

SB205 INTRODUCED



1 SB205
2 K3SLA5U-1
3 By Senators Kitchens, Jones, Smitherman, Hatcher, Butler,
4 Allen, Givhan, Melson, Sessions, Carnley, Bell, Kelley,
5 Shelnuttt, Stutts, Roberts, Elliott, Waggoner, Gudger,
6 Williams, Price, Chesteen, Orr, Stewart, Coleman,
7 Coleman-Madison, Beasley
8 RFD: Veterans and Military Affairs
9 First Read: 06-Mar-24



SYNOPSIS:

This bill would allow the Board of Dental Examiners to enter into the Dentist and Dental Hygienist Compact by adopting Article 5 of Chapter 9 of Title 34, Code of Alabama 1975, as a means of providing uniformity in licensing requirements and interstate practice throughout party states.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Board of Dental Examiners; to add Article 5 to Chapter 9 of Title 34, Code of Alabama 1975, to adopt the Dentist and Dental Hygienist Compact.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Article 5 is added to Chapter 9 of Title 34, Code of Alabama 1975, to read as follows:

ARTICLE 5. DENTIST AND DENTAL HYGIENIST COMPACT.

§34-9-100. Title and Purpose.

This article shall be known and cited as the Dentist and Dental Hygienist Compact. The purposes of this compact are to facilitate the interstate practice of dentistry and dental hygiene and improve public access to dentistry and dental



SB205 INTRODUCED

hygiene services by providing dentists and dental hygienists licensed in a participating state the ability to practice in participating states in which they are not licensed. The compact does this by establishing a pathway for dentists and dental hygienists licensed in a participating state to obtain a compact privilege that authorizes them to practice in another participating state in which they are not licensed. The compact enables participating states to protect the public health and safety with respect to the practice of dentists and dental hygienists, through the state's authority to regulate the practice of dentistry and dental hygiene in the state. The compact does all of the following:

(1) Enables dentists and dental hygienists who qualify for a compact privilege to practice in other participating states without satisfying burdensome and duplicative requirements associated with securing a license to practice in those states.

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

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

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

(5) Does not interfere with licensure requirements established by a participating state.



SB205 INTRODUCED

57 (6) Facilitates the sharing of licensure and
58 disciplinary information among participating states.

59 (7) Requires dentists and dental hygienists who
60 practice in a participating state pursuant to a compact
61 privilege to practice within the scope of practice authorized
62 in that state.

63 (8) Extends the authority of a participating state to
64 regulate the practice of dentistry and dental hygiene within
65 its borders to dentists and dental hygienists who practice in
66 the state through a compact privilege.

67 (9) Promotes the cooperation of participating states in
68 regulating the practice of dentistry and dental hygiene within
69 those states.

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

73 §34-9-101. Definitions.

74 As used in this compact, the following terms have the
75 following meanings:

76 (1) ACTIVE MILITARY MEMBER. Any individual with
77 full-time duty status in the Armed Forces of the United
78 States, including members of the National Guard and Reserve.

79 (2) ADVERSE ACTION. Disciplinary action or encumbrance
80 imposed on a license or compact privilege by a state licensing
81 authority.

82 (3) ALTERNATIVE PROGRAM. A non-disciplinary monitoring
83 or practice remediation process applicable to a dentist or
84 dental hygienist approved by a state licensing authority of a



SB205 INTRODUCED

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 state action.

(4) CLINICAL ASSESSMENT. 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.

(5) COMMISSIONER. The individual appointed by a participating state to serve as the member of the commission for that participating state.

(6) COMPACT. The dentist and dental hygienist compact.

(7) COMPACT PRIVILEGE. 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.

(8) CONTINUING PROFESSIONAL DEVELOPMENT. 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.

(9) CRIMINAL BACKGROUND CHECK. 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. § 20.3(d) from the Federal Bureau of Investigation and the state's criminal history record repository as defined in 28 C.F.R. § 20.3(f).

(10) DATA SYSTEM. The commission's repository of information about licensees, including, but not limited to,



SB205 INTRODUCED

examination, licensure, investigative, compact privilege, state action, and alternative program.

(11) DENTAL HYGIENIST. An individual who is licensed by a state licensing authority to practice dental hygiene.

(12) DENTIST. An individual who is licensed by a state licensing authority to practice dentistry.

(13) DENTIST AND DENTAL HYGIENIST COMPACT COMMISSION. A joint government agency established by this compact comprised of each state that has enacted the compact and a national administrative body comprised of a commissioner from each state that has enacted the compact.

(14) ENCUMBERED LICENSE. A license that a state licensing authority has limited in any way other than through an alternative program.

(15) EXECUTIVE BOARD. The chair, vice chair, secretary, and treasurer, and any other commissioners as may be determined by commission rule or bylaw.

