

1 **Dentist and Dental Hygienist Compact Commission**

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3 **Title of Rule:** Rule on Rulemaking

4 **Reason for Rule:** To further outline and clarify the rule promulgation process of the Dentist
5 and Dental Hygienist Compact Commission.

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8 **Chapter 1:** **Rulemaking**

9 **Authority:**

10 Section 7: Establishment and Operation of the Commission

11 Section 9: Rulemaking

12 Section 11: Effective Date, Withdrawal, and Amendment

13 **1.0 Purpose:** Pursuant to Section 9 of the Compact, the Dentist and Dental Hygienist
14 Compact Commission shall promulgate reasonable and lawful uniform
15 rules to facilitate and coordinate implementation and administration of the
16 Dentist and Dental Hygienist Compact. This Rule will become effective
17 upon passage by the Dentist and Dental Hygienist Compact Commission
18 as provided in Section 9 of the Dentist and Dental Hygienist Compact.

19 **1.1 Definition(s):** (a) **“Commission”** means: the Dentist and Dental Hygienist Compact
20 Commission, which is the joint administrative body whose membership
21 consists of all Participating States.

22 (b) **“Commissioner”** means: the individual appointed by a Participating
23 State to serve as the member of the Commission for that Participating
24 State.

25 (c) **“Compact”** means the Dentist and Dental Hygienist Compact.

26 (d) **“Participating State”** means a state that has enacted the Compact and
27 been admitted to the Commission in accordance with the Compact and the
28 Commission Rules, and which has not withdrawn or been terminated from
29 the Compact.

30 (d) **“Rule”** means: a regulation, principle or directive promulgated by the
31 Commission pursuant to the criteria set forth in Section 9 of the Compact
32 that has the force and effect of law in a Participating State and includes the
33 amendment, repeal, or suspension of an existing Rule.

34 (e) “**Rules Committee**” means: a committee that is established as a
35 standing committee to develop reasonable and lawful uniform rules for
36 consideration by the Commission and subsequent implementation by the
37 states and to review existing rules and recommend necessary changes to
38 the Commission for consideration.

39 (f) “**Scope of Practice**” means the procedures, actions, and processes a
40 Dentist or Dental Hygienist licensed in a State is permitted to undertake in
41 that State and the circumstances under which the Licensee is permitted to
42 undertake those procedures, actions and processes. Such procedures,
43 actions and processes and the circumstances under which they may be
44 undertaken may be established through means, including, but not limited
45 to, statute, regulations, case law, and other processes available to the State
46 Licensing Authority or other government agency.

47 (g) “**State**” means: any state, commonwealth, district, or territory of the
48 United States of America.

49 **1.2 Proposed Rules or Amendments:** Rules shall be adopted by majority vote of the
50 Participating States of the Commission pursuant to the criteria set forth in Section 9 of the
51 Compact and in the following manner:

52 (a) New rules and amendments to existing rules proposed pursuant to Section 7 and
53 Section 9 of the Compact and the Commission Bylaws shall be submitted to the
54 Commission office for referral to the Rules Committee in any of the following ways:

55 (1) Any Commissioner may submit a proposed Rule for referral to the Rules
56 Committee during the next scheduled Commission meeting.

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58 (2) Standing Committees of the Commission may propose Rules amendments by
59 majority vote of that Committee.
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61 **1.3 Drafting of Proposed Rules:** The Rules Committee shall prepare all proposed rules and
62 Notices of Proposed Rulemaking and provide the draft to the Executive Committee to provide to
63 all Commissioners for review and comments. Based on the comments made by the
64 Commissioners, the Rules Committee shall prepare a final draft of the proposed rule(s) or
65 amendments and Notices of Proposed Rulemaking for consideration by the Commission not later
66 than 30 days prior to the next Commission meeting.

67 **1.4 Notice of Proposed Rulemaking Prior to Public Hearing:** Prior to promulgation and
68 adoption of a final Rule, the Commission shall hold a public hearing and allow persons to
69 provide oral and written comments, data, facts, opinions, and arguments. At least 30 days prior to
70 the public hearing, the Commission shall provide a Notice of Proposed Rulemaking:

71 1. On the website of the Commission or other publicly accessible platform; and

72 2. To persons who have requested notice of the Commission’s notices of proposed rulemaking.

