a remote state in accordance with the  
10 provisions of the compact and commission rules. If a remote  
11 state has a jurisprudence requirement, a compact privilege shall  
12 not be issued to the licensee unless the licensee has satisfied  
13 the jurisprudence requirement.

14 SECTION 5. [NEW MATERIAL] COMPACT PRIVILEGE.--

15 A. To obtain and exercise a compact privilege under  
16 the terms and provisions of this compact, a licensee shall:

17 (1) have a qualifying license as a dentist or  
18 dental hygienist in a participating state;

19 (2) be eligible for a compact privilege in  
20 accordance with Subsections D, G and H of this section;

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

23 (4) pay any applicable commission and remote  
24 state fees for a compact privilege;

25 (5) meet any jurisprudence requirement

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1 established by a remote state in which the licensee is seeking a  
2 compact privilege;

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

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

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

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

21 (10) report to the commission adverse action  
22 taken by any nonparticipating state when applying for a compact  
23 privilege and otherwise within thirty days from the date the  
24 adverse action is taken;

25 (11) report to the commission when applying

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1 for a compact privilege the address of the licensee's primary  
2 residence and thereafter immediately report to the commission  
3 any change in the address of the licensee's primary residence;  
4 and

5 (12) consent to accept service of process by  
6 mail at the licensee's primary residence on record with the  
7 commission with respect to any action brought against the  
8 licensee by the commission or a participating state and consent  
9 to accept service of a subpoena by mail at the licensee's  
10 primary residence on record with the commission with respect to  
11 any action brought or investigation conducted by the commission  
12 or a participating state.

13 B. The licensee shall comply with the requirements  
14 of Subsection A of this section to maintain the compact  
15 privilege and, if those requirements are met, the compact  
16 privilege shall continue as long as the licensee maintains a  
17 qualifying license in the state through which the licensee  
18 applied for the compact privilege and pays any applicable  
19 compact privilege renewal fees.

20 C. A licensee providing dentistry or dental hygiene  
21 in a remote state under the compact privilege shall function  
22 within the scope of practice authorized by the remote state for  
23 a dentist or dental hygienist licensed in that state.

24 D. A licensee providing dentistry or dental hygiene  
25 services pursuant to a compact privilege is subject to the

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

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

19 F. Once an encumbered license in a participating  
20 state is restored to good standing, the licensee must meet the  
21 requirements of Subsection A of this section to obtain a compact  
22 privilege in a remote state.

23 G. If a licensee's compact privilege in a remote  
24 state is removed by the remote state, the individual shall lose  
25 or be ineligible for the compact privilege in any remote state

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1 until the following occur:

2 (1) the specific period of time for which the  
3 compact privilege was removed has ended; and

4 (2) all conditions for removal of the compact  
5 privilege have been satisfied.

6 H. Once the requirements of Subsection G of this  
7 section have been met, the licensee must meet the requirements  
8 in Subsection A of this section to obtain a compact privilege in  
9 a remote state.

10 SECTION 6. [NEW MATERIAL] ACTIVE MILITARY MEMBER OR  
11 ACTIVE MILITARY MEMBER'S SPOUSE.--An active military member or  
12 an active military member's spouse shall not be required to pay  
13 to the commission for a compact privilege the fee otherwise  
14 charged by the commission. If a remote state chooses to charge  
15 a fee for a compact privilege, it may choose to charge a reduced  
16 fee or no fee to an active military member or an active military  
17 member's spouse for a compact privilege.

18 SECTION 7. [NEW MATERIAL] ADVERSE ACTIONS.--

19 A. A participating state in which a licensee is  
20 licensed shall have exclusive authority to impose adverse action  
21 against the qualifying license issued by that participating  
22 state.

23 B. A participating state may take adverse action  
24 based on the significant investigative information of a remote  
25 state, so long as the participating state follows its own

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1 procedures for imposing an adverse action.

