

1 HOUSE BILL 441

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

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO INTERGOVERNMENTAL AGREEMENTS; ENACTING THE DENTIST
12 AND DENTAL HYGIENIST INTERSTATE COMPACT.
13

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

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

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

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

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

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

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

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

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

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

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1 G. requires dentists and dental hygienists who
2 practice in a participating state pursuant to a compact
3 privilege to practice within the scope of practice authorized
4 in that state;

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

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

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

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

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

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

24 C. "alternative program" means a non-disciplinary
25 monitoring or practice remediation process applicable to a

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

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

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

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

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

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

23 I. "criminal background check" means the submission
24 of fingerprints or other biometric-based information for a
25 license applicant for the purpose of obtaining that applicant's

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

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

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

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

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

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

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

25 P. "jurisprudence requirement" means the assessment

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1 of an individual's knowledge of the laws and rules governing
2 the practice of dentistry or dental hygiene, as applicable, in
3 a state;

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

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

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

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

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

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

25 W. "rule" means a regulation promulgated by an

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1 entity that has the force of law;

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

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

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

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

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

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- 1 A. In order to join the compact and thereafter
2 continue as a participating state, a state shall:
- 3 (1) enact a compact that is not materially
4 different from the model compact as determined in accordance
5 with commission rules;
- 6 (2) participate fully in the commission's data
7 system;
- 8 (3) have a mechanism in place for receiving
9 and investigating complaints about licensees and license
10 applicants;
- 11 (4) notify the commission, in compliance with
12 the terms of the compact and commission rules, of any adverse
13 action or the availability of significant investigative
14 information regarding a licensee or license applicant;
- 15 (5) fully implement a criminal background
16 check requirement, within a time frame established by
17 commission rule, by receiving the results of a qualifying
18 criminal background check;
- 19 (6) comply with the commission rules
20 applicable to a participating state;
- 21 (7) accept the national board examinations of
22 the joint commission on national dental examinations or another
23 examination accepted by commission rule as a licensure
24 examination;
- 25 (8) accept for licensure that applicants for a

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

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

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

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

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

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

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

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

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1 (2) maintain documentation of completion of a
2 criminal background check and criminal background information to
3 the extent allowed by state and federal law; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 D. A licensee providing dentistry or dental hygiene

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

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

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

24 G. If a licensee's compact privilege in a remote
25 state is removed by the remote state, the individual shall lose

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1 or be ineligible for the compact privilege in any remote state
2 until the following occur:

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

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

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

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

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

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

24 B. A participating state may take adverse action
25 based on the significant investigative information of a remote

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1 state, so long as the participating state follows its own
2 procedures for imposing an adverse action.

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

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

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

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

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

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

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

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

23 (2) participating states shall share any
24 significant investigative information, litigation or
25 compliance materials in furtherance of a joint or individual

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1 investigation initiated under the compact.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 C. The commission may:

25 (1) establish the fiscal year of the

1 commission;

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

4 (3) adopt rules and bylaws;

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

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

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

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

18 (8) purchase and maintain insurance and bonds;

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

22 (10) conduct an annual financial review;

23 (11) hire employees, elect or appoint
24 officers, fix compensation, define duties, grant such
25 individuals appropriate authority to carry out the purposes of

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1 the compact and establish the commission's personnel policies
2 and programs relating to conflicts of interest, qualifications
3 of personnel and other related personnel matters;

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

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

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

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

25 (16) establish a budget and make expenditures;

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1 (17) borrow money;

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

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

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

12 (21) establish and elect an executive board;

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

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

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

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

24 (1) all meetings that are not closed pursuant
25 to this subsection shall be open to the public, and notice of

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1 public meetings shall be posted on the commission's website at
2 least thirty days prior to the meeting;

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

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

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

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

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

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1 (c) current or threatened discipline of a
2 licensee or compact privilege holder by the commission or by a
3 participating state's licensing authority;

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

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

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

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

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

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

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

22 (k) legal advice;

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

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1 (m) other matters as promulgated by the
2 commission by rule.

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

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

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

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

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

25 (3) may levy on and collect an annual

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

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

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

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

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

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

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

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

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

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

14 (7) establishing additional committees as
15 necessary;

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

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

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

25 (1) the chair, vice chair, secretary and

1 treasurer; and

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

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

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

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

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

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

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

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

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1 (3) protect public health and safety.

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

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

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

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

19 P. Nothing in this compact shall be:

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

24 (2) interpreted to waive or otherwise abrogate
25 a participating state's state action immunity or state action

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1 affirmative defense with respect to antitrust claims under the
2 federal Sherman Act, the federal Clayton Act or any other state
3 or federal antitrust or anti-competitive law or regulation; or

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

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

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

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

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

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

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1 (5) any denial of an application for licensure
2 and the reasons for such denial, excluding the reporting of any
3 criminal history record information where prohibited by law;

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

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

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

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

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

25 F. Participating states contributing information to

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1 the data system may designate information that may not be shared
2 with the public without the express permission of the
3 contributing state.

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

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

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

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

25 C. The commission shall exercise its rulemaking

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1 powers pursuant to the criteria set forth in this section and
2 the rules adopted pursuant to this section. Rules shall become
3 binding as of the date specified by the commission for each
4 rule.

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

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

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

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

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

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

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1 (3) in other ways as the commission may by
2 rule specify.

3 H. The notice of proposed rulemaking shall include:

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

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

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

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

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

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

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

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1 required by this section.

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

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

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

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

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

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

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

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

7 (4) protect public health and safety.

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

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

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

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1 A. The executive and judicial branches of state
2 government in each participating state shall enforce this
3 compact and take all actions necessary and appropriate to
4 implement the compact.

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

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

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

23 E. If the commission determines that a participating
24 state has defaulted in the performance of its obligations or
25 responsibilities under this compact or the promulgated rules of

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

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

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

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

24 I. A state that has been terminated from the compact
25 is responsible for all assessments, obligations and liabilities

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1 incurred through the effective date of termination, including
2 obligations that extend beyond the effective date of
3 termination.

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

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

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

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

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

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

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

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

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1 In the event judicial enforcement is necessary, the prevailing
2 party shall be awarded all costs of such litigation, including
3 reasonable attorney fees.

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

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

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

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

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

25 D. Participating states shall be subject to the

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1 process set forth in Subsection B of this section to determine
2 if those states' enactments are materially different from the
3 model compact and whether those states qualify for participation
4 in the compact.

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

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

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

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

24 (2) withdrawal shall not affect the continuing
25 requirement of the withdrawing state's licensing authority or

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1 authorities to comply with the investigative and adverse action
2 reporting requirements of this compact prior to the effective
3 date of the withdrawal; and

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

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

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

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

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

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

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

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

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1 matters.

2 SECTION 14. [NEW MATERIAL] CONSISTENT EFFECT AND CONFLICT
3 WITH OTHER STATE LAWS.--

4 A. Nothing in the compact shall prevent or inhibit
5 the enforcement of any other law of a participating state that
6 is not inconsistent with the compact.

7 B. Any laws, statutes, regulations or other legal
8 requirements in a participating state in conflict with this
9 compact are superseded to the extent of the conflict.

10 C. All permissible agreements between the commission
11 and the participating states are binding in accordance with
12 their terms.

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