

SB 187-FN - AS INTRODUCED

2025 SESSION

25-0997
09/08

SENATE BILL ***187-FN***

AN ACT adopting the dentist and dental hygienist compact.

SPONSORS: Sen. Reardon, Dist 15; Sen. Lang, Dist 2; Sen. Rosenwald, Dist 13; Sen. McGough,
Dist 11; Sen. Perkins Kwoka, Dist 21; Sen. Pearl, Dist 17; Rep. Seidel, Hills. 29

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill adopts dentist and dental hygienist compact.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT adopting the dentist and dental hygienist compact.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Section; Dentists and Dentistry; Interstate Compact Adopted. Amend RSA 317-A by
2 inserting after section 26 the following new section:

3 317-A:26-a Interstate Compact Adopted. The state of New Hampshire hereby adopts the
4 provisions of the dentist and dental hygienist compact as follows:

5 SECTION 1. TITLE AND PURPOSE

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

16 A. Enables dentists and dental hygienists who qualify for a compact privilege to practice in
17 other participating states without satisfying burdensome and duplicative requirements associated
18 with securing a license to practice in those states;

19 B. Promotes mobility and addresses workforce shortages through each participating state's
20 acceptance of a compact privilege to practice in that state;

21 C. Increases public access to qualified, licensed dentists and dental hygienists by creating a
22 responsible, streamlined pathway for licensees to practice in participating states:

23 D. Enhances the ability of participating states to protect the public's health and safety;

24 E. Does not interfere with licensure requirements established by a participating state;

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

26 G. Requires dentists and dental hygienists who practice in a participating state pursuant to a
27 compact privilege to practice within the scope of practice authorized in that state;

28 H. Extends the authority of a participating state to regulate the practice of dentistry and dental
29 hygiene within its borders to dentists and dental hygienists who practice in the state through a
30 compact privilege;

I. Promotes the cooperation of participating state in regulating the practice of dentistry and dental hygiene within those states;

J. Facilitates the relocation of military members and their spouses who are licensed to practice dentistry or dental hygiene.

SECTION 2. DEFINITIONS

As used in this compact, unless the context requires otherwise, the following definitions shall apply:

A. "Active military member" means any person with full-time duty status in the armed forces of the United States, including members of the national guard and reserve.

B. "Adverse action" means disciplinary action or encumbrance imposed on a license or compact privilege by a state licensing authority.

C. "Alternative program" means a non-disciplinary monitoring or practice remediation process applicable to a dentist or dental hygienist approved by a state licensing authority of a participating state in which the dentist or dental hygienist is licensed. This includes, but is not limited to, programs to which licensees with substance abuse or addiction issues are referred in lieu of adverse action.

D. "Clinical assessment" means examination or process, required for licensure as a dentist or dental hygienist as applicable, that provides evidence of clinical competence in dentistry or dental hygiene.

E. "Commissioner" means the individual appointed by a participating state to serve as the member of the commission for that participating state.

F. "Compact" means this dentist and dental hygienist compact.

G. "Compact privilege" means the authorization granted by a remote state to allow a licensee from a participating state to practice as a dentist or dental hygienist in a remote state.

H. "Continuing professional development" means a requirement, as a condition of license renewal, to provide evidence of successful participation in educational or professional activities relevant to practice or area of work.

I. "Criminal background check" means the submission of fingerprints or other biometric-based information for a license applicant for the purpose of obtaining that applicant's criminal history record information, as defined in 28 C.F.R. section 20.3(d) from the Federal Bureau of Investigation and the state's criminal history record repository as defined in 28 C.F.R. section 20.3(f).

J. "Data system" means the commission's repository of information about licensees, including but not limited to examination, licensure, investigative, compact privilege, adverse action, and alternative program.

K. "Dental hygienist" means an individual who is licensed by a state licensing authority to practice dental hygiene.

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1 L. “Dentist” means an individual who is licensed by a state licensing authority to practice
2 dentistry.

3 M. “Dentist and dental hygienist compact commission” or “commission” means a joint
4 government agency established by this compact comprised of each state that has enacted the
5 compact and a national administrative body comprised of a commissioner from each state that has
6 enacted the compact.

7 N. “Encumbered license” means a license that a state licensing authority has limited in any way
8 other than through an alternative program.

9 O. “Executive board” means the chair, vice chair, secretary, and treasurer and any other
10 commissioners as may be determined by commission rule or bylaw.

11 P. “Jurisprudence requirement” means the assessment of an individual’s knowledge of the laws
12 and rules governing the practice of dentistry or dental hygiene, as applicable, in a state.