2 C. Nothing in this compact shall override a  
3 participating state's decision that participation in an  
4 alternative program may be used in lieu of adverse action and  
5 that such participation shall remain nonpublic if required by  
6 the participating state's laws. Participating states shall  
7 require licensees who enter any alternative program in lieu of  
8 discipline to agree not to practice pursuant to a compact  
9 privilege in any other participating state during the term of  
10 the alternative program without prior authorization from the  
11 other participating state.

12 D. Any participating state in which a licensee is  
13 applying to practice or is practicing pursuant to a compact  
14 privilege may investigate actual or alleged violations of the  
15 statutes and regulations authorizing the practice of dentistry  
16 or dental hygiene in any other participating state in which the  
17 dentist or dental hygienist holds a license or compact  
18 privilege.

19 E. A remote state may take adverse actions as set  
20 forth in Subsection D of this section against a licensee's  
21 compact privilege in the state.

22 F. In furtherance of its rights and responsibilities  
23 under the compact and commission rules, issue subpoenas for both  
24 hearings and investigations that require the attendance and  
25 testimony of witnesses and the production of evidence.

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

11 G. If otherwise permitted by state law, recover from  
12 the licensee the costs of investigations and disposition of  
13 cases resulting from an adverse action taken against that  
14 licensee.

15 H. The following conditions apply to joint  
16 investigations:

17 (1) in addition to the authority granted to a  
18 participating state by the state's dentist or dental hygienist  
19 licensure act or other applicable state law, a participating  
20 state may jointly investigate licensees with other participating  
21 states; and

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

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1 I. The following conditions apply to the authority  
2 to continue an investigation:

3 (1) after a licensee's compact privilege in a  
4 remote state is terminated, the remote state may continue an  
5 investigation of the licensee that began when the licensee had a  
6 compact privilege in that remote state; and

7 (2) if an investigation yields what would be  
8 significant investigative information had the licensee continued  
9 to have a compact privilege in that remote state, the remote  
10 state shall report the presence of that information to the data  
11 system as required by Paragraph (6) of Subsection B of Section 9  
12 of this compact as if it were significant investigative  
13 information.

14 SECTION 8. [NEW MATERIAL] ESTABLISHMENT AND OPERATION OF  
15 THE DENTIST AND DENTAL HYGIENIST COMPACT COMMISSION.--

16 A. The participating states hereby create and  
17 establish a joint government agency whose membership consists of  
18 all participating states that have enacted the compact. The  
19 "dentist and dental hygienist compact commission" is an  
20 instrumentality of the participating states acting jointly and  
21 not an instrumentality of any one state. The commission shall  
22 come into existence on or after the effective date of the  
23 compact as set forth in Subsection A of Section 12 of this  
24 compact.

25 B. The following conditions apply to participation,  
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1 voting and meetings:

2 (1) each participating state shall have one  
3 commissioner selected by the participating state's state  
4 licensing authority or, if the participating state has more than  
5 one state licensing authority, selected collectively by those  
6 state licensing authorities;

7 (2) a commissioner shall be a member or  
8 designee of the state licensing authority that selected the  
9 commissioner;

10 (3) the commission may by rule or bylaw  
11 establish a term of office for commissioners and by rule or  
12 bylaw establish term limits;

13 (4) the commission may recommend to a state  
14 licensing authority removal or suspension of an individual as  
15 the state's commissioner;

16 (5) a participating state's state licensing  
17 authority or authorities, as applicable, shall fill any vacancy  
18 of its commissioner within sixty days of the vacancy;

19 (6) each commissioner shall be entitled to one  
20 vote on all matters that are voted upon by the commission; and

21 (7) the commission shall meet at least once  
22 during each calendar year.

