

SENATE BILL REPORT

ESHB 1576

As of March 21, 2023

Title: An act relating to the dentist and dental hygienist compact.

Brief Description: Concerning the dentist and dental hygienist compact.

Sponsors: House Committee on Postsecondary Education & Workforce (originally sponsored by Representatives Caldier, Schmidt, Leavitt and Volz).

Brief History: Passed House: 3/4/23, 95-0.

Committee Activity: Health & Long Term Care: 3/21/23.

Brief Summary of Bill

- Enters Washington into the Dentist and Dental Hygienist Compact.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Staff: Andie Parnell (786-7439)

Background: Dentists. The practice of dentistry is defined as:

- representing oneself as being able to diagnose, treat, or remove stains and concretions from teeth, or operate or prescribe for any disease, pain, injury, deficiency, deformity, or physical condition of the human teeth, alveolar process, gums, or jaw;
- offering or undertaking to diagnose, treat, or remove stains or concretions from teeth;
- operate or prescribe for any disease, pain, injury, deficiency, deformity, or physical condition of the same, or take impressions of the teeth or jaw;
- owning, maintaining, or operating an office for the practice of dentistry;
- engaging in any of the practices included in the curricula of recognized and approved dental schools or colleges; or
- professing to the public by any method to furnish, supply, construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Dentists are licensed and regulated in Washington by the Dental Quality Assurance Commission (DQAC). To receive a dentistry license, an applicant must submit proof of graduation from a dental college, school, or dental department of an institution approved by DQAC; submit a recent picture; and pass an examination.

An applicant holding a valid license and currently engaged in practice in another state may be granted a license without examination, on the payment of any required fees, if the applicant:

- is a graduate of a dental college, school, or dental department of an institution approved by DQAC; or
- has practiced in another state for at least four years and has completed a one-year postdoctoral residency outside of Washington approved by DQAC.

DQAC may set other requirements for licensure without examination.

Dental Hygienists. Dental hygienists remove deposits and stains from the surfaces of teeth; apply topical, preventive, or prophylactic agents; polish and smooth restorations; and perform root planing, soft tissue curettage, and other operations and services delegated to them by a licensed dentist. Dental hygienists licensed in Washington may perform dental operations and services only under the supervision of a licensed dentist.

The Department of Health (DOH) licenses and regulates dental hygienists. DOH may issue a license to any applicant who:

- has successfully completed an educational program approved by the Secretary of Health;
- has successfully completed an examination administered or approved by the Dental Hygiene Examining Committee; and
- has not engaged in unprofessional conduct or is not unable to practice with reasonable skill and safety as a result of a physical or mental impairment.

A dental hygienist licensed in another state or Canadian province may temporarily practice in Washington, without examination, through an initial limited license. An applicant for an initial limited license must be actively practicing, file required documentation, meet the conditions of the Uniform Disciplinary Act, demonstrate knowledge of Washington State law pertaining to the practice of dental hygiene, pay fees and meet requirements for AIDS education. The term of an initial limited license is 18 months and is renewable upon successfully meeting further educational and examination requirements.

Dentist and Dental Hygienist Compact. The Dentist and Dental Hygienist Compact (Compact) is an agreement between participating states to facilitate the interstate practice of dentistry and dental hygiene. States must enact the model language to join the Compact. No substantive changes should be made to the model language. Any substantive changes may jeopardize the enacting state's participation in the Compact. As of March 20, 2023, seven

states including Washington State have Compact legislation pending.

Summary of Bill: Dentist and Dental Hygienist Compact Establishment. The Compact is enacted in Washington, allowing licensed dentists and dental hygienists to practice across state lines in Compact states under a Compact privilege. The Compact is administered by a Compact Commission (Commission), established by the Compact's participating states.

To join the Compact, a state must:

- enact a Compact that is not materially different than the model Compact determined by Commission rules;
- participate fully in the data system;
- have a mechanism in place to receive and investigate complaints against licensees and license applicants;
- notify the commission of any adverse action or the availability of significant investigative information regarding a licensee or license applicant;
- fully implement a background check requirement;
- comply with applicable Commission rules;
- accept the national board examinations of the Joint Commission on National Dental Examinations or another examination accepted by the Commission;
- accept applicants who graduated from an accredited predoctoral dental education program leading to the Doctor of Dental Surgery (DDS) or Doctor of Dental Medicine (DMD) degree;
- accept applicants who graduated from an accredited dental hygiene education program;
- require for licensure that applicants successfully complete a clinical assessment;
- have continuing professional development requirements as a condition for license renewal; and
- pay a participation fee to the Commission.

Compact Privilege. Dentists and dental hygienists licensed in Washington are authorized to practice, under Compact privilege. To obtain and exercise the compact privilege, the licensee must:

- be licensed as a dentist or dental hygienist in a participating state;
- submit to an application process;
- pay applicable fees;
- meet any jurisprudence requirement established by the remote state in which the applicant is seeking the privilege;
- pass a national board examination of the Joint Commission on National Dental Examinations or another examination accepted by the Commission;
- for a dentist, have graduated from an accredited predoctoral dental education program leading to DDS or DMD degree;
- for a dental hygienist, have graduated from an accredited dental hygiene education program;
- have successfully completed a clinical assessment for licensure;

- report to the Commission adverse actions taken by any non-participating state when applying for the privilege and, otherwise, within 30 days after the adverse action is taken;
- report to the Commission the applicant's primary residential address and any change in primary residential address; and
- consent to service of process by mail at the primary residence.

Active military members and their spouses may not be required to pay the Commission for the Compact privilege. Compact states may choose to charge no fee or a reduced fee to active military members and their spouses.

Discipline. A licensee practicing in a participating state must function within the scope of practice authorized by that state for a dentist or dental hygienist licensed within the state. A participating state may, in accordance with due process and the state's laws, remove the practitioner's Compact privileges, impose fines, or take any other action necessary to protect the health and safety of its citizens.

If adverse action is taken by a participating state, the adverse action applies in all other participating states. If the Compact privilege is removed, the licensee loses the Compact privilege in other participating states until the specific period of time for the removal has ended and all conditions for removal have been satisfied.

Only the state where the dentist or dental hygienist is licensed may take adverse action against the qualifying license issued by that state. States may participate in joint investigations and the home state may take actions based on the investigations and factual findings of another participating state.

Compact Commission. The Commission is a joint government agency established by the Compact's participating states, whose membership consists of all participating states that have enacted the Compact.

A commissioner is an individual appointed by a participating state to serve as the member of the Commission for that participating state. Each participating state is limited to one commissioner selected by that participating state's licensing authority, or, if the state has more than one state licensing authority, selected collectively by the state licensing authorities.

The Commission must establish an executive board to act on behalf of the Commission consisting of up to seven members. The executive committee's duties include recommending changes to rules or bylaws, preparing a recommended budget, monitoring Compact compliance, and other duties provided in the bylaws.

The Commission's enumerated powers include:

- establishing bylaws;

- determining whether a state's enacted Compact is materially different from the model Compact language such that the state would not qualify for Compact participation;
- establishing a code of conduct and conflict of interest policies;
- appointing committees, including standing committees composed of members, state regulators, state legislators, consumer representatives, and other interested persons; and
- performing other functions necessary or appropriate to achieve the purposes of the Compact.

The Commission must promulgate reasonable rules to achieve the purpose of the Compact.

The Commission may levy an annual assessment on Compact states and levy fees on licensees to cover the costs of operations and activities.

Database and Reporting System. The Commission must establish a coordinated database and reporting system containing licensure, adverse action, and presence of significant investigative information on all licensees and applicants for a license in participating states. Participating states must submit a uniform data set to the data system. It is the responsibility of a participating state to monitor the database to determine whether adverse action has been taken against a licensee or license applicant. Participating states may designate information that may not be shared without the states' permission. Any information that is subsequently required to be expunged by the laws of a participating state must be removed from the system.

Oversight and Enforcement. Upon request of a participating state, the Commission must attempt to resolve disputes between Compact states and adopt rules regarding mediation and binding arbitration. The executive and judicial branches of the participating states must enforce the Compact. If the Commission determines a state is in default, it must provide written notice to that state and provide it with remedial training and specific technical assistance regarding the default. The Commission may bring a legal action in federal court to enforce the Compact. After all other means of securing compliance have been exhausted, a defaulting state may be terminated from the Compact through a vote of the majority of Commission members.

Joining and Withdrawing. The Compact comes into effect on the date when the seventh state joins. States may join the Compact by enacting the Compact's provisions into law. States that enact the Compact before the Compact comes into effect are subject to review after the effective date of the Compact. The Compact may be amended by enactments in all participating states. A state may withdraw from the Compact by repealing its enacting statute, but the withdrawal is not effective until 180 days after the statute's repeal.

Conflict of Laws. State laws in conflict with the Compact are superseded to the extent of the Compact. The Compact does not prevent the enforcement of any other law of a participating state that is not inconsistent with the Compact. Permissible agreements between the

Commission and the participating states are binding. If the Compact conflicts with the constitution of a participating state, the Compact is ineffective to the extent of that conflict. If the constitutional provision in question is a material departure from the Compact, the state may be terminated from the Compact.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Enacting the Dentist and Dental Hygienist Compact is one solution to fixing our workforce shortage and offers a long term solution for military spouses relocating to Washington. The Compact increases mobility for those relocating, expands employment opportunities across states, and reduces unnecessary licensure barriers. There are also many benefits to patients, including expanding consumer access to qualified dental professionals. For participating states, the Compact creates a cooperative framework for investigations and disputes, provides an information flow, and preserves the regulatory authority of each state.

Persons Testifying: PRO: Representative Michelle Caldier, Prime Sponsor; Matt Shafer, The Council of State Governments; Melissa Johnson, Washington Dental Hygienists' Association; Kathy Mueller, Washington Dental Hygienists' Association; Emily Lovell, Washington State Dental Association; Amy Anderson, Association of Washington Business; Lisa Thatcher, ADSO.

Persons Signed In To Testify But Not Testifying: No one.