13 Q. “License” means current authorization by a state, other than authorization pursuant to a
14 compact privilege, or other privilege, for an individual to practice as a dentist or dental hygienist in
15 that state.

16 R. “Licensee” means an individual who holds an unrestricted license from a participating state
17 to practice as a dentist or dental hygienist in that state.

18 S. “Model compact” the model for the dentist and dental hygienist compact on file with the
19 council of state governments or other entity as designated by the commission.

20 T. “Participating state” means a state that has enacted the compact and been admitted to the
21 commission in accordance with the provisions herein and commission rules.

22 U. “Qualifying license” means a license that is not an encumbered license issued by a
23 participating state to practice dentistry or dental hygiene.

24 V. “Remote state” means a participating state where a licensee who is not licensed as a dentist
25 or dental hygienist is exercising or seeking to exercise the compact privilege.

26 W. “Rule” means a regulation promulgated by an entity that has the force of law.

27 X. “Scope of practice” means the procedures, actions, and processes a dentist or dental hygienist
28 licensed in a state is permitted to undertake in that state and the circumstances under which the
29 licensee is permitted to undertake those procedures, actions and processes. Such procedures, actions
30 and processes and the circumstances under which they may be undertaken may be established
31 through means, including, but not limited to, statute, regulations, case law, and other processes
32 available to the state licensing authority or other government agency.

33 Y. “Significant investigative information” means information, records, and documents received
34 or generated by a state licensing authority pursuant to an investigation for which a determination
35 has been made that there is probable cause to believe that the licensee has violated a statute or
36 regulation that is considered more than a minor infraction for which the state licensing authority
37 could pursue adverse action against the licensee.

1 Z. “State” means any state, commonwealth, district, or territory of the United States of America
2 that regulates the practices of dentistry and dental hygiene.

3 AA. “State licensing authority” means an agency or other entity of a state that is responsible for
4 the licensing and regulation of dentists or dental hygienists.

5 SECTION 3. STATE PARTICIPATION IN THE COMPACT

6 A. In order to join the compact and thereafter continue as a participating state, a state must:

7 1. Enact a compact that is not materially different from the model compact as determined in
8 accordance with commission rules;

9 2. Participate fully in the commission’s data system;

10 3. Have a mechanism in place for receiving and investigating complaints about its licensees
11 and license applicants;

12 4. Notify the commission, in compliance with the terms of the compact and commission
13 rules, of any adverse action or the availability of significant investigative information regarding a
14 licensee and license applicant;

15 5. Fully implement a criminal background check requirement, within a time frame
16 established by commission rule, by receiving the results of a qualifying criminal background check;

17 6. Comply with the commission rules applicable to a participating state;

18 7. Accept the national board examinations of the joint commission on national dental
19 examinations or another examination accepted by commission rule as a licensure examination;

20 8. Accept for licensure that applicants for a dentist license graduate from a predoctoral
21 dental education program accredited by the commission on dental accreditation, or another
22 accrediting agency recognized by the United States Department of Education for the accreditation of
23 dentistry and dental hygiene education programs, leading to the doctor of dental surgery (D.D.S.) or
24 doctor of dental medicine (D.M.D.) degree;

25 9. Accept for licensure that applicants for a dental hygienist license graduate from a dental
26 hygiene education program accredited by the commission on dental accreditation or another
27 accrediting agency recognized by the United States Department of Education for the accreditation of
28 dentistry and dental hygiene education programs;

29 10. Require for licensure that applicants successfully complete a clinical assessment;

30 11. Have continuing professional development requirements as a condition for license
31 renewal; and

32 12. Pay a participation fee to the commission as established by commission rule.

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

35 C. When conducting a criminal background check the state licensing authority shall:

36 1. Consider that information in making a licensure decision;

2. Maintain documentation of completion of the criminal background check and background check information to the extent allowed by state and federal law; and

3. Report to the commission whether it has completed the criminal background check and whether the individual was granted or denied a license.

D. A licensee of a participating state who has a qualifying license in that state and does not hold an encumbered license in any other participating state, shall be issued a compact privilege in a remote state in accordance with the terms of the compact and commission rules. If a remote state has a jurisprudence requirement a compact privilege will not be issued to the licensee unless the licensee has satisfied the jurisprudence requirement.