(16) JURISPRUDENCE REQUIREMENT. The assessment of an individual's knowledge of the laws and rules governing the practice of dentistry or dental hygiene, as applicable, in a state.

(17) LICENSE. Current authorization by a state, other than authorization pursuant to a compact privilege, or other privilege, for an individual to practice as a dentist or dental hygienist in that state.

(18) LICENSEE. An individual who holds an unrestricted license from a participating state to practice as a dentist or dental hygienist in that state.



SB205 INTRODUCED

(19) MODEL COMPACT. The model for the Dentist and Dental Hygienist Compact on file with the Council of State Governments or other entity as designated by the commission.

(20) PARTICIPATING STATE. A state that has enacted the compact and been admitted to the commission in accordance with the provisions in this compact and commission rules.

(21) QUALIFYING LICENSE. A license that is not an encumbered license issued by a participating state to practice dentistry or dental hygiene.

(22) REMOTE STATE. A participating state where a licensee who is not licensed as a dentist or dental hygienist is exercising or seeking to exercise the compact privilege.

(23) RULE. A regulation adopted by an entity that has the force of law.

(24) SCOPE OF PRACTICE. The procedures, actions, and processes a dentist or dental hygienist licensed in a state is permitted to undertake in that state and the circumstances under which the licensee is permitted to undertake those procedures, actions, and processes. The procedures, actions, and processes and the circumstances under which they may be undertaken may be established through means, including, but not limited to, statute, rules, case law, and other processes available to the state licensing authority or other government agency.

(25) SIGNIFICANT INVESTIGATIVE INFORMATION. Information, records, and documents received or generated by a state licensing authority pursuant to an investigation for which a determination has been made that there is probable



SB205 INTRODUCED

cause to believe that the licensee has violated a statute or rule that is considered more than a minor infraction for which the state licensing authority could pursue state action against the licensee.

(26) STATE. Any state, commonwealth, district, or territory of the United States of America that regulates the practices of dentistry and dental hygiene.

(27) STATE LICENSING AUTHORITY. An agency or other entity of a state that is responsible for the licensing and regulation of dentists or dental hygienists.

§34-9-102. State Participation in the Compact.

(a) In order to join the compact and thereafter continue as a participating state, a state must do all of the following:

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

(2) Participate fully in the commission's data system.

(3) Have a mechanism in place for receiving and investigating complaints about its licensees and license applicants.

(4) Notify the commission, in compliance with the terms of the compact and commission rules, of any state action or the availability of significant investigative information regarding a licensee and license applicant.

(5) Fully implement a criminal background check requirement, within a time frame established by commission rule, by receiving the results of a qualifying criminal



SB205 INTRODUCED

197 background check.

198 (6) Comply with the commission rules applicable to a
199 participating state.

200 (7) Accept the National Board Examinations of the Joint
201 Commission on National Dental Examinations or another
202 examination accepted by commission rule as a licensure
203 examination.

204 (8) Accept for licensure that applicants for a dentist
205 license graduate from a predoctoral dental education program
206 accredited by the Commission on Dental Accreditation, or
207 another accrediting agency recognized by the United states
208 Department of Education for the accreditation of dentistry and
209 dental hygiene education programs, leading to the Doctor of
210 Dental Surgery (D.D.S.) or Doctor of Dental Medicine (D.M.D.)
211 degree.

212 (9) Accept for licensure that applicants for a dental
213 hygienist license graduate from a dental hygiene education
214 program accredited by the Commission on Dental Accreditation
215 or another accrediting agency recognized by the United states
216 Department of Education for the accreditation of dentistry and
217 dental hygiene education programs.

218 (10) Require for licensure that applicants successfully
219 complete a clinical assessment.

220 (11) Have continuing professional development
221 requirements as a condition for license renewal.

222 (12) Pay a participation fee to the commission as
223 established by commission rule.

224 (b) A state is not disqualified from participating in



SB205 INTRODUCED

the compact by providing alternative pathways for an individual to obtain an unrestricted license.

(c) When conducting a criminal background check the state licensing authority shall do all of the following:

(1) Consider the information disclosed in the criminal background check 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.

(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.

§34-9-103. Compact Privilege.

(a) To obtain and exercise the compact privilege under the terms and provisions of the compact, the licensee must do all of the following:

(1) Possess 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 subsections (d), (g), and (h).



SB205 INTRODUCED

(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) Pass a National Board Examination of the Joint Commission on National Dental Examinations or another examination accepted by commission rule.

(7) For a dentist, be a graduate 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, be a graduate 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) Successfully complete a clinical assessment for licensure.