23 C. The commission may:

24 (1) establish the fiscal year of the  
25 commission;

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1 (2) establish code of conduct and conflict of  
2 interest policies;

3 (3) adopt rules and bylaws;

4 (4) maintain its financial records in  
5 accordance with the bylaws;

6 (5) meet and take such actions as are  
7 consistent with the provisions of this compact and the  
8 commission's rules and bylaws;

9 (6) initiate and conclude legal proceedings or  
10 actions in the name of the commission; provided that the  
11 standing of any state licensing authority to sue or be sued  
12 under applicable law shall not be affected;

13 (7) maintain and certify records and  
14 information provided to a participating state as the  
15 authenticated business records of the commission and designate  
16 an individual to do so on the commission's behalf;

17 (8) purchase and maintain insurance and bonds;

18 (9) borrow, accept or contract for services of  
19 personnel, including, but not limited to, employees of a  
20 participating state;

21 (10) conduct an annual financial review;

22 (11) hire employees, elect or appoint  
23 officers, fix compensation, define duties, grant such  
24 individuals appropriate authority to carry out the purposes of  
25 the compact and establish the commission's personnel policies

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1 and programs relating to conflicts of interest, qualifications  
2 of personnel and other related personnel matters;

3 (12) as set forth in commission rules, charge  
4 a fee to a licensee for the grant of a compact privilege, and  
5 thereafter, charge the licensee a compact privilege renewal fee  
6 for each renewal period in which that licensee exercises or  
7 intends to exercise the compact privilege; provided that nothing  
8 in this paragraph shall be construed to prevent a remote state  
9 from charging a licensee a fee for a compact privilege or  
10 renewals of a compact privilege or a fee for the jurisprudence  
11 requirement if the remote state imposes a requirement for the  
12 grant of a compact privilege;

13 (13) accept any and all appropriate gifts,  
14 donations, grants of money, other sources of revenue, equipment,  
15 supplies, materials and services; and receive, use and dispose  
16 of the same; provided that at all times the commission shall  
17 avoid any appearance of impropriety or conflict of interest;

18 (14) lease, purchase, retain, own, hold,  
19 improve or use any property, real, personal or mixed, or any  
20 undivided interest in the property;

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

24 (16) establish a budget and make expenditures;

25 (17) borrow money;

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1 (18) appoint committees, including standing  
2 committees, which may be composed of members, state regulators,  
3 state legislators or their representatives, consumer  
4 representatives and other interested persons as may be  
5 designated pursuant to this compact and the commission's bylaws;

6 (19) provide and receive information from and  
7 cooperate with law enforcement agencies;

8 (20) elect a chair, vice chair, secretary and  
9 treasurer and other officers of the commission as provided in  
10 the commission's bylaws;

11 (21) establish and elect an executive board;

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

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

18 (24) perform other functions as may be  
19 necessary or appropriate to achieve the purposes of this  
20 compact.

21 D. The following conditions apply to meetings of the  
22 commission:

23 (1) all meetings that are not closed pursuant  
24 to this subsection shall be open to the public, and notice of  
25 public meetings shall be posted on the commission's website at  
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1 least thirty days prior to the meeting;

2 (2) notwithstanding Paragraph (1) of this  
3 subsection, the commission may convene an emergency public  
4 meeting by providing at least twenty-four hours' prior notice on  
5 the commission's website or any other means pursuant to the  
6 commission's rules; provided that the commission's legal counsel  
7 certifies that the emergency public meeting was called for a  
8 permissible reason for which it may dispense with notice of  
9 proposed rulemaking under Subsection H of Section 10 of this  
10 compact;

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

16 (4) a closed, nonpublic meeting may be held  
17 for the commission to receive legal advice or to discuss  
18 matters, including:

19 (a) noncompliance of a participating  
20 state with its obligations under the compact;

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

25 (c) current or threatened discipline of a

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1 licensee or compact privilege holder by the commission or by a  
2 participating state's licensing authority;

3 (d) current, threatened or reasonably  
4 anticipated litigation;

5 (e) negotiation of contracts for the  
6 purchase, lease or sale of goods, services or real estate;

7 (f) accusations that any person of a has  
8 committed a crime or the formal censure of any person;

9 (g) trade secrets or commercial or  
10 financial information that is privileged or confidential;

11 (h) information of a personal nature  
12 where disclosure would constitute a clearly unwarranted invasion  
13 of personal privacy;

14 (i) investigative records compiled for  
15 law enforcement purposes;

16 (j) information related to an  
17 investigative report prepared by or on behalf of or for use of  
18 the commission or other committee charged with the  
19 responsibility of investigation or determination of compliance  
20 issues pursuant to the compact;

21 (k) legal advice;

22 (l) matters specifically exempted from  
23 disclosure to the public by federal or participating state law;  
24 and

25 (m) other matters as promulgated by the

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1 commission by rule.