SECTION 4. COMPACT PRIVILEGE

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

1. Have a qualifying license as a dentist or dental hygienist in a participating state;
2. Be eligible for a compact privilege in any remote state in accordance with D, G, and H of this section;
3. Submit to an application process whenever the licensee is seeking a compact privilege;
4. Pay any applicable commission and remote state fees for a compact privilege in the remote state;
5. Meet any jurisprudence requirement established by a remote state in which the licensee is seeking a compact privilege;
6. Have passed a national board examination of the joint commission on national dental examinations or another examination accepted by commission rule;
7. For a dentist, have graduated from a predoctoral dental education program accredited by the commission on dental accreditation, or another accrediting agency recognized by the United States Department of Education for the accreditation of dentistry and dental hygiene education programs, leading to the doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) degree;
8. For a dental hygienist, have graduated from a dental hygiene education program accredited by the commission on dental accreditation or another accrediting agency recognized by the United States Department of Education for the accreditation of dentistry and dental hygiene education programs;
9. Have successfully completed a clinical assessment for licensure;
10. Report to the commission adverse action taken by any non-participating state when applying for a compact privilege and, otherwise, within 30 days from the date the adverse action is taken;

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

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

9 B. The licensee must comply with the requirements of subsection A of this section to maintain
10 the compact privilege in the remote state. If those requirements are met, the compact privilege will
11 continue as long as the licensee maintains a qualifying license in the state through which the
12 licensee applied for the compact privilege and pays any applicable compact privilege renewal fees.

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

16 D. A licensee providing dentistry or dental hygiene pursuant to a compact privilege in a remote
17 state is subject to that state's regulatory authority. A remote state may, in accordance with due
18 process and that state's laws, by adverse action revoke or remove a licensee's compact privilege in
19 the remote state for a specific period of time and impose fines or take any other necessary actions to
20 protect the health and safety of its citizens. If a remote state imposes an adverse action against a
21 compact privilege that limits the compact privilege, that adverse action applies to all compact
22 privileges in all remote states. A licensee whose compact privilege in a remote state is removed for a
23 specified period of time is not eligible for a compact privilege in any other remote state until the
24 specific time for removal of the compact privilege has passed and all encumbrance requirements are
25 satisfied.

26 E. If a license in a participating state is an encumbered license, the licensee shall lose the
27 compact privilege in a remote state and shall not be eligible for a compact privilege in any remote
28 state until the license is no longer encumbered.

29 F. Once an encumbered license in a participating state is restored to good standing, the licensee
30 must meet the requirements of subsection A of this section to obtain a compact privilege in a remote
31 state.

32 G. If a licensee's compact privilege in a remote state is removed by the remote state, the
33 individual shall lose or be ineligible for the compact privilege in any remote state until the following
34 occur:

- 35 1. The specific period of time for which the compact privilege was removed has ended; and
36 2. All conditions for removal of the compact privilege have been satisfied.

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1 H. Once the requirements of subsection G of this section have been met, the licensee must meet
2 the requirements in subsection A of this section to obtain a compact privilege in a remote state.

3 **SECTION 5. ACTIVE MILITARY MEMBER OR THEIR SPOUSES**

4 An active military member and their spouse shall not be required to pay to the commission for a
5 compact privilege the fee otherwise charged by the commission. If a remote state chooses to charge a
6 fee for a compact privilege, it may choose to charge a reduced fee or no fee to an active military
7 member and their spouse for a compact privilege.

8 **SECTION 6. ADVERSE ACTIONS**

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

11 B. A participating state may take adverse action based on the significant investigative
12 information of a remote state, so long as the participating state follows its own procedures for
13 imposing adverse action.

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

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

24 E. A remote state shall have the authority to:

25 1. Take adverse actions as set forth in section 4.D against a licensee's compact privilege in
26 the state;

27 2. In furtherance of its rights and responsibilities under the compact and the commission's
28 rules issue subpoenas for both hearings and investigations that require the attendance and
29 testimony of witnesses, and the production of evidence. Subpoenas issued by a state licensing
30 authority in a participating state for the attendance and testimony of witnesses, or the production of
31 evidence from another participating state, shall be enforced in the latter state by any court of
32 competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas
33 issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel
34 expenses, mileage, and other fees required by the service statutes of the state where the witnesses or
35 evidence are located; and

36 3. If otherwise permitted by state law, recover from the licensee the costs of investigations
37 and disposition of cases resulting from any adverse action taken against that licensee.

F. Joint investigations.

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

2. Participating states shall share any significant investigative information, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

G. Authority to continue investigation.

1. After a licensee's compact privilege in a remote state is terminated, the remote state may continue an investigation of the licensee that began when the licensee had a compact privilege in that remote state.

2. If the investigation yields what would be significant investigative information had the licensee continued to have a compact privilege in that remote state, the remote state shall report the presence of such information to the data system as required by section 8.B.6 as if it was significant investigative information.