(10) Report to the commission state action taken by any non-participating state when applying for a compact privilege and, otherwise, within 30 days from the date the state action



SB205 INTRODUCED

281 is taken.

282 (11) Report to the commission when applying for a
283 compact privilege the address of the licensee's primary
284 residence and thereafter immediately report to the commission
285 any change in the address of the licensee's primary residence.

286 (12) Consent to accept service of process by mail at
287 the licensee's primary residence on record with the commission
288 with respect to any action brought against the licensee by the
289 commission or a participating state, and consent to accept
290 service of a subpoena by mail at the licensee's primary
291 residence on record with the commission with respect to any
292 action brought or investigation conducted by the commission or
293 a participating state.

294 (b) The licensee must comply with the requirements of
295 subsection (a) to maintain the compact privilege in the remote
296 state. If those requirements are met, the compact privilege
297 will continue as long as the licensee maintains a qualifying
298 license in the state through which the licensee applied for
299 the compact privilege and pays any applicable compact
300 privilege renewal fees.

301 (c) A licensee providing dentistry or dental hygiene in
302 a remote state under the compact privilege shall function
303 within the scope of practice authorized by the remote state
304 for a dentist or dental hygienist licensed in that state.

305 (d) A licensee providing dentistry or dental hygiene
306 pursuant to a compact privilege in a remote state is subject
307 to that state's regulatory authority. A remote state, in
308 accordance with due process and that state's laws, may by



SB205 INTRODUCED

state action revoke or remove a licensee's compact privilege in the remote state for a specific period of time and impose fines or take any other necessary actions to protect the health and safety of its citizens. If a remote state imposes a state action against a compact privilege that limits the compact privilege, that state action applies to all compact privileges in all remote states. A licensee whose compact privilege in a remote state is removed for a specified period of time is not eligible for a compact privilege in any other remote state until the specific time for removal of the compact privilege has passed and all encumbrance requirements are satisfied.

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

(f) Once an encumbered license in a participating state is restored to good standing, the licensee must meet the requirements of subsection (a) to obtain a compact privilege in a remote state.

(g) If a licensee's compact privilege in a remote state is removed by the remote state, the individual shall lose or be ineligible for the compact privilege in any remote state until both of the following occur:

(1) The specific period of time for which the compact privilege was removed has ended.

(2) All conditions for removal of the compact privilege



SB205 INTRODUCED

337 have been satisfied.

338 (h) Once the requirements of subsection (g) have been
339 met, the licensee must meet the requirements in subsection (a)
340 to obtain a compact privilege in a remote state.

341 §34-9-104. Active Military Member or Their Spouse.

342 An active military member or his or her spouse shall
343 not be required to pay to the commission for a compact
344 privilege the fee otherwise charged by the commission. If a
345 remote state chooses to charge a fee for a compact privilege,
346 the state may choose to charge a reduced fee or no fee to an
347 active military member or his or her spouse for a compact
348 privilege.

349 §34-9-105. State Actions.

350 (a) A participating state in which a licensee is
351 licensed shall have exclusive authority to impose state action
352 against the qualifying license issued by that participating
353 state.

354 (b) A participating state may take state action based
355 on the significant investigative information of a remote
356 state, so long as the participating state follows its own
357 procedures for imposing state action.

358 (c) Nothing in this compact shall override a
359 participating state's decision that participation in an
360 alternative program may be used in lieu of state action and
361 that such participation shall remain non-public if required by
362 the participating state's laws. Participating states must
363 require licensees who enter any alternative program in lieu of
364 discipline to agree not to practice pursuant to a compact



SB205 INTRODUCED

privilege in any other participating state during the term of the alternative program without prior authorization from the other participating state.

(d) Any participating state in which a licensee is applying to practice or is practicing pursuant to a compact privilege may investigate actual or alleged violations of the statutes and rules authorizing the practice of dentistry or dental hygiene in any other participating state in which the dentist or dental hygienist holds a license or compact privilege.

(e) A remote state shall have the authority to do all of the following:

(1) Take state actions as set forth in Section 34-9-103(d) against a licensee's compact privilege in the state.

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



SB205 INTRODUCED

393 the witnesses or evidence are located.

394 (3) If otherwise permitted by state law, the remote
395 state may recover from the licensee the costs of
396 investigations and disposition of cases resulting from any
397 state action taken against that licensee.

398 (f) Joint investigations.

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

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

408 (g) Authority to continue investigation.

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

413 (2) If the investigation yields what would be
414 significant investigative information had the licensee
415 continued to have a compact privilege in that remote state,
416 the remote state shall report the presence of such information
417 to the data system as required by Section 34-9-107(b)(6) as if
418 it was significant investigative information.

419 §34-9-106. Establishment and Operation of the
420 Commission.