2 E. If a meeting or portion of a meeting is closed to  
3 the public, the presiding officer shall state that the meeting  
4 will be closed and make reference to each relevant exempting  
5 provision, and such reference shall be recorded in the meeting's  
6 minutes.

7 F. The commission shall keep minutes that fully and  
8 clearly describe all matters discussed in a meeting and provide  
9 a full and accurate summary of actions taken, and the reasons  
10 for the actions, including a description of the views expressed,  
11 and all documents considered in connection with an action shall  
12 be identified in the minutes, and the minutes and documents of a  
13 closed meeting shall remain under seal, subject to release only  
14 by a majority vote of the commission or order of a court of  
15 competent jurisdiction.

16 G. The financing of the commission shall be carried  
17 out as follows. The commission:

18 (1) shall pay, or provide for the payment of,  
19 the reasonable expenses of its establishment, organization and  
20 ongoing activities;

21 (2) may accept any and all appropriate sources  
22 of revenue, donations and grants of money, equipment, supplies,  
23 materials and services;

24 (3) may levy on and collect an annual  
25 assessment from each participating state and impose fees on

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

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

13 (5) shall keep accurate accounts of all  
14 receipts and disbursements, subject to the financial review and  
15 accounting procedures established under its bylaws and subject  
16 to an annual financial review by a certified or licensed public  
17 accountant, the report of which shall be included in the annual  
18 report of the commission.

19 H. The executive board may act on behalf of the  
20 commission according to the terms of this compact. The powers,  
21 duties and responsibilities of the executive board include:

22 (1) overseeing the day-to-day activities of  
23 the administration of the compact, including compliance with the  
24 provisions of the compact and the commission's rules and bylaws;

25 (2) recommending to the commission changes to

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1 the commission's rules or bylaws, changes to the compact  
2 legislation, fees charged to participating states, fees charged  
3 to licensees and other fees;

4 (3) ensuring that compact administration  
5 services are appropriately provided, including by contract;

6 (4) preparing and recommending the budget for  
7 the commission;

8 (5) maintaining financial records on behalf of  
9 the commission;

10 (6) monitoring compact compliance of  
11 participating states and providing compliance reports to the  
12 commission;

13 (7) establishing additional committees as  
14 necessary;

15 (8) exercising the powers and duties of the  
16 commission during the interim period between commission  
17 meetings, except for adopting or amending rules, adopting or  
18 amending bylaws and exercising any other powers and duties  
19 expressly reserved to the commission by rule or bylaw; and

20 (9) other duties as provided in the rules or  
21 bylaws of the commission.

22 I. The executive board of the commission shall be  
23 composed of up to seven voting members, including:

24 (1) the chair, vice chair, secretary and  
25 treasurer; and

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1                   (2) up to three additional members who may be  
2 elected by the commission from the current membership of the  
3 commission.

4                   J. The executive board of the commission may remove  
5 a member of the executive board as provided in the commission's  
6 bylaws.

7                   K. The executive board of the commission shall meet  
8 at least annually and ensure that:

9                   (1) meetings at which the executive board of  
10 the commission takes or intends to take formal action on a  
11 matter be open to the public, except when dealing with any of  
12 the matters covered under Paragraph (4) of Subsection D of this  
13 section; and

14                   (2) five business days' notice of public  
15 meetings are provided by posting notice on the commission's  
16 website and as it may otherwise determine to provide notice to  
17 persons with an interest in the public matters that the  
18 executive board intends to address at those meetings.