SECTION 7. ESTABLISHMENT AND OPERATION OF THE COMMISSION.

A. The compact participating states hereby create and establish a joint government agency whose membership consists of all participating states that have enacted the compact. The commission is an instrumentality of the participating states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact as set forth in section 11A.

B. Participation, voting, and meetings.

1. Each participating state shall have and be limited to one commissioner selected by that participating state's state licensing authority or, if the state has more than one state licensing authority, selected collectively by the state licensing authorities.

2. The commissioner shall be a member or designee of such authority or authorities.

3. The commission may by rule or bylaw establish a term of office for commissioners and may by rule or bylaw establish term limits.

4. The commission may recommend to a state licensing authority or authorities, as applicable, removal or suspension of an individual as the state's commissioner.

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

6. Each commissioner shall be entitled to one vote on all matters that are voted upon by the commission.

7. The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The commission may meet by telecommunication, video conference or other similar electronic means.

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1 C. The commission shall have the following powers:

- 2 1. Establish the fiscal year of the commission;
- 3 2. Establish a code of conduct and conflict of interest policies;
- 4 3. Adopt rules and bylaws;
- 5 4. Maintain its financial records in accordance with the bylaws;
- 6 5. Meet and take such actions as are consistent with the provisions of this compact, the
7 commission's rules, and the bylaws;
- 8 6. Initiate and conclude legal proceedings or actions in the name of the commission, provided
9 that the standing of any state licensing authority to sue or be sued under applicable law shall not be
10 affected;
- 11 7. Maintain and certify records and information provided to a participating state as the
12 authenticated business records of the commission, and designate a person to do so on the
13 commission's behalf;
- 14 8. Purchase and maintain insurance and bonds;
- 15 9. Borrow, accept, or contract for services of personnel, including, but not limited to,
16 employees of a participating state;
- 17 10. Conduct an annual financial review;
- 18 11. Hire employees, elect or appoint officers, fix compensation, define duties, grant such
19 individuals appropriate authority to carry out the purposes of the compact, and establish the
20 commission's personnel policies and programs relating to conflicts of interest, qualifications of
21 personnel, and other related personnel matters;
- 22 12. As set forth in the commission rules, charge a fee to a licensee for the grant of a compact
23 privilege in a remote state and thereafter, as may be established by commission rule, charge the
24 licensee a compact privilege renewal fee for each renewal period in which that licensee exercises or
25 intends to exercise the compact privilege in that remote state. Nothing herein shall be construed to
26 prevent a remote state from charging a licensee a fee for a compact privilege or renewals of a
27 compact privilege, or a fee for the jurisprudence requirement if the remote state imposes such a
28 requirement for the grant of a compact privilege;
- 29 13. Accept any and all appropriate gifts, donations, grants of money, other sources of
30 revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same;
31 provided that at all times the commission shall avoid any appearance of impropriety and/or conflict
32 of interest;
- 33 14. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or
34 mixed, or any undivided interest therein;
- 35 15. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
36 property real, personal, or mixed;
- 37 16. Establish a budget and make expenditures;

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1 17. Borrow money;

2 18. Appoint committees, including standing committees, which may be composed of
3 members, state regulators, state legislators or their representatives, and consumer representatives,
4 and such other interested persons as may be designated in this compact and the bylaws;

5 19. Provide and receive information from, and cooperate with, law enforcement agencies;

6 20. Elect a chair, vice chair, secretary and treasurer and such other officers of the
7 commission as provided in the commission's bylaws;

8 21. Establish and elect an executive board;

9 22. Adopt and provide to the participating states an annual report;

10 23. Determine whether a state's enacted compact is materially different from the model
11 compact language such that the state would not qualify for participation in the compact; and

12 24. Perform such other functions as may be necessary or appropriate to achieve the purposes
13 of this compact.

14 D. Meetings of the commission.

15 1. All meetings of the commission that are not closed pursuant to this subsection shall be
16 open to the public. Notice of public meetings shall be posted on the commission's website at least 30
17 days prior to the public meeting.

18 2. Notwithstanding subsection D.1 of this section, the commission may convene an
19 emergency public meeting by providing at least 24 hours prior notice on the commission's website,
20 and any other means as provided in the commission's rules, for any of the reasons it may dispense
21 with notice of proposed rulemaking under section 9.L. The commission's legal counsel shall certify
22 that one of the reasons justifying an emergency public meeting has been met.

23 3. Notice of all commission meetings shall provide the time, date, and location of the
24 meeting, and if the meeting is to be held or accessible via telecommunication, video conference, or
25 other electronic means, the notice shall include the mechanism for access to the meeting through
26 such means.