SB205 INTRODUCED

(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 34-9-110(a).

(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 the 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



SB205 INTRODUCED

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.

(c) The commission shall have the power to do all of the following:

(1) Establish the fiscal year of the commission.

(2) Establish a code of conduct and conflict of interest policies.

(3) Adopt rules and bylaws.

(4) Maintain its financial records in accordance with the bylaws.

(5) Meet and take actions as are consistent with the provisions of this compact, the commission's rules, and the bylaws.

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

(7) Maintain and certify records and information provided to a participating state as the authenticated business records of the commission, and designate a person to do so on the commission's behalf.

(8) Purchase and maintain insurance and bonds.

(9) Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a participating state.

(10) Conduct an annual financial review.

(11) Hire employees, elect or appoint officers, fix



SB205 INTRODUCED

477 compensation, define duties, grant such individuals
478 appropriate authority to carry out the purposes of the
479 compact, and establish the commission's personnel policies and
480 programs relating to conflicts of interest, qualifications of
481 personnel, and other related personnel matters.

482 (12) As set forth in the commission rules, charge a fee
483 to a licensee for the grant of a compact privilege in a remote
484 state and thereafter, as may be established by commission
485 rule, charge the licensee a compact privilege renewal fee for
486 each renewal period in which that licensee exercises or
487 intends to exercise the compact privilege in that remote
488 state. Nothing in this subdivision shall be construed to
489 prevent a remote state from charging a licensee a fee for a
490 compact privilege or renewals of a compact privilege, or a fee
491 for the jurisprudence requirement if the remote state imposes
492 such a requirement for the grant of a compact privilege.

493 (13) Accept any and all appropriate gifts, donations,
494 grants of money, other sources of revenue, equipment,
495 supplies, materials, and services, and receive, utilize, and
496 dispose of the same; provided that at all times the commission
497 shall avoid any appearance of impropriety conflict of
498 interest.

499 (14) Lease, purchase, retain, own, hold, improve, or
500 use any property, real, personal, or mixed, or any undivided
501 interest therein.

502 (15) Sell, convey, mortgage, pledge, lease, exchange,
503 abandon, or otherwise dispose of any property real, personal,
504 or mixed.



SB205 INTRODUCED

505 (16) Establish a budget and make expenditures.

506 (17) Borrow money.

507 (18) Appoint committees, including standing committees,
508 which may be composed of members, state regulators, state
509 legislators or their representatives, and consumer
510 representatives, and other interested persons as may be
511 designated in this compact and the bylaws.

512 (19) Provide and receive information from, and
513 cooperate with, law enforcement agencies.

514 (20) Elect a chair, vice chair, secretary and
515 treasurer, and other officers of the commission as provided in
516 the commission's bylaws.

517 (21) Establish and elect an executive board.

518 (22) Adopt and provide to the participating states an
519 annual report.

520 (23) Determine whether a state's enacted compact is
521 materially different from the model compact language such that
522 the state would not qualify for participation in the compact.

523 (24) Perform any other functions that may be necessary
524 or appropriate to achieve the purposes of this compact.

525 (d) Meetings of the commission.

526 (1) All meetings of the commission that are not closed
527 pursuant to this subsection shall be open to the public.
528 Notice of public meetings shall be posted on the commission's
529 website at least 30 days prior to the public meeting.

530 (2) Notwithstanding subsection (d)(1), the commission
531 may convene an emergency public meeting by providing at least
532 24-hour prior notice on the commission's website, and any



SB205 INTRODUCED

other means as provided in the commission's rules, for any of the reasons it may dispense with notice of proposed rulemaking under Section 34-9-108(1). The commission's legal counsel shall certify that one of the reasons justifying an emergency public meeting has been met.

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

(4) The commission may convene in a closed, non-public meeting for the commission to receive legal advice or to discuss any of the following:

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

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

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

d. Current, threatened, or reasonably anticipated litigation.

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

f. Accusing any individual of a crime or formally



SB205 INTRODUCED

561 censuring any individual.

562 g. Trade secrets or commercial or financial information
563 that is privileged or confidential.

564 h. Information of a personal nature where disclosure
565 would constitute a clearly unwarranted invasion of personal
566 privacy.

567 i. Investigative records compiled for law enforcement
568 purposes.

569 j. Information related to any investigative reports
570 prepared by or on behalf of or for use of the commission or
571 other committee charged with responsibility of investigation
572 or determination of compliance issues pursuant to the compact.

573 k. Legal advice.

574 l. Matters specifically exempted from disclosure to the
575 public by federal or participating state law.

576 m. Other matters as adopted by the commission by rule.

577 (5) If a meeting, or portion of a meeting, is closed,
578 the presiding officer shall state that the meeting will be
579 closed and reference each relevant exempting provision, and
580 that reference shall be recorded in the minutes.