19                   L. The executive board of the commission may hold an  
20 emergency meeting when acting for the commission to:

21                   (1) meet an imminent threat to public health,  
22 safety or welfare;

23                   (2) prevent a loss of commission or  
24 participating state funds; or

25                   (3) protect public health and safety.

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1 M. The members, officers, executive director,  
2 employees and representatives of the commission shall be immune  
3 from suit and liability, both personally and in their official  
4 capacity, for any claim for damage to or loss of property or  
5 personal injury or other civil liability caused by or arising  
6 out of any actual or alleged act, error or omission that  
7 occurred or that the person against whom the claim is made had a  
8 reasonable basis for believing occurred within the scope of  
9 commission employment, duties or responsibilities; provided that  
10 nothing in this subsection shall be construed to protect any  
11 such person from suit or liability for any damage, loss, injury  
12 or liability caused by the intentional or willful or wanton  
13 misconduct of that person; and provided further that the  
14 procurement of insurance of any type by the commission shall not  
15 compromise or limit the immunity granted by this subsection.

16 N. The commission shall defend any member, officer,  
17 executive director, employee or representative of the commission  
18 in any civil action seeking to impose liability arising out of  
19 any actual or alleged act, error or omission that occurred  
20 within the scope of commission employment, duties or  
21 responsibilities or as determined by the commission that the  
22 person against whom the claim is made had a reasonable basis for  
23 believing occurred within the scope of commission employment,  
24 duties or responsibilities; provided that nothing in this  
25 subsection shall be construed to prohibit that person from

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

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

18 P. Nothing in this compact shall be:

19 (1) construed as a limitation on the liability  
20 of any licensee for professional malpractice or misconduct,  
21 which shall be governed solely by any other applicable state  
22 laws;

23 (2) interpreted to waive or otherwise abrogate  
24 a participating state's state action immunity or state action  
25 affirmative defense with respect to antitrust claims under the

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1 federal Sherman Act, the federal Clayton Act or any other state  
2 or federal antitrust or anti-competitive law or regulation; or

3 (3) construed to be a waiver of sovereign  
4 immunity by the participating states or by the commission.

5 SECTION 9. [NEW MATERIAL] DATA SYSTEM.--

6 A. The commission shall provide for the development,  
7 maintenance, operation and use of a coordinated database and  
8 reporting system containing licensure and adverse action  
9 information and significant investigative information on all  
10 licensees and applicants for a license in participating states.

11 B. Notwithstanding any other provision of state law  
12 to the contrary, a participating state shall submit a uniform  
13 data set to the data system on all individuals to whom this  
14 compact is applicable as required by the rules of the  
15 commission, including:

16 (1) identifying information;  
17 (2) licensure data;  
18 (3) adverse actions against a licensee,  
19 license applicant or compact privilege and information related  
20 thereto;

21 (4) nonconfidential information related to  
22 alternative program participation, the beginning and ending  
23 dates of such participation and other information related to  
24 such participation;

25 (5) any denial of an application for licensure

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1 and the reasons for such denial, excluding the reporting of any  
2 criminal history record information where prohibited by law;

3 (6) the presence of significant investigative  
4 information; and

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

8 C. The records and information provided to a  
9 participating state pursuant to this compact or through the data  
10 system, when certified by the commission or an agent of the  
11 commission, constitute the authenticated business records of the  
12 commission and shall be entitled to any associated hearsay  
13 exception in any relevant judicial, quasi-judicial or  
14 administrative proceedings in a participating state.

15 D. Significant investigative information pertaining  
16 to a licensee in any participating state shall only be available  
17 to other participating states.

18 E. It is the responsibility of the participating  
19 states to monitor the database to determine whether adverse  
20 action has been taken against a licensee or license applicant.  
21 Adverse action information pertaining to a licensee or license  
22 applicant in any participating state shall be available to any  
23 other participating state.

24 F. Participating states contributing information to  
25 the data system may designate information that may not be shared

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1 with the public without the express permission of the  
2 contributing state.

3 G. Any information submitted to the data system that  
4 is subsequently expunged pursuant to federal law or the laws of  
5 the participating state contributing the information shall be  
6 removed from the data system.

7 SECTION 10. [NEW MATERIAL] RULEMAKING.--

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

17 B. The rules of the commission shall have the force  
18 of law in each participating state; provided, however, that  
19 where the rules of the commission conflict with the laws of the  
20 participating state that establish the participating state's  
21 scope of practice as held by a court of competent jurisdiction,  
22 the rules of the commission shall be ineffective in that state  
23 to the extent of the conflict.

24 C. The commission shall exercise its rulemaking  
25 powers pursuant to the criteria set forth in this section and

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1 the rules adopted pursuant to this section. Rules shall become  
2 binding as of the date specified by the commission for each  
3 rule.

4 D. If a majority of the state legislatures of the  
5 participating states rejects a commission rule or portion of a  
6 commission rule, by enactment of a statute or resolution in the  
7 same manner used to adopt the compact, within four years of the  
8 date of adoption of the rule, then the rule shall have no  
9 further force and effect in any participating state or to any  
10 state applying to participate in the compact.

11 E. Rules shall be adopted at a regular or special  
12 meeting of the commission.

13 F. Prior to adoption of a proposed rule, the  
14 commission shall hold a public hearing and allow persons to  
15 provide oral and written comments, data, facts, opinions and  
16 arguments.

17 G. Prior to adoption of a proposed rule, and at  
18 least thirty days in advance of the meeting at which the  
19 commission will hold a public hearing on the proposed rule, the  
20 commission shall provide a notice of proposed rulemaking:

21 (1) on the commission's website or other  
22 publicly accessible platform;

23 (2) to persons who have requested notice of  
24 the commission's proposed rulemaking; and

25 (3) in other ways as the commission may by

1 rule specify.

2 H. The notice of proposed rulemaking shall include:

3 (1) the time, date and location of the public  
4 hearing at which the commission will hear public comments on the  
5 proposed rule and, if different, the time, date and location of  
6 the meeting where the commission will consider and vote on the  
7 proposed rule;

8 (2) if the hearing is held via  
9 telecommunication, video conference or other electronic means,  
10 the commission shall include the mechanism for access to the  
11 hearing in the notice of proposed rulemaking;

12 (3) the text of the proposed rule and the  
13 reason for the proposed rule;

14 (4) a request for comments on the proposed  
15 rule from any interested person; and

16 (5) the manner in which interested persons may  
17 submit written comments.

18 I. All hearings shall be recorded. A copy of the  
19 recording and all written comments and documents received by the  
20 commission in response to the proposed rule shall be available  
21 to the public.

22 J. Nothing in this section shall be construed as  
23 requiring a separate hearing on each commission rule. Rules may  
24 be grouped for the convenience of the commission at hearings  
25 required by this section.

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1           K. The commission shall, by majority vote of all  
2 commissioners, take final action on the proposed rule based on  
3 the rulemaking record. The commission:

4                 (1) may adopt changes to the proposed rule;  
5 provided that the changes do not enlarge the original purpose of  
6 the proposed rule;

7                 (2) shall provide an explanation of the  
8 reasons for substantive changes made to the proposed rule as  
9 well as reasons for substantive changes not made that were  
10 recommended by public commenters; and

11                (3) shall determine a reasonable effective  
12 date for the rule, except for an emergency as provided in  
13 Subsection L of this section, and the effective date of the rule  
14 shall be no sooner than thirty days after the commission issuing  
15 the notice that it adopted or amended the rule.

16           L. Upon determination that an emergency exists, the  
17 commission may consider and adopt an emergency rule with twenty-  
18 four hours' notice, with opportunity to comment; provided that  
19 the usual rulemaking procedures provided pursuant to the compact  
20 and this section shall be retroactively applied to the rule as  
21 soon as reasonably possible, in no event later than ninety days  
22 after the effective date of the rule. For the purposes of this  
23 subsection, an emergency rule is one that must be adopted  
24 immediately in order to:

25                 (1) meet an imminent threat to public health,

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1 safety or welfare;

2 (2) prevent a loss of commission or  
3 participating state funds;

4 (3) meet a deadline for the promulgation of a  
5 rule that is established by federal law or rule; or

6 (4) protect public health and safety.

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

21 N. No participating state's rulemaking requirements  
22 shall apply under this compact.

23 SECTION 11. [NEW MATERIAL] OVERSIGHT, DISPUTE RESOLUTION  
24 AND ENFORCEMENT.--

25 A. The executive and judicial branches of state

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1 government in each participating state shall enforce this  
2 compact and take all actions necessary and appropriate to  
3 implement the compact.

4 B. Venue is proper, and judicial proceedings by or  
5 against the commission shall be brought solely and exclusively  
6 in a court of competent jurisdiction where the principal office  
7 of the commission is located. The commission may waive venue  
8 and jurisdictional defenses to the extent it adopts or consents  
9 to participate in alternative dispute resolution proceedings.  
10 Nothing in this subsection shall affect or limit the selection  
11 or propriety of venue in any action against a licensee for  
12 professional malpractice, misconduct or any such similar matter.

13 C. The commission shall be entitled to receive  
14 service of process in any proceeding regarding the enforcement  
15 or interpretation of the compact or commission rule and shall  
16 have standing to intervene in such a proceeding for all  
17 purposes. Failure to provide the commission service of process  
18 shall render a judgment or order void as to the commission, this  
19 compact or promulgated rules.

20 D. Default, technical assistance and termination  
21 shall be addressed by the commission.

22 E. If the commission determines that a participating  
23 state has defaulted in the performance of its obligations or  
24 responsibilities under this compact or the promulgated rules of  
25 the commission, the commission shall provide written notice to

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1 the defaulting state. The notice of default shall describe the  
2 default, the proposed means of curing the default and any other  
3 action that the commission may take and offer training and  
4 specific technical assistance regarding the default.

5 F. The commission shall provide a copy of the notice  
6 of default to the other participating states.

7 G. If a state in default fails to cure the default,  
8 the defaulting state may be terminated from the compact upon an  
9 affirmative vote of a majority of the commissioners, and all  
10 rights, privileges and benefits conferred on that state by this  
11 compact may be terminated on the effective date of termination.  
12 A cure of the default shall not relieve the offending state of  
13 obligations or liabilities incurred during the period of  
14 default.

15 H. Termination of participation in the compact shall  
16 be imposed only after all other means of securing compliance  
17 have been exhausted. Notice of intent to suspend or terminate  
18 shall be given by the commission to the governor, the majority  
19 and minority leaders of the defaulting state's legislature, the  
20 defaulting state's state licensing authority or authorities, as  
21 applicable, and each of the participating states' state  
22 licensing authority or authorities, as applicable.

23 I. A state that has been terminated from the compact  
24 is responsible for all assessments, obligations and liabilities  
25 incurred through the effective date of termination, including

1 obligations that extend beyond the effective date of  
2 termination.

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

11 K. The commission shall not bear any costs related  
12 to a state that is found to be in default or that has been  
13 terminated from the compact, unless agreed upon in writing  
14 between the commission and the defaulting state.

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

21 M. Upon request by a participating state, the  
22 commission shall attempt to resolve disputes related to the  
23 compact that arise among participating states and between  
24 participating states and nonparticipating states. The  
25 commission shall promulgate a rule providing for both mediation

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1 and binding dispute resolution for disputes as appropriate.

2 N. Enforcement of the compact shall be conducted by  
3 the commission. The commission, in the reasonable exercise of  
4 its discretion, shall enforce the provisions of this compact and  
5 the commission's rules.

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

19 P. A participating state may initiate legal action  
20 against the commission in the United States district court for  
21 the District of Columbia or the federal district where the  
22 commission has its principal offices to enforce compliance with  
23 the provisions of the compact and its promulgated rules. The  
24 relief sought may include both injunctive relief and damages.  
25 In the event judicial enforcement is necessary, the prevailing

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1 party shall be awarded all costs of such litigation, including  
2 reasonable attorney fees.

3 Q. No individual or entity other than a  
4 participating state may enforce this compact against the  
5 commission.

6 SECTION 12. [NEW MATERIAL] EFFECTIVE DATE, WITHDRAWAL AND  
7 AMENDMENT.--

8 A. This compact shall come into effect on the date  
9 on which the compact statute is enacted into law in the seventh  
10 participating state.

11 B. On or after the effective date of this compact,  
12 the commission shall convene and review the enactment of the  
13 compact by each of the participating states to determine if the  
14 statute enacted by each state is materially different than the  
15 model compact. If the commission finds the enactment of a  
16 participating state is materially different from the model  
17 compact, the participating state shall be entitled to the  
18 default process set forth in Section 11 of this compact.

19 C. If the commission later determines that a  
20 participating state is in default, terminated or withdrew from  
21 the compact, the commission shall remain in existence and the  
22 compact shall remain in effect, even if the number of  
23 participating states is fewer than seven.

24 D. Participating states shall be subject to the  
25 process set forth in Subsection B of this section to determine

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1 if those states' enactments are materially different from the  
2 model compact and whether those states qualify for participation  
3 in the compact.

4 E. All actions taken for the benefit of the  
5 commission or in furtherance of the purposes of the  
6 administration of the compact prior to the effective date of the  
7 compact or the commission coming into existence shall be  
8 considered to be actions of the commission unless specifically  
9 repudiated by the commission.

10 F. Any state that joins the compact subsequent to  
11 the commission's initial adoption of the rules and bylaws shall  
12 be subject to the commission's rules and bylaws as they exist on  
13 the date on which the compact becomes law in that state. Any  
14 rule that has been previously adopted by the commission shall  
15 have the full force and effect of law on the day the compact  
16 becomes law in that state.

17 G. Any participating state may withdraw from this  
18 compact by enacting a statute repealing that state's enactment  
19 of the compact; however:

20 (1) a participating state's withdrawal shall  
21 not take effect until one hundred eighty days after enactment of  
22 the repealing statute;

23 (2) withdrawal shall not affect the continuing  
24 requirement of the withdrawing state's licensing authority or  
25 authorities to comply with the investigative and adverse action

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1 reporting requirements of this compact prior to the effective  
2 date of the withdrawal; and

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

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

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

20 SECTION 13. [NEW MATERIAL] CONSTRUCTION AND  
21 SEVERABILITY.--

22 A. This compact and the commission's rulemaking  
23 authority shall be liberally construed so as to effectuate the  
24 purposes and the implementation and administration of the  
25 compact. Provisions of the compact expressly authorizing or

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1 requiring the promulgation of rules shall not be construed to  
2 limit the commission's rulemaking authority solely for those  
3 purposes.

4 B. The provisions of this compact shall be  
5 severable, and if any phrase, clause, sentence or provision of  
6 this compact is held by a court of competent jurisdiction to be  
7 contrary to the constitution of any participating state, a state  
8 seeking participation in the compact, or of the United States,  
9 or the applicability thereof to any government, agency, person  
10 or circumstance is held to be unconstitutional by a court of  
11 competent jurisdiction, the validity of the remainder of this  
12 compact and the applicability thereof to any other government,  
13 agency, person or circumstance shall not be affected thereby.

14 C. Notwithstanding Subsection B of this section, the  
15 commission may deny a state's participation in the compact or,  
16 in accordance with the requirements of Subsection B of Section  
17 10 of this compact, terminate a participating state's  
18 participation in the compact if the commission determines that a  
19 constitutional requirement of a participating state is a  
20 material departure from the compact. Otherwise, if this compact  
21 is held to be contrary to the constitution of any participating  
22 state, the compact shall remain in full force and effect as to  
23 the remaining participating states and in full force and effect  
24 as to the participating state affected as to all severable  
25 matters.

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