27 4. The commission may convene in a closed, non-public meeting for the commission to
28 receive legal advice or to discuss:

29 a. Non-compliance of a participating state with its obligations under the compact;

30 b. The employment, compensation, discipline or other matters, practices or procedures
31 related to specific employees or other matters related to the commission's internal personnel
32 practices and procedures;

33 c. Current or threatened discipline of a licensee or compact privilege holder by the
34 commission or by a participating state's licensing authority;

35 d. Current, threatened, or reasonably anticipated litigation;

36 e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real
37 estate;

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- 1 f. Accusing any person of a crime or formally censuring any person;
- 2 g. Trade secrets or commercial or financial information that is privileged or confidential;
- 3 h. Information of a personal nature where disclosure would constitute a clearly
- 4 unwarranted invasion of personal privacy;
- 5 i. Investigative records compiled for law enforcement purposes;
- 6 j. Information related to any investigative reports prepared by or on behalf of or for use
- 7 of the commission or other committee charged with responsibility of investigation or determination
- 8 of compliance issues pursuant to the compact;
- 9 k. Legal advice;
- 10 l. Matters specifically exempted from disclosure to the public by federal or participating
- 11 state law; and
- 12 m. Other matters as promulgated by the commission by rule.

13 5. If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the

14 meeting will be closed and reference each relevant exempting provision, and such reference shall be

15 recorded in the minutes.

16 6. The commission shall keep minutes that fully and clearly describe all matters discussed

17 in a meeting and shall provide a full and accurate summary of actions taken, and the reasons

18 therefore, including a description of the views expressed. All documents considered in connection

19 with an action shall be identified in such minutes. All minutes and documents of a closed meeting

20 shall remain under seal, subject to release only by a majority vote of the commission or order of a

21 court of competent jurisdiction.

22 E. Financing of the commission.

23 1. The commission shall pay, or provide for the payment of, the reasonable expenses of its

24 establishment, organization, and ongoing activities.

25 2. The commission may accept any and all appropriate sources of revenue, donations, and

26 grants of money, equipment, supplies, materials, and services.

27 3. The commission may levy on and collect an annual assessment from each participating

28 state and impose fees on licensees of participating states when a compact privilege is granted, to

29 cover the cost of the operations and activities of the commission and its staff, which must be in a

30 total amount sufficient to cover its annual budget as approved each fiscal year for which sufficient

31 revenue is not provided by other sources. The aggregate annual assessment amount for

32 participating states shall be allocated based upon a formula that the commission shall promulgate

33 by rule.

34 4. The commission shall not incur obligations of any kind prior to securing the funds

35 adequate to meet the same; nor shall the commission pledge the credit of any participating state,

36 except by and with the authority of the participating state.

1 5. The commission shall keep accurate accounts of all receipts and disbursements. The
2 receipts and disbursements of the commission shall be subject to the financial review and accounting
3 procedures established under its bylaws. All receipts and disbursements of funds handled by the
4 commission shall be subject to an annual financial review by a certified or licensed public
5 accountant, and the report of the financial review shall be included in and become part of the annual
6 report of the commission.

7 F. The executive board.

8 1. The executive board shall have the power to act on behalf of the commission according to
9 the terms of this compact. The powers, duties, and responsibilities of the executive board shall
10 include:

11 a. Overseeing the day-to-day activities of the administration of the compact including
12 compliance with the provisions of the compact, the commission's rules and bylaws;

13 b. Recommending to the commission changes to the rules or bylaws, changes to this
14 compact legislation, fees charged to compact participating states, fees charged to licensees, and other
15 fees;

16 c. Ensuring compact administration services are appropriately provided, including by
17 contract;

18 d. Preparing and recommending the budget;

19 e. Maintaining financial records on behalf of the commission;

20 f. Monitoring compact compliance of participating states and providing compliance
21 reports to the commission;

22 g. Establishing additional committees as necessary;

23 h. Exercising the powers and duties of the commission during the interim between
24 commission meetings, except for adopting or amending rules, adopting or amending bylaws, and
25 exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and

26 i. Other duties as provided in the rules or bylaws of the commission.

27 2. The executive board shall be composed of up to 7 members:

28 a. The chair, vice chair, secretary, and treasurer of the commission and any other
29 members of the commission who serve on the executive board shall be voting members of the
30 executive board; and

31 b. Other than the chair, vice chair, secretary, and treasurer, the commission may elect
32 up to 3 voting members from the current membership of the commission.

33 3. The commission may remove any member of the executive board as provided in the
34 commission's bylaws.

35 4. The executive board shall meet at least annually.