581 (6) The commission shall keep minutes that fully and
582 clearly describe all matters discussed in a meeting and shall
583 provide a full and accurate summary of actions taken, and the
584 reasons supporting the actions taken, including a description
585 of the views expressed. All documents considered in connection
586 with an action shall be identified in the minutes. All minutes
587 and documents of a closed meeting shall remain under seal,
588 subject to release only by a majority vote of the commission



SB205 INTRODUCED

589 or order of a court of competent jurisdiction.

590 (e) Financing of the commission.

591 (1) The commission shall pay, or provide for the
592 payment of, the reasonable expenses of its establishment,
593 organization, and ongoing activities.

594 (2) The commission may accept all appropriate sources
595 of revenue, donations, grants of money, equipment, supplies,
596 materials, and services.

597 (3) The commission may levy on and collect an annual
598 assessment from each participating state and impose fees on
599 licensees of participating states when a compact privilege is
600 granted, to cover the cost of the operations and activities of
601 the commission and its staff, which must be in a total amount
602 sufficient to cover its annual budget as approved each fiscal
603 year for which sufficient revenue is not provided by other
604 sources. The aggregate annual assessment amount for
605 participating states shall be allocated based upon a formula
606 that the commission shall adopt by rule.

607 (4) The commission shall not incur obligations of any
608 kind prior to securing the funds adequate to meet those
609 obligations; nor shall the commission pledge the credit of any
610 participating state, except by and with the authority of the
611 participating state.

612 (5) The commission shall keep accurate accounts of all
613 receipts and disbursements. The receipts and disbursements of
614 the commission shall be subject to the financial review and
615 accounting procedures established under its bylaws. All
616 receipts and disbursements of funds handled by the commission



SB205 INTRODUCED

shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the commission.

(f) The executive board.

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

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

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

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

d. Preparing and recommending the budget.

e. Maintaining financial records on behalf of the commission.

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

g. Establishing additional committees as necessary.

h. Exercising the powers and duties of the commission during the interim between commission meetings, except for adopting or amending rules, adopting or amending bylaws, and



SB205 INTRODUCED

exercising any other powers and duties expressly reserved to the commission by rule or bylaw.

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

(2) The executive board shall be composed of up to seven members.

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

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

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

(4) The executive board shall meet at least annually.

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

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

(5) The executive board may hold an emergency meeting when acting for the commission for any of the following



SB205 INTRODUCED

673 reasons:

674 a. Meet an imminent threat to public health, safety, or
675 welfare.

676 b. Prevent a loss of commission or participating state
677 funds.

678 c. Protect public health and safety.

679 (g) Qualified immunity, defense, and indemnification.

680 (1) The members, officers, executive director,
681 employees, and representatives of the commission shall be
682 immune from suit and liability, both personally and in their
683 official capacity, for any claim for damage to or loss of
684 property or personal injury or other civil liability caused by
685 or arising out of any actual or alleged act, error, or
686 omission that occurred, or that the individual against whom
687 the claim is made had a reasonable basis for believing
688 occurred within the scope of commission employment, duties, or
689 responsibilities; provided that nothing in this subdivision
690 shall be construed to protect any individual from suit or
691 liability for any damage, loss, injury, or liability caused by
692 the intentional, willful, or wanton misconduct of that
693 individual. The procurement of insurance of any type by the
694 commission shall not in any way compromise or limit the
695 immunity granted under this subdivision.

696 (2) The commission shall defend any member, officer,
697 executive director, employee, and representative of the
698 commission in any civil action seeking to impose liability
699 arising out of any actual or alleged act, error, or omission
700 that occurred within the scope of commission employment,



SB205 INTRODUCED

duties, or responsibilities, or as determined by the commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing in this subdivision shall be construed to prohibit that individual from retaining his or her own counsel at his or her own expense; and provided further, that the actual or alleged act, error, or omission did not result from that individual's intentional, willful, or wanton misconduct.

(3) Notwithstanding subdivision (1), should any member, officer, executive director, employee, or representative of the commission be held liable for the amount of any settlement or judgment arising out of any actual or alleged act, error, or omission that occurred within the scope of that individual's employment, duties, or responsibilities for the commission, or that the individual to whom that individual is liable had a reasonable basis for believing occurred within the scope of the individual's employment, duties, or responsibilities for the commission, the commission shall indemnify and hold harmless the individual, provided that the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of the individual.

(4) Nothing in this subdivision shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

(5) Nothing in this compact shall be interpreted to



SB205 INTRODUCED

waive or otherwise abrogate a participating state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.

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

§34-9-107. Data System.

(a) The commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, state action, and the presence of significant investigative information on all licensees and applicants for a license in participating states.

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

(1) Identifying information.

(2) Licensure data.

(3) State actions against a licensee, license applicant, or compact privilege and information related thereto.

(4) Non-confidential information related to alternative program participation, the beginning and ending dates of participation in the program, and other information related to



SB205 INTRODUCED

757 participation.

758 (5) Any denial of an application for licensure, and the
759 reason for such denial, excluding the reporting of any
760 criminal history record information where prohibited by law.

761 (6) The presence of significant investigative
762 information.

763 (7) Other information that may facilitate the
764 administration of this compact or the protection of the
765 public, as determined by the rules of the commission.

766 (c) The records and information provided to a
767 participating state pursuant to this compact or through the
768 data system, when certified by the commission or an agent of
769 the commission shall constitute the authenticated business
770 records of the commission, and shall be entitled to any
771 associated hearsay exception in any relevant judicial,
772 quasi-judicial, or administrative proceedings in a
773 participating state.

774 (d) Significant investigative information pertaining to
775 a licensee in any participating state will only be available
776 to other participating states.

777 (e) It is the responsibility of the participating
778 states to monitor the database to determine whether state
779 action has been taken against a licensee or license applicant.
780 State action information pertaining to a licensee or license
781 applicant in any participating state will be available to any
782 other participating state.

783 (f) Participating states contributing information to
784 the data system may designate information that may not be



SB205 INTRODUCED

785 shared with the public without the express permission of the
786 contributing state.

787 (g) Any information submitted to the data system that
788 is subsequently expunged pursuant to federal law or the laws
789 of the participating state contributing the information shall
790 be removed from the data system.

791 §34-9-108. Rulemaking.

792 (a) The commission shall adopt reasonable rules in
793 order to effectively and efficiently implement and administer
794 the purposes and provisions of the compact. A commission rule
795 shall be invalid and have no force or effect only if a court
796 of competent jurisdiction holds that the rule is invalid
797 because the commission exercised its rulemaking authority in a
798 manner that is beyond the scope and purposes of the compact,
799 or the powers granted hereunder, or based upon another
800 applicable standard of review.

801 (b) The rules of the commission shall have the force of
802 law in each participating state; provided, however, that where
803 the rules of the commission conflict with the laws of the
804 participating state that establish the participating state's
805 scope of practice as held by a court of competent
806 jurisdiction, the rules of the commission shall be ineffective
807 in that state to the extent of the conflict.

808 (c) The commission shall exercise its rulemaking powers
809 pursuant to the criteria set forth in this section and the
810 rules adopted thereunder. Rules shall become binding as of the
811 date specified by the commission for each rule.

812 (d) If a majority of the Legislatures of the



SB205 INTRODUCED

participating states rejects a commission rule or portion of a commission rule, by enactment of a statute or resolution in the same manner used to adopt the compact, within four years of the date of adoption of the rule, then the rule shall have no further force and effect in any participating state or to any state applying to participate in the compact.

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

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

(g) Prior to adoption of a proposed rule by the commission, and at least 30 days in advance of the meeting at which the commission will hold a public hearing on the proposed rule, the commission shall provide a notice of proposed rulemaking by all of the following:

(1) On the website of the commission or other publicly accessible platform.

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

(3) In other ways as the commission may by rule specify.

(h) The notice of proposed rulemaking shall include all of the following:

(1) The time, date, and location of the public hearing at which the commission will hear public comments on the proposed rule and, if different, the time, date, and location



SB205 INTRODUCED

of the meeting where the commission will consider and vote on the proposed rule.

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

(3) The text of the proposed rule and the reason for its proposal.

(4) A request for comments on the proposed rule from any interested person.

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

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

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

(k) The commission, by majority vote of all commissioners, shall take final action on the proposed rule based on the rulemaking record.

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

(2) The commission shall provide an explanation of the reasons for substantive changes made to the proposed rule as



SB205 INTRODUCED

869 well as reasons for substantive changes not made that were
870 recommended by commenters.

871 (3) The commission shall determine a reasonable
872 effective date for the rule. Except for an emergency as
873 provided in subsection (1), the effective date of the rule
874 shall be no sooner than 30 days after the commission issuing
875 the notice that it adopted or amended the rule.

876 (1) Upon determination that an emergency exists, the
877 commission may consider and adopt an emergency rule with 24-
878 hours' notice, with opportunity to comment, provided that the
879 usual rulemaking procedures provided in the compact and in
880 this section shall be retroactively applied to the rule as
881 soon as reasonably possible, in no event later than 90 days
882 after the effective date of the rule. For the purposes of this
883 provision, an emergency rule is one that must be adopted
884 immediately in order to do any of the following:

885 (1) Meet an imminent threat to public health, safety,
886 or welfare.

