

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1576

68th Legislature
2023 Regular Session

Passed by the House April 13, 2023
Yeas 96 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate April 6, 2023
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1576** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1576

AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

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), (7), and (8) 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** ---