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1 a. An executive board meeting at which it takes or intends to take formal action on a
2 matter shall be open to the public, except that the executive board may meet in a closed, non-public
3 session of a public meeting when dealing with any of the matters covered under subsection D.4.

4 b. The executive board shall give 5 business days' notice of its public meetings, posted on
5 its website and as it may otherwise determine to provide notice to persons with an interest in the
6 public matters the executive board intends to address at those meetings.

7 5. The executive board may hold an emergency meeting when acting for the commission to:

8 a. Meet an imminent threat to public health, safety, or welfare;

9 b. Prevent a loss of commission or participating state funds; or

10 c. Protect public health and safety.

11 G. Qualified immunity, defense, and indemnification.

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

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

31 3. Notwithstanding subsection G.1 of this section, should any member, officer, executive
32 director, employee, or representative of the commission be held liable for the amount of any
33 settlement or judgment arising out of any actual or alleged act, error, or omission that occurred
34 within the scope of that individual's employment, duties, or responsibilities for the commission, or
35 that the person to whom that individual is liable had a reasonable basis for believing occurred within
36 the scope of the individual's employment, duties, or responsibilities for the commission, the
37 commission shall indemnify and hold harmless such individual, provided that the actual or alleged

1 act, error, or omission did not result from the intentional or willful or wanton misconduct of the
2 individual.

3 4. Nothing herein shall be construed as a limitation on the liability of any licensee for
4 professional malpractice or misconduct, which shall be governed solely by any other applicable state
5 laws.

6 5. Nothing in this compact shall be interpreted to waive or otherwise abrogate a
7 participating state's state action immunity or state action affirmative defense with respect to
8 antitrust claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or
9 anticompetitive law or regulation.

10 6. Nothing in this compact shall be construed to be a waiver of sovereign immunity by the
11 participating states or by the commission.

12 **SECTION 8. DATA SYSTEM**

13 A. The commission shall provide for the development, maintenance, operation, and utilization of
14 a coordinated database and reporting system containing licensure, adverse action, and the presence
15 of significant investigative information on all licensees and applicants for a license in participating
16 states.

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

- 20 1. Identifying information;
- 21 2. Licensure data;
- 22 3. Adverse actions against a licensee, license applicant or compact privilege and information
23 related thereto;
- 24 4. Non-confidential information related to alternative program participation, the beginning
25 and ending dates of such participation, and other information related to such participation;
- 26 5. Any denial of an application for licensure, and the reason(s) for such denial, (excluding
27 the reporting of any criminal history record information where prohibited by law);
- 28 6. The presence of significant investigative information; and
- 29 7. Other information that may facilitate the administration of this compact or the protection
30 of the public, as determined by the rules of the commission.

31 C. The records and information provided to a participating state pursuant to this compact or
32 through the data system, when certified by the commission or an agent thereof, shall constitute the
33 authenticated business records of the commission, and shall be entitled to any associated hearsay
34 exception in any relevant judicial, quasi-judicial or administrative proceedings in a participating
35 state.

36 D. Significant investigative information pertaining to a licensee in any participating state will
37 only be available to other participating states.

1 E. It is the responsibility of the participating states to monitor the database to determine
2 whether adverse action has been taken against a licensee or license applicant. Adverse action
3 information pertaining to a licensee or license applicant in any participating state will be available
4 to any other participating state.

5 F. Participating states contributing information to the data system may designate information
6 that may not be shared with the public without the express permission of the contributing state.

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

10 **SECTION 9. RULEMAKING**

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

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

21 C. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this
22 section and the rules adopted thereunder. Rules shall become binding as of the date specified by the
23 commission for each rule.

24 D. If a majority of the legislatures of the participating states rejects a commission rule or
25 portion of a commission rule, by enactment of a statute or resolution in the same manner used to
26 adopt the compact, within 4 years of the date of adoption of the rule, then such rule shall have no
27 further force and effect in any participating state or to any state applying to participate in the
28 compact.

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

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

32 G. Prior to adoption of a proposed rule by the commission, and at least 30 days in advance of the
33 meeting at which the commission will hold a public hearing on the proposed rule, the commission
34 shall provide a notice of proposed rulemaking:

35 1. On the website of the commission or other publicly accessible platform;

36 2. To persons who have requested notice of the commission's notices of proposed rulemaking,

37 and

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1 3. In such other way(s) as the commission may by rule specify.

2 H. The notice of proposed rulemaking shall include:

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

6 2. If the hearing is held via telecommunication, video conference, or other electronic means,
7 the commission shall include the mechanism for access to the hearing in the notice of proposed
8 rulemaking;

9 3. The text of the proposed rule and the reason therefor;

10 4. A request for comments on the proposed rule from any interested person; and

11 5. The manner in which interested persons may submit written comments.

