

Draft Rule on Criminal Background Checks

To ensure public safety, many state licensing boards and commissions require license applicants to submit to a criminal background check. Similarly, the Dentist and Dental Hygienist Compact requires participating states to implement and use criminal background checks in making licensing decisions as a means of ensuring public safety.

1.0 Purpose:

Pursuant to Section 3.A.5, and Section 3.C, in order to join and to continue as a Participating State in the Compact, a State must fully implement a Criminal Background Check requirement, within a time frame established by Commission Rule, by receiving the results of a qualifying Criminal Background Check. A qualifying 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. § 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). When conducting a Criminal Background Check the State Licensing Authority shall: Consider that information in making a licensure decision; Maintain documentation of completion of the Criminal Background Check and background check information to the extent allowed by State and federal law; and Report to the Commission whether it has completed the Criminal Background Check and whether the individual was granted or denied a License.

1.1 Criminal Background Checks

Participating States must fully implement a Criminal Background Check requirement on new Dentist and Dental Hygienist license applicants within six years of the effective date of the enactment of the compact within their state. A Participating State cannot participate in the issuing of Compact Privileges for the state's Licensees until the state has completed the requirements to fully implement the Criminal Background Check requirement established

DDH Dentist and Dental Hygienist Compact

in Section 3.C. of the Compact. However, a Remote State shall accept a Licensee with a Compact Privilege based on a license issued pursuant to a qualifying Criminal Background Check.

Licensees from Participating States whose Qualifying Licenses were not based on the consideration of information obtained in a Criminal Background Check may seek a Compact Privilege once their Participating State establishes a process for a review and consideration of a subsequent Criminal Background Check.

STATEMENT OF NEED AND REASONABLENESS

Introduction

The topic of background check requirements and the proposed rule language has been discussed by the Full Compact Commission and by the Rules Committee of the Compact Commission on several occasions. To ensure public safety, many state licensing boards and commissions require license applicants to submit to a criminal background check. Similarly, the Dentist and Dental Hygienist Compact requires participating states to implement and use criminal background checks in making licensing decisions as a means of ensuring public safety.

Statement of General Need

Pursuant to Section 3.A.5, and Section 3.C, in order to join and to continue as a Participating State in the Compact, a State must fully implement a Criminal Background Check requirement, within a time frame established by Commission Rule, by receiving the results of a qualifying Criminal Background Check. A qualifying 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. § 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). When conducting a Criminal Background Check the State Licensing Authority shall: Consider that information in making a licensure decision; Maintain documentation of completion of the Criminal Background Check and background check information to the extent allowed by State and federal law; and Report to the Commission whether it has completed the Criminal Background Check and whether the individual was granted or denied a License.

Scope of Proposed Rule

The following section is affected by the proposed Rule:

- 1.1 Criminal Background Checks

Participating States must fully implement a Criminal Background Check requirement on new Dentist and Dental Hygienist license applicants within six years of the effective date of the

enactment of the compact within their state. A Participating State cannot participate in the issuing of Compact Privileges for the state's Licensees until the state has completed the requirements to fully implement the Criminal Background Check requirement established in Section 3.C. of the Compact. However, a Remote State shall accept a Licensee with a Compact Privilege based on a license issued pursuant to a qualifying Criminal Background Check.

Licensees from Participating States whose Qualifying Licenses were not based on the consideration of information obtained in a Criminal Background Check may seek a Compact Privilege once their Participating State establishes a process for a review and consideration of a subsequent Criminal Background Check.

Authority:

The DDH Compact Commission's statutory authority to adopt the rules is stated in Compact statutory language.

Authority: Section 3: State Participation in the Compact

Section 9: Rulemaking

Public Participation and Stakeholder Involvement

The topic of the background check requirement generally and the proposed rule topic described herein has been discussed by the Full Compact Commission and by the Rules Committee of the Compact Commission on several occasions. The proposed language has also been made available to interested parties, as an inclusion in meeting materials. Meetings are open to the public.

The Full Commission will discuss this proposed rule on February 19th, 2026.

Reasonableness of the Rule

General Reasonableness

The proposed Rule is reasonable because it establishes a clear timeframe by which a member state must fully implement a background check requirement and meet the standards of the compact.

Regulatory Analysis

Impacted Parties Affected

The impacted parties would be new dentist and dental hygienists license applicants in states that have joined the DDH compact, where a background check requirement did not previously exist.

Department/Agency Costs

Potential costs to states would be tied to the process of implementing a background check requirement in states, but would have a six year timeframe to prepare for these costs.

Less Costly or Intrusive Methods

There are not any identified less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

Alternative Methods

There are not any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the DDH Commission.

Costs to Comply

There could be potential costs to new applicants, as they may be required to complete and pay for a background check application as part of the approval process.

Notice Plan

Required Notice

Notice of Proposed Rulemaking will be given in accordance with Section 9.G. of the Compact's model language and Rule 1 :Rule on Rulemaking.

Additional Notice

In addition to the required notice referenced above, the DDH Commission will make the SONAR, and proposed rule available on the DDH Compact webpage section created for this rulemaking.

Authors, Witnesses, and Exhibits

Authors

The primary authors of this SONAR are members of DDH Rules Committee.

Witnesses

If these rules go to a public hearing, the Commission anticipates having the following witnesses testify in support of the need for and reasonableness of the rules:

- DDH Commissioner Corey Schaal

Conclusion

In this SONAR, the DDH Commission has established the need for and the reasonableness of the proposed creation of this rule.

Based on the forgoing, the proposed creation of the rule is both needed and reasonable.