73 **1.5 Contents of Notice of Proposed Rulemaking:** The Notice of Proposed Rulemaking shall
74 include:

75 (a) The time, date, and location of the public hearing at which the Commission will hear
76 public comments on the proposed Rule and, if different, the time, date, and location of
77 the meeting where the Commission will consider and vote on the proposed Rule;

78 (b) The mechanism for access to the hearing if the hearing is to be held via
79 telecommunication, video conference, or other electronic means;

80 (c) The text of the proposed Rule and a Statement of Need and Reasonableness for the
81 proposed Rule.

82 (d) A request for comments on the proposed Rule from any interested person; and

83 (e) The manner in which interested persons may submit notice to the Commission of their
84 intention to attend the public meeting and any written comments.

85 **1.6 Public Hearings:** All persons wishing to be heard at the public hearing shall notify the
86 executive director of the Commission or other designated member in writing of their desire to
87 appear and testify at the hearing not less than five (5) business days before the scheduled date of
88 the hearing.

89 Hearings shall be conducted in a manner providing each person who wishes to comment a fair
90 and reasonable opportunity to comment orally or in writing.

91 All hearings shall be recorded. A copy of the recording shall be made available upon request.

92 Nothing in this chapter shall be construed as requiring a separate hearing on each Rule. Rules
93 may be grouped for the convenience of the Commission at hearings required by this chapter.

94 The Commission shall consider all written and oral comments received prior to taking final
95 action on the proposed Rule.

96 **1.7 Final Adoption of Rule:** At a regular or special meeting of the Commission, which may be
97 held at the same date and location as the public hearing, the Commission shall, by majority vote
98 of all Commissioners, take final action on the proposed Rule based on the rulemaking record.

99 The Commission may adopt changes to the proposed Rule provided the changes do not enlarge
100 the original purpose of the proposed Rule. The Commission shall provide an explanation of the
101 reasons for substantive changes made to the proposed Rule as well as reasons for substantive
102 changes not made that were recommended by commenters.

103 The Commission shall determine a reasonable effective date for the Rule. Except for an
104 emergency as provided in Section 1.9, the effective date of the Rule shall be no sooner than
105 thirty (30) days after the Commission issues the notice that it adopted the Rule.

106 **1.8 Status of Rules Upon Adoption of Compact By Additional Participating States;**

107 **Applicability:** Any state that joins the Compact subsequent to the Commission's initial adoption
108 of the rules shall be subject to the rules as they exist on the date on which the Compact becomes

109 law in that state. Any Rule that has been previously adopted by the Commission shall have the
110 full force and effect of law on the day the Compact becomes law in that state.

111 No Participating State’s rulemaking requirements shall apply under this Compact.

112 The Rules of the Commission shall have the force of law in each Participating State, provided,
113 however, that where the Rules of the Commission conflict with the laws of the Participating
114 State which establish the Participating State’s Scope of Practice as held by a court of competent
115 jurisdiction, the rules of the Commission shall be ineffective in that State to the extent of the
116 conflict.

117 If, within 4 years of the date of adoption of a Rule, a majority of the legislatures of the
118 Participating States rejects the Rule by the enactment of statutes in the same manner such
119 legislatures used to adopt the Compact, the Rule shall have no further force and effect in any
120 Participating State.

121 **1.9 Emergency Rulemaking:** Upon determination that an emergency exists, the Commission
122 may consider and adopt an emergency Rule with 24 hours’ notice, with the opportunity to
123 comment, provided that the usual rulemaking procedures provided in the Compact and in this
124 section shall be retroactively applied to the rule as soon as reasonably possible, in no event later
125 than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an
126 emergency rule is one that must be adopted immediately in order to:

- 127 1. Meet an imminent threat to public health, safety, or welfare,
- 128 2. Prevent a loss of Commission or Participating State funds;
- 129 3. Meet a deadline for the promulgation of a Rule that is established by federal law or rule;
- 130 4. Protect public health and safety.

131 **2.0 Non-Substantive Rule Revisions:** The Commission or an authorized committee of the
132 Commission may direct revisions to a previously adopted Rule or amendment for purposes of
133 correcting typographical errors, errors in format, errors in consistency, or grammatical errors.
134 Public notice of any revisions shall be posted on the website of the Commission. The revision
135 shall be subject to challenge by any person for a period of thirty (30) days after posting. The
136 revision may be challenged only on grounds that the revision results in a material change to a
137 Rule. A challenge shall be made in writing and delivered to the Commission prior to the end of
138 the notice period. If no challenge is made, the revision will take effect without further action. If
139 the revision is challenged, the revision may not take effect without the approval of the
140 Commission.

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