12 I. All hearings will be recorded. A copy of the recording and all written comments and
13 documents received by the commission in response to the proposed rule shall be available to the
14 public.

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

18 K. The commission shall, by majority vote of all commissioners, take final action on the
19 proposed rule based on the rulemaking record.

20 1. The commission may adopt changes to the proposed rule provided the changes do not
21 enlarge the original purpose of the proposed rule.

22 2. The commission shall provide an explanation of the reasons for substantive changes made
23 to the proposed rule as well as reasons for substantive changes not made that were recommended by
24 commenters.

25 3. The commission shall determine a reasonable effective date for the rule. Except for an
26 emergency as provided in subsection L, the effective date of the rule shall be no sooner than 30 days
27 after the commission issuing the notice that it adopted or amended the rule.

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

34 1. Meet an imminent threat to public health, safety, or welfare;

35 2. Prevent a loss of commission or participating state funds;

36 3. Meet a deadline for the promulgation of a rule that is established by federal law or rule;

37 or

1 4. Protect public health and safety.

2 M. The commission or an authorized committee of the commission may direct revisions to a
3 previously adopted rule for purposes of correcting typographical errors, errors in format, errors in
4 consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of
5 the commission. The revision shall be subject to challenge by any person for a period of 30 days after
6 posting. The revision may be challenged only on grounds that the revision results in a material
7 change to a rule. A challenge shall be made in writing and delivered to the commission prior to the
8 end of the notice period. If no challenge is made, the revision will take effect without further action.
9 If the revision is challenged, the revision may not take effect without the approval of the commission.

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

11 **SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

12 A. Oversight.

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

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

21 3. The commission shall be entitled to receive service of process in any proceeding regarding
22 the enforcement or interpretation of the compact or commission rule and shall have standing to
23 intervene in such a proceeding for all purposes. Failure to provide the commission service of process
24 shall render a judgment or order void as to the commission, this compact, or promulgated rules.

25 B. Default, technical assistance, and termination.

26 1. If the commission determines that a participating state has defaulted in the performance
27 of its obligations or responsibilities under this compact or the promulgated rules, the commission
28 shall provide written notice to the defaulting state. The notice of default shall describe the default,
29 the proposed means of curing the default, and any other action that the commission may take, and
30 shall offer training and specific technical assistance regarding the default.

31 2. The commission shall provide a copy of the notice of default to the other participating
32 states.

33 C. If a state in default fails to cure the default, the defaulting state may be terminated from the
34 compact upon an affirmative vote of a majority of the commissioners, and all rights, privileges, and
35 benefits conferred on that state by this compact may be terminated on the effective date of
36 termination. A cure of the default does not relieve the offending state of obligations or liabilities
37 incurred during the period of default.

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1 D. Termination of participation in the compact shall be imposed only after all other means of
2 securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by
3 the commission to the governor, the majority and minority leaders of the defaulting state's
4 legislature, the defaulting state's state licensing authority or authorities, as applicable, and each of
5 the participating states' state licensing authority or authorities, as applicable.

6 E. A state that has been terminated is responsible for all assessments, obligations, and
7 liabilities incurred through the effective date of termination, including obligations that extend
8 beyond the effective date of termination.

9 F. Upon the termination of a state's participation in this compact, that state shall immediately
10 provide notice to all licensees of the state, including licensees of other participating states issued a
11 compact privilege to practice within that state, of such termination. The terminated state shall
12 continue to recognize all compact privileges then in effect in that state for a minimum of 180 days
13 after the date of said notice of termination.

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

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

21 I. Dispute resolution.

22 1. Upon request by a participating state, the commission shall attempt to resolve disputes
23 related to the compact that arise among participating states and between participating states and
24 non-participating states.

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

27 J. Enforcement.

28 1. The commission, in the reasonable exercise of its discretion, shall enforce the provisions of
29 this compact and the commission's rules.

30 2. By majority vote, the commission may initiate legal action against a participating state in
31 default in the United States District Court for the District of Columbia or the federal district where
32 the commission has its principal offices to enforce compliance with the provisions of the compact and
33 its promulgated rules. The relief sought may include both injunctive relief and damages. In the
34 event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such
35 litigation, including reasonable attorney's fees. The remedies herein shall not be the exclusive
36 remedies of the commission. The commission may pursue any other remedies available under
37 federal or the defaulting participating state's law.

