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ENGROSSED SUBSTITUTE HOUSE BILL 1576

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State of Washington

68th Legislature

2023 Regular Session

**By** House Postsecondary Education & Workforce (originally sponsored by Representatives Caldier, Schmidt, Leavitt, and Volz)

READ FIRST TIME 02/14/23.

1 AN ACT Relating to the dentist and dental hygienist compact;  
2 adding a new chapter to Title 18 RCW; and providing a contingent  
3 effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

20 (1) Enables dentists and dental hygienists who qualify for a  
21 compact privilege to practice in other participating states without

1 satisfying burdensome and duplicative requirements associated with  
2 securing a license to practice in those states;

3 (2) Promotes mobility and addresses workforce shortages through  
4 each participating state's acceptance of a compact privilege to  
5 practice in that state;

6 (3) Increases public access to qualified, licensed dentists and  
7 dental hygienists by creating a responsible, streamlined pathway for  
8 licensees to practice in participating states;

9 (4) Enhances the ability of participating states to protect the  
10 public's health and safety;

11 (5) Does not interfere with licensure requirements established by  
12 a participating state;

13 (6) Facilitates the sharing of licensure and disciplinary  
14 information among participating states;

15 (7) Requires dentists and dental hygienists who practice in a  
16 participating state pursuant to a compact privilege to practice  
17 within the scope of practice authorized in that state;

18 (8) Extends the authority of a participating state to regulate  
19 the practice of dentistry and dental hygiene within its borders to  
20 dentists and dental hygienists who practice in the state through a  
21 compact privilege;

22 (9) Promotes the cooperation of participating states in  
23 regulating the practice of dentistry and dental hygiene within those  
24 states; and

25 (10) Facilitates the relocation of military members and their  
26 spouses who are licensed to practice dentistry or dental hygiene.

27 NEW SECTION. **Sec. 2.** As used in this compact, unless the  
28 context requires otherwise, the following definitions shall apply:

29 (1) "Active military member" means any individual in full-time  
30 duty status in the armed forces of the United States including  
31 members of the national guard and reserve.

32 (2) "Adverse action" means disciplinary action or encumbrance  
33 imposed on a license or compact privilege by a state licensing  
34 authority.

35 (3) "Alternative program" means a nondisciplinary monitoring or  
36 practice remediation process applicable to a dentist or dental  
37 hygienist approved by a state licensing authority of a participating  
38 state in which the dentist or dental hygienist is licensed. This  
39 includes, but is not limited to, programs to which licensees with

1 substance abuse or addiction issues are referred in lieu of adverse  
2 action.

3 (4) "Clinical assessment" means an examination or process,  
4 required for licensure as a dentist or dental hygienist as  
5 applicable, that provides evidence of clinical competence in  
6 dentistry or dental hygiene.

7 (5) "Commissioner" means the individual appointed by a  
8 participating state to serve as the member of the commission for that  
9 participating state.

10 (6) "Compact" means this dentist and dental hygienist compact.

11 (7) "Compact privilege" means the authorization granted by a  
12 remote state to allow a licensee from a participating state to  
13 practice as a dentist or dental hygienist in a remote state.

14 (8) "Continuing professional development" means a requirement, as  
15 a condition of license renewal, to provide evidence of successful  
16 participation in educational or professional activities relevant to  
17 practice or area of work.

18 (9) "Criminal background check" means the submission of  
19 fingerprints or other biometric-based information for a license  
20 applicant for the purpose of obtaining that applicant's criminal  
21 history record information, as defined in 28 C.F.R. Sec. 20.3(d) from  
22 the federal bureau of investigation and the state's criminal history  
23 record repository as defined in 28 C.F.R. Sec. 20.3(f).

24 (10) "Data system" means the commission's repository of  
25 information about licensees, including but not limited to  
26 examination, licensure, investigative, compact privilege, adverse  
27 action, and alternative program information.

28 (11) "Dental hygienist" means an individual who is licensed by a  
29 state licensing authority to practice dental hygiene.

30 (12) "Dentist" means an individual who is licensed by a state  
31 licensing authority to practice dentistry.

32 (13) "Dentist and dental hygienist compact commission" or  
33 "commission" means a joint government agency established by this  
34 compact comprised of each state that has enacted the compact and a  
35 national administrative body comprised of a commissioner from each  
36 state that has enacted the compact.

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

1 (15) "Executive board" means the chair, vice chair, secretary,  
2 treasurer, and any other commissioners as may be determined by  
3 commission rule or bylaw.

4 (16) "Jurisprudence requirement" means the assessment of an  
5 individual's knowledge of the laws and rules governing the practice  
6 of dentistry or dental hygiene, as applicable, in a state.

7 (17) "License" means current authorization by a state, other than  
8 authorization pursuant to a compact privilege or other privilege, for  
9 an individual to practice as a dentist or dental hygienist in that  
10 state.

11 (18) "Licensee" means an individual who holds an unrestricted  
12 license from a participating state to practice as a dentist or dental  
13 hygienist in that state.

14 (19) "Model compact" means the model for the dentist and dental  
15 hygienist compact on file with the council of state governments or  
16 other entity as designated by the commission.

17 (20) "Participating state" means a state that has enacted the  
18 compact and been admitted to the commission in accordance with the  
19 provisions herein and commission rules.

20 (21) "Qualifying license" means a license that is not an  
21 encumbered license issued by a participating state to practice  
22 dentistry or dental hygiene.

23 (22) "Remote state" means a participating state where a licensee  
24 who is not licensed as a dentist or dental hygienist is exercising or  
25 seeking to exercise the compact privilege.

26 (23) "Rule" means a regulation promulgated by an entity that has  
27 the force of law.

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

37 (25) "Significant investigative information" means information,  
38 records, and documents received or generated by a state licensing  
39 authority pursuant to an investigation for which a determination has  
40 been made that there is probable cause to believe that the licensee

1 has violated a statute or regulation that is considered more than a  
2 minor infraction for which the state licensing authority could pursue  
3 adverse action against the licensee.

4 (26) "State" means any state, commonwealth, district, or  
5 territory of the United States of America that regulates the  
6 practices of dentistry and dental hygiene.

7 (27) "State licensing authority" means an agency or other entity  
8 of a state that is responsible for the licensing and regulation of  
9 dentists or dental hygienists.

10 NEW SECTION. **Sec. 3.** (1) In order to join the compact and  
11 thereafter continue as a participating state, a state must:

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

14 (b) Participate fully in the commission's data system;

15 (c) Have a mechanism in place for receiving and investigating  
16 complaints about its licensees and license applicants;

17 (d) Notify the commission, in compliance with the terms of the  
18 compact and commission rules, of any adverse action or the  
19 availability of significant investigative information regarding a  
20 licensee and license applicant;

21 (e) Fully implement a criminal background check requirement,  
22 within a time frame established by commission rule, by receiving the  
23 results of a qualifying criminal background check;

24 (f) Comply with the commission rules applicable to a  
25 participating state;

26 (g) Accept the national board examinations of the joint  
27 commission on national dental examinations or another examination  
28 accepted by commission rule as a licensure examination;

29 (h) Accept for licensure that applicants for a dentist license  
30 graduate from a predoctoral dental education program accredited by  
31 the commission on dental accreditation or another accrediting agency  
32 recognized by the United States department of education for the  
33 accreditation of dentistry and dental hygiene education programs,  
34 leading to the doctor of dental surgery or doctor of dental medicine  
35 degree;

36 (i) Accept for licensure that applicants for a dental hygienist  
37 license graduate from a dental hygiene education program accredited  
38 by the commission on dental accreditation or another accrediting

1 agency recognized by the United States department of education for  
2 the accreditation of dentistry and dental hygiene education programs;

3 (j) Require for licensure that applicants successfully complete a  
4 clinical assessment;

5 (k) Have continuing professional development requirements as a  
6 condition for license renewal; and

7 (l) Pay a participation fee to the commission as established by  
8 commission rule.

9 (2) Providing alternative pathways for an individual to obtain an  
10 unrestricted license does not disqualify a state from participating  
11 in the compact.

12 (3) When conducting a criminal background check the state  
13 licensing authority shall:

14 (a) Consider that information in making a licensure decision;

15 (b) Maintain documentation of completion of the criminal  
16 background check and background check information to the extent  
17 allowed by state and federal law; and

18 (c) Report to the commission whether it has completed the  
19 criminal background check and whether the individual was granted or  
20 denied a license.

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

28 NEW SECTION. **Sec. 4.** (1) To obtain and exercise the compact  
29 privilege under the terms and provisions of the compact, the licensee  
30 shall:

31 (a) Have a qualifying license as a dentist or dental hygienist in  
32 a participating state;

33 (b) Be eligible for a compact privilege in any remote state in  
34 accordance with subsections (4), (6), and (7) of this section;

35 (c) Submit to an application process whenever the licensee is  
36 seeking a compact privilege;

37 (d) Pay any applicable commission and remote state fees for a  
38 compact privilege in the remote state;

1 (e) Meet any jurisprudence requirement established by a remote  
2 state in which the licensee is seeking a compact privilege;

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

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

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

17 (i) Have successfully completed a clinical assessment for  
18 licensure;

19 (j) Report to the commission adverse action taken by any  
20 nonparticipating state when applying for a compact privilege and,  
21 otherwise, within 30 days from the date the adverse action is taken;

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

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

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

39 (3) A licensee providing dentistry or dental hygiene in a remote  
40 state under the compact privilege shall function within the scope of

1 practice authorized by the remote state for a dentist or dental  
2 hygienist licensed in that state.

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

17 (5) If a license in a participating state is an encumbered  
18 license, the licensee shall lose the compact privilege in a remote  
19 state and shall not be eligible for a compact privilege in any remote  
20 state until the license is no longer encumbered.

21 (6) Once an encumbered license in a participating state is  
22 restored to good standing, the licensee must meet the requirements of  
23 subsection (1) of this section to obtain a compact privilege in a  
24 remote state.

25 (7) If a licensee's compact privilege in a remote state is  
26 removed by the remote state, the individual shall lose or be  
27 ineligible for the compact privilege in any remote state until the  
28 following occur:

29 (a) The specific period of time for which the compact privilege  
30 was removed has ended; and

31 (b) All conditions for removal of the compact privilege have been  
32 satisfied.

33 (8) Once the requirements of subsection (7) of this section have  
34 been met, the licensee must meet the requirements in subsection (1)  
35 of this section to obtain a compact privilege in a remote state.

36 NEW SECTION. **Sec. 5.** An active military member and their spouse  
37 shall not be required to pay to the commission for a compact  
38 privilege the fee otherwise charged by the commission. If a remote  
39 state chooses to charge a fee for a compact privilege, it may choose



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

3 NEW SECTION. **Sec. 6.** (1) A participating state in which a  
4 licensee is licensed shall have exclusive authority to impose adverse  
5 action against the qualifying license issued by that participating  
6 state.

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

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

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

26 (5) A remote state shall have the authority to:

27 (a) Take adverse actions as set forth in section 4(4) of this act  
28 against a licensee's compact privilege in the state;

29 (b) In furtherance of its rights and responsibilities under the  
30 compact and the commission's rules, issue subpoenas for both hearings  
31 and investigations that require the attendance and testimony of  
32 witnesses and the production of evidence. Subpoenas issued by a state  
33 licensing authority in a participating state for the attendance and  
34 testimony of witnesses or the production of evidence from another  
35 participating state shall be enforced in the latter state by any  
36 court of competent jurisdiction, according to the practice and  
37 procedure of that court applicable to subpoenas issued in proceedings  
38 pending before it. The issuing authority shall pay any witness fees,

1 travel expenses, mileage, and other fees required by the service  
2 statutes of the state where the witnesses or evidence is located; and

3 (c) If otherwise permitted by state law, recover from the  
4 licensee the costs of investigations and disposition of cases  
5 resulting from any adverse action taken against that licensee.

6 (6) (a) In addition to the authority granted to a participating  
7 state by its dentist or dental hygienist licensure act or other  
8 applicable state law, a participating state may jointly investigate  
9 licensees with other participating states.

10 (b) Participating states shall share any significant  
11 investigative information, litigation, or compliance materials in  
12 furtherance of any joint or individual investigation initiated under  
13 the compact.

14 (7) (a) After a licensee's compact privilege in a remote state is  
15 terminated, the remote state may continue an investigation of the  
16 licensee that began when the licensee had a compact privilege in that  
17 remote state.

18 (b) If the investigation yields what would be significant  
19 investigative information had the licensee continued to have a  
20 compact privilege in that remote state, the remote state shall report  
21 the presence of such information to the data system as required by  
22 section 8(2)(f) of this act as if it was significant investigative  
23 information.

24 NEW SECTION. **Sec. 7.** (1) The compact participating states  
25 hereby create and establish a joint government agency whose  
26 membership consists of all participating states that have enacted the  
27 compact. The commission is an instrumentality of the participating  
28 states acting jointly and not an instrumentality of any one state.  
29 The commission shall come into existence on or after the effective  
30 date of the compact as set forth in section 11(1) of this act.

31 (2) (a) Each participating state shall have and be limited to one  
32 commissioner selected by that participating state's state licensing  
33 authority or, if the state has more than one state licensing  
34 authority, selected collectively by the state licensing authorities.

35 (b) The commissioner shall be a member or designee of such  
36 authority or authorities.

37 (c) The commission may by rule or bylaw establish a term of  
38 office for commissioners and may by rule or bylaw establish term  
39 limits.

1 (d) The commission may recommend to a state licensing authority  
2 or authorities, as applicable, removal or suspension of an individual  
3 as the state's commissioner.

4 (e) A participating state's state licensing authority or  
5 authorities, as applicable, shall fill any vacancy of its  
6 commissioner on the commission within 60 days of the vacancy.

7 (f) Each commissioner shall be entitled to one vote on all  
8 matters that are voted upon by the commission.

9 (g) The commission shall meet at least once during each calendar  
10 year. Additional meetings may be held as set forth in the bylaws. The  
11 commission may meet by telecommunication, videoconference, or other  
12 similar electronic means.

13 (3) The commission shall have the following powers:

14 (a) Establish the fiscal year of the commission;

15 (b) Establish a code of conduct and conflict of interest  
16 policies;

17 (c) Adopt rules and bylaws;

18 (d) Maintain its financial records in accordance with the bylaws;

19 (e) Meet and take such actions as are consistent with the  
20 provisions of this compact, the commission's rules, and the bylaws;

21 (f) Initiate and conclude legal proceedings or actions in the  
22 name of the commission, provided that the standing of any state  
23 licensing authority to sue or be sued under applicable law shall not  
24 be affected;

25 (g) Maintain and certify records and information provided to a  
26 participating state as the authenticated business records of the  
27 commission, and designate a person to do so on the commission's  
28 behalf;

29 (h) Purchase and maintain insurance and bonds;

30 (i) Borrow, accept, or contract for services of personnel  
31 including, but not limited to, employees of a participating state;

32 (j) Conduct an annual financial review;

33 (k) Hire employees, elect or appoint officers, fix compensation,  
34 define duties, grant such individuals appropriate authority to carry  
35 out the purposes of the compact, and establish the commission's  
36 personnel policies and programs relating to conflicts of interest,  
37 qualifications of personnel, and other related personnel matters;

38 (l) As set forth in the commission rules, charge a fee to a  
39 licensee for the grant of a compact privilege in a remote state and  
40 thereafter, as may be established by commission rule, charge the

1 licensee a compact privilege renewal fee for each renewal period in  
2 which that licensee exercises or intends to exercise the compact  
3 privilege in that remote state. Nothing herein shall be construed to  
4 prevent a remote state from charging a licensee a fee for a compact  
5 privilege or renewals of a compact privilege, or a fee for the  
6 jurisprudence requirement if the remote state imposes such a  
7 requirement for the grant of a compact privilege;

8 (m) Accept any and all appropriate gifts, donations, grants of  
9 money, other sources of revenue, equipment, supplies, materials, and  
10 services, and receive, utilize, and dispose of the same; provided  
11 that at all times the commission shall avoid any appearance of  
12 impropriety and/or conflict of interest;

13 (n) Lease, purchase, retain, own, hold, improve, or use any  
14 property, real, personal, or mixed, or any undivided interest  
15 therein;

16 (o) Sell, convey, mortgage, pledge, lease, exchange, abandon, or  
17 otherwise dispose of any property, real, personal, or mixed;

18 (p) Establish a budget and make expenditures;

19 (q) Borrow money;

20 (r) Appoint committees, including standing committees, which may  
21 be composed of members, state regulators, state legislators or their  
22 representatives, consumer representatives, and such other interested  
23 persons as may be designated in this compact and the bylaws;

24 (s) Provide and receive information from, and cooperate with, law  
25 enforcement agencies;

26 (t) Elect a chair, vice chair, secretary, treasurer, and such  
27 other officers of the commission as provided in the commission's  
28 bylaws;

29 (u) Establish and elect an executive board;

30 (v) Adopt and provide to the participating states an annual  
31 report;

32 (w) Determine whether a state's enacted compact is materially  
33 different from the model compact language such that the state would  
34 not qualify for participation in the compact; and

35 (x) Perform such other functions as may be necessary or  
36 appropriate to achieve the purposes of this compact.

37 (4)(a) All meetings of the commission that are not closed  
38 pursuant to this subsection shall be open to the public. Notice of  
39 public meetings shall be posted on the commission's website at least  
40 30 days prior to the public meeting.

1 (b) Notwithstanding (a) of this subsection, the commission may  
2 convene an emergency public meeting by providing at least 24 hours  
3 prior notice on the commission's website, and any other means as  
4 provided in the commission's rules, for any of the reasons it may  
5 dispense with notice of proposed rule making under section 9(12) of  
6 this act. The commission's legal counsel shall certify that one of  
7 the reasons justifying an emergency public meeting has been met.

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

13 (d) The commission may convene in a closed, nonpublic meeting for  
14 the commission to receive legal advice or to discuss:

15 (i) Noncompliance of a participating state with its obligations  
16 under the compact;

17 (ii) The employment, compensation, discipline, or other matters,  
18 practices, or procedures related to specific employees or other  
19 matters related to the commission's internal personnel practices and  
20 procedures;

21 (iii) Current or threatened discipline of a licensee or compact  
22 privilege holder by the commission or by a participating state's  
23 licensing authority;

24 (iv) Current, threatened, or reasonably anticipated litigation;

25 (v) Negotiation of contracts for the purchase, lease, or sale of  
26 goods, services, or real estate;

27 (vi) Accusing any person of a crime or formally censuring any  
28 person;

29 (vii) Trade secrets or commercial or financial information that  
30 is privileged or confidential;

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

33 (ix) Investigative records compiled for law enforcement purposes;

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

38 (xi) Legal advice;

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

1 (xiii) Other matters as promulgated by the commission by rule.

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

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

14 (5)(a) The commission shall pay, or provide for the payment of,  
15 the reasonable expenses of its establishment, organization, and  
16 ongoing activities.

17 (b) The commission may accept any and all appropriate sources of  
18 revenue, donations, and grants of money, equipment, supplies,  
19 materials, and services.

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

29 (d) The commission shall not incur obligations of any kind prior  
30 to securing the funds adequate to meet the same; nor shall the  
31 commission pledge the credit of any participating state, except by  
32 and with the authority of the participating state.

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

1 (6) (a) The executive board shall have the power to act on behalf  
2 of the commission according to the terms of this compact. The powers,  
3 duties, and responsibilities of the executive board shall include:

4 (i) Overseeing the day-to-day activities of the administration of  
5 the compact including compliance with the provisions of the compact  
6 and the commission's rules and bylaws;

7 (ii) Recommending to the commission changes to the rules or  
8 bylaws, changes to this compact legislation, fees charged to compact  
9 participating states, fees charged to licensees, and other fees;

10 (iii) Ensuring compact administration services are appropriately  
11 provided, including by contract;

12 (iv) Preparing and recommending the budget;

13 (v) Maintaining financial records on behalf of the commission;

14 (vi) Monitoring compact compliance of participating states and  
15 providing compliance reports to the commission;

16 (vii) Establishing additional committees as necessary;

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

22 (ix) Other duties as provided in the rules or bylaws of the  
23 commission.

24 (b) The executive board shall be composed of up to seven members:

25 (i) The chair, vice chair, secretary, and treasurer of the  
26 commission, and any other members of the commission who serve on the  
27 executive board, shall be voting members of the executive board; and

28 (ii) Other than the chair, vice chair, secretary, and treasurer,  
29 the commission may elect up to three voting members from the current  
30 membership of the commission.

31 (c) The commission may remove any member of the executive board  
32 as provided in the commission's bylaws.

33 (d) The executive board shall meet at least annually.

34 (i) An executive board meeting at which it takes or intends to  
35 take formal action on a matter shall be open to the public, except  
36 that the executive board may meet in a closed, nonpublic session of a  
37 public meeting when dealing with any of the matters covered under  
38 subsection (4) (d) of this section.

39 (ii) The executive board shall give five business days' notice of  
40 its public meetings, posted on its website and as it may otherwise

1 determine to provide notice to persons with an interest in the public  
2 matters the executive board intends to address at those meetings.

3 (e) The executive board may hold an emergency meeting when acting  
4 for the commission to:

5 (i) Meet an imminent threat to public health, safety, or welfare;

6 (ii) Prevent a loss of commission or participating state funds;

7 or

8 (iii) Protect public health and safety.

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

23 (b) The commission shall defend any member, officer, executive  
24 director, employee, and representative of the commission in any civil  
25 action seeking to impose liability arising out of any actual or  
26 alleged act, error, or omission that occurred within the scope of  
27 commission employment, duties, or responsibilities, or as determined  
28 by the commission that the person against whom the claim is made had  
29 a reasonable basis for believing occurred within the scope of  
30 commission employment, duties, or responsibilities; provided that  
31 nothing herein shall be construed to prohibit that person from  
32 retaining their own counsel at their own expense; and provided  
33 further, that the actual or alleged act, error, or omission did not  
34 result from that person's intentional or willful or wanton  
35 misconduct.

36 (c) Notwithstanding (a) of this subsection, should any member,  
37 officer, executive director, employee, or representative of the  
38 commission be held liable for the amount of any settlement or  
39 judgment arising out of any actual or alleged act, error, or omission  
40 that occurred within the scope of that individual's employment,



1 duties, or responsibilities for the commission, or that the person to  
2 whom that individual is liable had a reasonable basis for believing  
3 occurred within the scope of the individual's employment, duties, or  
4 responsibilities for the commission, the commission shall indemnify  
5 and hold harmless such individual, provided that the actual or  
6 alleged act, error, or omission did not result from the intentional  
7 or willful or wanton misconduct of the individual.

8 (d) Nothing herein shall be construed as a limitation on the  
9 liability of any licensee for professional malpractice or misconduct,  
10 which shall be governed solely by any other applicable state laws.

11 (e) Nothing in this compact shall be interpreted to waive or  
12 otherwise abrogate a participating state's state action immunity or  
13 state action affirmative defense with respect to antitrust claims  
14 under the Sherman act, Clayton act, or any other state or federal  
15 antitrust or anticompetitive law or regulation.

16 (f) Nothing in this compact shall be construed to be a waiver of  
17 sovereign immunity by the participating states or by the commission.

18 NEW SECTION. **Sec. 8.** (1) The commission shall provide for the  
19 development, maintenance, operation, and utilization of a coordinated  
20 database and reporting system containing licensure, adverse action,  
21 and the presence of significant investigative information on all  
22 licensees and applicants for a license in participating states.

23 (2) Notwithstanding any other provision of state law to the  
24 contrary, a participating state shall submit a uniform data set to  
25 the data system on all individuals to whom this compact is applicable  
26 as required by the rules of the commission, including:

27 (a) Identifying information;

28 (b) Licensure data;

29 (c) Adverse actions against a licensee, license applicant, or  
30 compact privilege and information related thereto;

31 (d) Nonconfidential information related to alternative program  
32 participation, the beginning and ending dates of such participation,  
33 and other information related to such participation;

34 (e) Any denial of an application for licensure, and the reason or  
35 reasons for such denial, excluding the reporting of any criminal  
36 history record information where prohibited by law;

37 (f) The presence of significant investigative information; and

1 (g) Other information that may facilitate the administration of  
2 this compact or the protection of the public, as determined by the  
3 rules of the commission.

4 (3) The records and information provided to a participating state  
5 pursuant to this compact or through the data system, when certified  
6 by the commission or an agent thereof, shall constitute the  
7 authenticated business records of the commission, and shall be  
8 entitled to any associated hearsay exception in any relevant  
9 judicial, quasi-judicial, or administrative proceedings in a  
10 participating state.

11 (4) Significant investigative information pertaining to a  
12 licensee in any participating state will only be available to other  
13 participating states.

14 (5) It is the responsibility of the participating states to  
15 monitor the database to determine whether adverse action has been  
16 taken against a licensee or license applicant. Adverse action  
17 information pertaining to a licensee or license applicant in any  
18 participating state will be available to any other participating  
19 state.

20 (6) Participating states contributing information to the data  
21 system may designate information that may not be shared with the  
22 public without the express permission of the participating state.

23 (7) Any information submitted to the data system that is  
24 subsequently expunged pursuant to federal law or the laws of the  
25 participating state contributing the information shall be removed  
26 from the data system.

27 NEW SECTION. **Sec. 9.** (1) The commission shall promulgate  
28 reasonable rules in order to effectively and efficiently implement  
29 and administer the purposes and provisions of the compact. A  
30 commission rule shall be invalid and have no force or effect only if  
31 a court of competent jurisdiction holds that the rule is invalid  
32 because the commission exercised its rule-making authority in a  
33 manner that is beyond the scope and purposes of the compact, or the  
34 powers granted hereunder, or based upon another applicable standard  
35 of review.

36 (2) The rules of the commission shall have the force of law in  
37 each participating state, provided however that where the rules of  
38 the commission conflict with the laws of the participating state that  
39 establish the participating state's scope of practice as held by a

1 court of competent jurisdiction, the rules of the commission shall be  
2 ineffective in that state to the extent of the conflict.

3 (3) The commission shall exercise its rule-making powers pursuant  
4 to the criteria set forth in this section and the rules adopted  
5 thereunder. Rules shall become binding as of the date specified by  
6 the commission for each rule.

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

14 (5) Rules shall be adopted at a regular or special meeting of the  
15 commission.

16 (6) Prior to adoption of a proposed rule, the commission shall  
17 hold a public hearing and allow persons to provide oral and written  
18 comments, data, facts, opinions, and arguments.

19 (7) Prior to adoption of a proposed rule by the commission, and  
20 at least 30 days in advance of the meeting at which the commission  
21 will hold a public hearing on the proposed rule, the commission shall  
22 provide a notice of proposed rule making:

23 (a) On the website of the commission or other publicly accessible  
24 platform;

25 (b) To persons who have requested notice of the commission's  
26 notices of proposed rule making; and

27 (c) In such other way or ways as the commission may by rule  
28 specify.

29 (8) The notice of proposed rule making shall include:

30 (a) The time, date, and location of the public hearing at which  
31 the commission will hear public comments on the proposed rule and, if  
32 different, the time, date, and location of the meeting where the  
33 commission will consider and vote on the proposed rule;

34 (b) If the hearing is held via telecommunication,  
35 videoconference, or other electronic means, the commission shall  
36 include the mechanism for access to the hearing in the notice of  
37 proposed rule making;

38 (c) The text of the proposed rule and the reason therefor;

39 (d) A request for comments on the proposed rule from any  
40 interested person; and

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

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

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

10 (11) The commission shall, by majority vote of all commissioners,  
11 take final action on the proposed rule based on the rule-making  
12 record.

13 (a) The commission may adopt changes to the proposed rule  
14 provided the changes do not enlarge the original purpose of the  
15 proposed rule.

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

19 (c) The commission shall determine a reasonable effective date  
20 for the rule. Except for an emergency as provided in subsection (12)  
21 of this section, the effective date of the rule shall be no sooner  
22 than 30 days after the commission issuing the notice that it adopted  
23 or amended the rule.

24 (12) Upon determination that an emergency exists, the commission  
25 may consider and adopt an emergency rule with 24 hours' notice, with  
26 opportunity to comment, provided that the usual rule-making  
27 procedures provided in the compact and in this section shall be  
28 retroactively applied to the rule as soon as reasonably possible, in  
29 no event later than 90 days after the effective date of the rule. For  
30 the purposes of this provision, an emergency rule is one that must be  
31 adopted immediately in order to:

32 (a) Meet an imminent threat to public health, safety, or welfare;

33 (b) Prevent a loss of commission or participating state funds;

34 (c) Meet a deadline for the promulgation of a rule that is  
35 established by federal law or rule; or

36 (d) Protect public health and safety.

37 (13) The commission or an authorized committee of the commission  
38 may direct revisions to a previously adopted rule for purposes of  
39 correcting typographical errors, errors in format, errors in  
40 consistency, or grammatical errors. Public notice of any revisions

1 shall be posted on the website of the commission. The revision shall  
2 be subject to challenge by any person for a period of 30 days after  
3 posting. The revision may be challenged only on grounds that the  
4 revision results in a material change to a rule. A challenge shall be  
5 made in writing and delivered to the commission prior to the end of  
6 the notice period. If no challenge is made, the revision will take  
7 effect without further action. If the revision is challenged, the  
8 revision may not take effect without the approval of the commission.

9 (14) No participating state's rule-making requirements shall  
10 apply under this compact.

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

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

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

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

38 (b) The commission shall provide a copy of the notice of default  
39 to the other participating states.

1 (3) If a state in default fails to cure the default, the  
2 defaulting state may be terminated from the compact upon an  
3 affirmative vote of a majority of the commissioners, and all rights,  
4 privileges, and benefits conferred on that state by this compact may  
5 be terminated on the effective date of termination. A cure of the  
6 default does not relieve the offending state of obligations or  
7 liabilities incurred during the period of default.

8 (4) Termination of participation in the compact shall be imposed  
9 only after all other means of securing compliance have been  
10 exhausted. Notice of intent to suspend or terminate shall be given by  
11 the commission to the governor, the majority and minority leaders of  
12 the defaulting state's legislature, the defaulting state's state  
13 licensing authority or authorities, as applicable, and each of the  
14 participating states' state licensing authority or authorities, as  
15 applicable.

16 (5) A state that has been terminated is responsible for all  
17 assessments, obligations, and liabilities incurred through the  
18 effective date of termination, including obligations that extend  
19 beyond the effective date of termination.

20 (6) Upon the termination of a state's participation in this  
21 compact, that state shall immediately provide notice to all licensees  
22 of the state, including licensees of other participating states  
23 issued a compact privilege to practice within that state, of such  
24 termination. The terminated state shall continue to recognize all  
25 compact privileges then in effect in that state for a minimum of 180  
26 days after the date of said notice of termination.

27 (7) The commission shall not bear any costs related to a state  
28 that is found to be in default or that has been terminated from the  
29 compact, unless agreed upon in writing between the commission and the  
30 defaulting state.

31 (8) The defaulting state may appeal the action of the commission  
32 by petitioning the United States district court for the District of  
33 Columbia or the federal district where the commission has its  
34 principal offices. The prevailing party shall be awarded all costs of  
35 such litigation, including reasonable attorneys' fees.

36 (9) (a) Upon request by a participating state, the commission  
37 shall attempt to resolve disputes related to the compact that arise  
38 among participating states and between participating states and  
39 nonparticipating states.

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

3 (10)(a) The commission, in the reasonable exercise of its  
4 discretion, shall enforce the provisions of this compact and the  
5 commission's rules.

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

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

26 (d) No individual or entity other than a participating state may  
27 enforce this compact against the commission.

28 NEW SECTION. **Sec. 11.** (1) The compact shall come into effect on  
29 the date on which the compact statute is enacted into law in the  
30 seventh participating state.

31 (a) On or after the effective date of the compact, the commission  
32 shall convene and review the enactment of each of the states that  
33 enacted the compact prior to the commission convening ("charter  
34 participating states") to determine if the statute enacted by each  
35 such charter participating state is materially different than the  
36 model compact.

37 (i) A charter participating state whose enactment is found to be  
38 materially different from the model compact shall be entitled to the  
39 default process set forth in section 10 of this act.

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

5 (b) Participating states enacting the compact subsequent to the  
6 charter participating states shall be subject to the process set  
7 forth in section 7(3)(w) of this act to determine if their enactments  
8 are materially different from the model compact and whether they  
9 qualify for participation in the compact.

10 (c) All actions taken for the benefit of the commission or in  
11 furtherance of the purposes of the administration of the compact  
12 prior to the effective date of the compact or the commission coming  
13 into existence shall be considered to be actions of the commission  
14 unless specifically repudiated by the commission.

15 (d) Any state that joins the compact subsequent to the  
16 commission's initial adoption of the rules and bylaws shall be  
17 subject to the commission's rules and bylaws as they exist on the  
18 date on which the compact becomes law in that state. Any rule that  
19 has been previously adopted by the commission shall have the full  
20 force and effect of law on the day the compact becomes law in that  
21 state.

22 (2) Any participating state may withdraw from this compact by  
23 enacting a statute repealing that state's enactment of the compact.

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

26 (b) Withdrawal shall not affect the continuing requirement of the  
27 withdrawing state's licensing authority or authorities to comply with  
28 the investigative and adverse action reporting requirements of this  
29 compact prior to the effective date of withdrawal.

30 (c) Upon the enactment of a statute withdrawing from this  
31 compact, the state shall immediately provide notice of such  
32 withdrawal to all licensees within that state. Notwithstanding any  
33 subsequent statutory enactment to the contrary, such withdrawing  
34 state shall continue to recognize all compact privileges to practice  
35 within that state granted pursuant to this compact for a minimum of  
36 180 days after the date of such notice of withdrawal.

37 (3) Nothing contained in this compact shall be construed to  
38 invalidate or prevent any licensure agreement or other cooperative  
39 arrangement between a participating state and a nonparticipating  
40 state that does not conflict with the provisions of this compact.



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

5 NEW SECTION. **Sec. 12.** (1) This compact and the commission's  
6 rule-making authority shall be liberally construed so as to  
7 effectuate the purposes, and the implementation and administration,  
8 of the compact. Provisions of the compact expressly authorizing or  
9 requiring the promulgation of rules shall not be construed to limit  
10 the commission's rule-making authority solely for those purposes.

11 (2) The provisions of this compact shall be severable and if any  
12 phrase, clause, sentence, or provision of this compact is held by a  
13 court of competent jurisdiction to be contrary to the constitution of  
14 any participating state, a state seeking participation in the  
15 compact, or of the United States, or the applicability thereof to any  
16 government, agency, person, or circumstance is held to be  
17 unconstitutional by a court of competent jurisdiction, the validity  
18 of the remainder of this compact and the applicability thereof to any  
19 other government, agency, person, or circumstance shall not be  
20 affected thereby.

21 (3) Notwithstanding subsection (2) of this section, the  
22 commission may deny a state's participation in the compact or, in  
23 accordance with the requirements of section 10(2) of this act,  
24 terminate a participating state's participation in the compact, if it  
25 determines that a constitutional requirement of a participating state  
26 is a material departure from the compact. Otherwise, if this compact  
27 shall be held to be contrary to the constitution of any participating  
28 state, the compact shall remain in full force and effect as to the  
29 remaining participating states and in full force and effect as to the  
30 participating state affected as to all severable matters.

31 NEW SECTION. **Sec. 13.** (1) Nothing in this chapter shall prevent  
32 or inhibit the enforcement of any other law of a participating state  
33 that is not inconsistent with the compact.

34 (2) Any laws, statutes, regulations, or other legal requirements  
35 in a participating state in conflict with the compact are superseded  
36 to the extent of the conflict.

37 (3) All permissible agreements between the commission and the  
38 participating states are binding in accordance with their terms.

1        NEW SECTION.    **Sec. 14.**    Sections 1 through 13 of this act  
2    constitute a new chapter in Title 18 RCW.

--- **END** ---