887 (2) Prevent a loss of commission or participating state
888 funds.

889 (3) Meet a deadline for the adoption of a rule that is
890 established by federal law or rule.

891 (4) Protect public health and safety.

892 (m) The commission or an authorized committee of the
893 commission may direct revisions to a previously adopted rule
894 for purposes of correcting typographical errors, errors in
895 format, errors in consistency, or grammatical errors. Public
896 notice of any revisions shall be posted on the website of the



SB205 INTRODUCED

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

(n) No participating state's rulemaking requirements shall apply under this compact.

§34-9-109. Oversight, Dispute Resolution, and Enforcement.

(a) Oversight.

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

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



SB205 INTRODUCED

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

(b) Default, technical assistance, and termination.

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

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

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

(d) Termination of participation in the compact shall be imposed only after all other means of securing compliance



SB205 INTRODUCED

953 have been exhausted. Notice of intent to suspend or terminate
954 shall be given by the commission to the Governor, the majority
955 and minority leaders of the defaulting state's Legislature,
956 the defaulting state's state licensing authority or
957 authorities, as applicable, and each of the participating
958 states' state licensing authority or authorities, as
959 applicable.

960 (e) A state that has been terminated is responsible for
961 all assessments, obligations, and liabilities incurred through
962 the effective date of termination, including obligations that
963 extend beyond the effective date of termination.

964 (f) Upon the termination of a state's participation in
965 this compact, that state shall immediately provide notice to
966 all licensees of the state, including licensees of other
967 participating states issued a compact privilege to practice
968 within that state, of such termination. The terminated state
969 shall continue to recognize all compact privileges then in
970 effect in that state for a minimum of 180 days after the date
971 of said notice of termination.

972 (g) The commission shall not bear any costs related to
973 a state that is found to be in default or that has been
974 terminated from the compact, unless agreed upon in writing
975 between the commission and the defaulting state.

976 (h) The defaulting state may appeal the action of the
977 commission by petitioning the U.S. District Court for the
978 District of Columbia or the federal district where the
979 commission has its principal offices. The prevailing party
980 shall be awarded all costs of such litigation, including



SB205 INTRODUCED

981 reasonable attorney fees.

982 (i) Dispute resolution.

983 (1) Upon request by a participating state, the
984 commission shall attempt to resolve disputes related to the
985 compact that arise among participating states and between
986 participating states and non-participating states.

987 (2) The commission shall adopt a rule providing for
988 both mediation and binding dispute resolution for disputes as
989 appropriate.

990 (j) Enforcement.

991 (1) The commission, in the reasonable exercise of its
992 discretion, shall enforce the provisions of this compact and
993 the commission's rules.

994 (2) By majority vote, the commission may initiate legal
995 action against a participating state in default in the U.S.
996 District Court for the District of Columbia or the federal
997 district where the commission has its principal offices to
998 enforce compliance with the provisions of the compact and its
999 adopted rules. The relief sought may include both injunctive
1000 relief and damages. In the event judicial enforcement is
1001 necessary, the prevailing party shall be awarded all costs of
1002 such litigation, including reasonable attorney fees. The
1003 remedies in this subdivision shall not be the exclusive
1004 remedies of the commission. The commission may pursue any
1005 other remedies available under federal or the defaulting
1006 participating state's law.

1007 (3) A participating state may initiate legal action
1008 against the commission in the U.S. District Court for the



SB205 INTRODUCED

1009 District of Columbia or the federal district where the
1010 commission has its principal offices to enforce compliance
1011 with the provisions of the compact and its adopted rules. The
1012 relief sought may include both injunctive relief and damages.
1013 In the event judicial enforcement is necessary, the prevailing
1014 party shall be awarded all costs of litigation, including
1015 reasonable attorney fees.

1016 (4) No individual or entity other than a participating
1017 state may enforce this compact against the commission.

1018 §34-9-110. Effective Date, Withdrawal, and Amendment.

1019 (a) The compact shall come into effect on the date on
1020 which the compact statute is enacted into law in the seventh
1021 participating state.

1022 (1) On or after the effective date of the compact, the
1023 commission shall convene and review the enactment of each of
1024 the states that enacted the compact prior to the commission
1025 convening, the charter participating states, to determine if
1026 the statute enacted by each charter participating state is
1027 materially different than the model compact.

1028 a. A charter participating state whose enactment is
1029 found to be materially different from the model compact shall
1030 be entitled to the default process set forth in Section
1031 34-9-109.

1032 b. If any participating state is later found to be in
1033 default, or is terminated or withdraws from the compact, the
1034 commission shall remain in existence and the compact shall
1035 remain in effect even if the number of participating states
1036 should be less than seven.



SB205 INTRODUCED

1037 (2) Participating states enacting the compact
1038 subsequent to the charter participating states shall be
1039 subject to the process set forth in Section 34-9-106(c)(23) to
1040 determine if their enactments are materially different from
1041 the model compact and whether they qualify for participation
1042 in the compact.

1043 (3) All actions taken for the benefit of the commission
1044 or in furtherance of the purposes of the administration of the
1045 compact prior to the effective date of the compact or the
1046 commission coming into existence shall be considered to be
1047 actions of the commission unless specifically repudiated by
1048 the commission.

1049 (4) Any state that joins the compact subsequent to the
1050 commission's initial adoption of the rules and bylaws shall be
1051 subject to the commission's rules and bylaws as they exist on
1052 the date on which the compact becomes law in that state. Any
1053 rule that has been previously adopted by the commission shall
1054 have the full force and effect of law on the day the compact
1055 becomes law in that state.

1056 (b) Any participating state may withdraw from this
1057 compact by enacting a statute repealing that state's enactment
1058 of the compact.

1059 (1) A participating state's withdrawal shall not take
1060 effect until 180 days after enactment of the repealing
1061 statute.

1062 (2) Withdrawal shall not affect the continuing
1063 requirement of the withdrawing state's licensing authority or
1064 authorities to comply with the investigative and state action



SB205 INTRODUCED

1065 reporting requirements of this compact prior to the effective
1066 date of withdrawal.

1067 (3) Upon the enactment of a statute withdrawing from
1068 this compact, the state shall immediately provide notice of
1069 the withdrawal to all licensees within that state.

1070 Notwithstanding any subsequent statutory enactment to the
1071 contrary, the withdrawing state shall continue to recognize
1072 all compact privileges to practice within that state granted
1073 pursuant to this compact for a minimum of 180 days after the
1074 date of such notice of withdrawal.

1075 (c) Nothing contained in this compact shall be
1076 construed to invalidate or prevent any licensure agreement or
1077 other cooperative arrangement between a participating state
1078 and a non-participating state that does not conflict with the
1079 provisions of this compact.

1080 (d) This compact may be amended by the participating
1081 states. No amendment to this compact shall become effective
1082 and binding upon any participating state until it is enacted
1083 into the laws of all participating states.

1084 §34-9-111. Construction and Severability.

1085 (a) This compact and the commission's rulemaking
1086 authority shall be liberally construed so as to effectuate the
1087 purposes and the implementation and administration of the
1088 compact. Provisions of the compact expressly authorizing or
1089 requiring the adoption of rules shall not be construed to
1090 limit the commission's rulemaking authority solely for those
1091 purposes.

1092 (b) The provisions of this compact shall be severable,



SB205 INTRODUCED

1093 and if any phrase, clause, sentence, or provision of this
1094 compact is held by a court of competent jurisdiction to be
1095 contrary to the constitution of any participating state, a
1096 state seeking participation in the compact, or of the United
1097 States, or the applicability thereof to any government,
1098 agency, person, or circumstance is held to be unconstitutional
1099 by a court of competent jurisdiction, the validity of the
1100 remainder of this compact and the applicability thereof to any
1101 other government, agency, person, or circumstance shall not be
1102 affected thereby.

1103 (c) Notwithstanding subsection b, the commission may
1104 deny a state's participation in the compact or, in accordance
1105 with the requirements of Section 34-9-109(b), terminate a
1106 participating state's participation in the compact, if it
1107 determines that a constitutional requirement of a
1108 participating state is a material departure from the compact.
1109 Otherwise, if this compact shall be held to be contrary to the
1110 constitution of any participating state, the compact shall
1111 remain in full force and effect as to the remaining
1112 participating states and in full force and effect as to the
1113 participating state affected as to all severable matters.

1114 §34-9-112. Consistent Effect and Conflict With Other
1115 State Laws.

1116 (a) Nothing in this compact shall prevent or inhibit
1117 the enforcement of any other law of a participating state that
1118 is not inconsistent with the compact.

1119 (b) Any laws, statutes, rules, or other legal
1120 requirements in a participating state in conflict with the



SB205 INTRODUCED

1121 compact are superseded to the extent of the conflict.

1122 (c) All permissible agreements between the commission
1123 and the participating states are binding in accordance with
1124 their terms.

1125 §34-9-113. Judicial Proceedings by Individuals.

1126 Except as to judicial proceedings for the enforcement
1127 of this compact among member states, individuals may pursue
1128 judicial proceedings related to this compact in any Alabama
1129 state or federal court that would otherwise have competent
1130 jurisdiction.

1131 Section 2. This act shall become effective on October
1132 1, 2024.