1 3. A participating state may initiate legal action against the commission in the United
2 States District Court for the District of Columbia or the federal district where the commission has its
3 principal offices to enforce compliance with the provisions of the compact and its promulgated rules.
4 The relief sought may include both injunctive relief and damages. In the event judicial enforcement
5 is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable
6 attorney's fees.

7 4. No individual or entity other than a participating state may enforce this compact against
8 the commission.

9 **SECTION 11. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT**

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

12 1. On or after the effective date of the compact, the commission shall convene and review the
13 enactment of each of the states that enacted the compact prior to the commission convening ("charter
14 participating states") to determine if the statute enacted by each such charter participating state is
15 materially different than the model compact.

16 a. A charter participating state whose enactment is found to be materially different from
17 the model compact shall be entitled to the default process set forth in section 10.

18 b. If any participating state is later found to be in default, or is terminated or withdraws
19 from the compact, the commission shall remain in existence and the compact shall remain in effect
20 even if the number of participating states should be less than 7.

21 2. Participating states enacting the compact subsequent to the charter participating states
22 shall be subject to the process set forth in section 7.C.23 to determine if their enactments are
23 materially different from the model compact and whether they qualify for participation in the
24 compact.

25 3. All actions taken for the benefit of the commission or in furtherance of the purposes of the
26 administration of the compact prior to the effective date of the compact or the commission coming
27 into existence shall be considered to be actions of the commission unless specifically repudiated by
28 the commission.

29 4. Any state that joins the compact subsequent to the commission's initial adoption of the
30 rules and bylaws shall be subject to the commission's rules and bylaws as they exist on the date on
31 which the compact becomes law in that state. Any rule that has been previously adopted by the
32 commission shall have the full force and effect of law on the day the compact becomes law in that
33 state.

34 B. Any participating state may withdraw from this compact by enacting a statute repealing that
35 state's enactment of the compact.

36 1. A participating state's withdrawal shall not take effect until 180 days after enactment of
37 the repealing statute.

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

3. Upon the enactment of a statute withdrawing from this compact, the state shall immediately provide notice of such withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing state shall continue to recognize all compact privileges to practice within that state granted pursuant to this compact for a minimum of 180 days after the date of such notice of withdrawal.

C. Nothing contained in this compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a participating state and a non-participating state that does not conflict with the provisions of this compact.

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

SECTION 12. CONSTRUCTION AND SEVERABILITY

A. This compact and the commission's rulemaking authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the commission's rulemaking authority solely for those purposes.

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

C. Notwithstanding subsection B of this section, the commission may deny a state's participation in the compact or, in accordance with the requirements of section 10.B, terminate a participating state's participation in the compact, if it determines that a constitutional requirement of a participating state is a material departure from the compact. Otherwise, if this compact shall be held to be contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the remaining participating states and in full force and effect as to the participating state affected as to all severable matters.

SECTION 13. CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS

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

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

3 C. All permissible agreements between the commission and the participating states are binding
4 in accordance with their terms.

5 2 Effective Date. This act shall take effect 60 days after its passage.

**SB 187-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT adopting the dentist and dental hygienist compact.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	Indeterminable Increase (\$10,000 to \$100,000)	Indeterminable Increase (\$10,000 to \$100,000)	Indeterminable Increase (\$10,000 to \$100,000)
<i>Revenue Fund(s)</i>	Office of Professional Licensure and Certification Fund			
Expenditures*	\$0	Indeterminable Increase (\$10,000 to \$100,000)	Indeterminable Increase (\$10,000 to \$100,000)	Indeterminable Increase (\$10,000 to \$100,000)
<i>Funding Source(s)</i>	Office of Professional Licensure and Certification Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

***Expenditure = Cost of bill**

***Appropriation = Authorized funding to cover cost of bill**

METHODOLOGY:

This bill implements the dentist and dental hygienist compact to allow dentists and dental hygienists to practice across state lines, thereby enhancing public access to these services. It grants licensed professionals in participating states the ability to work in other states within the compact without needing additional licenses.

The Office of Professional Licensure and Certification (OPLC) indicates that this bill may lead to an increase in licensure, resulting in additional processing costs. While the OPLC currently has sufficient staff to manage the potential additional workload, given the OPLC's fee allocation, an increase in licenses would result in higher operational costs, necessitating a fee increase. Despite already having trained staff capable of processing, handling, and reviewing license applications, including compact matters for other boards, the OPLC anticipates a significant number of licenses will be issued through the compact. The OPLC estimates an overall fiscal impact of \$10,000 to \$100,000 per fiscal year.

It is assumed that any fiscal impact would occur after FY 2025.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification