

HB246 INTRODUCED



1 RBATYM-1
2 By Representatives Paschal, Hassell
3 RFD: Boards, Agencies and Commissions
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SYNOPSIS:

This bill would establish the Cosmetology Licensure Compact.

This bill would allow the practice of cosmetology by licensed cosmetologists among compact states.

This bill would authorize state cosmetology regulatory authorities in compact states, which would include the Alabama Board of Cosmetology and Barbering, to legally recognize, in a manner consistent with terms of the compact, cosmetologists licensed within those states.

This bill would provide eligibility requirements for licensed cosmetologists to practice cosmetology services pursuant to the compact and a multistate license.

This bill would provide accommodations for licensed cosmetologists who are active duty personnel and their spouses.

This bill would provide for a coordinated licensure database for reporting licensure, investigative information, and disciplinary actions.

This bill would establish the Cosmetology Licensure Compact Commission, and would provide for the membership, powers, and duties of the commission.



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29 This bill would also provide for rulemaking
30 functions of the commission, oversight of the compact,
31 enforcement of the compact, default procedures, dispute
32 resolution, withdrawal of compact states, and
33 amendments to the compact.

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A BILL

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TO BE ENTITLED

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AN ACT

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40 Relating to the licensed practice of cosmetology; to
41 provide and adopt the Cosmetology Licensure Compact to allow
42 licensed cosmetologists to practice pursuant to a multistate
43 license among compact states in a limited manner; to provide
44 eligibility requirements for licensed cosmetologists to
45 practice cosmetology pursuant to the compact; to provide for a
46 coordinated licensure information system, joint
47 investigations, and disciplinary actions; to establish the
48 Cosmetology Licensure Compact Commission; to provide for the
49 membership, powers, duties, and rulemaking functions of the
50 commission; and to provide for oversight of the compact,
51 enforcement of the compact, default procedures, dispute
52 resolution, withdrawal of compact states, and amendments to
53 the compact.

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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Section 1. Purpose.

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(a) The purpose of this compact is to facilitate the



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57 interstate practice and regulation of cosmetology with the
58 goal of improving public access to, and the safety of,
59 cosmetology services and reducing unnecessary burdens related
60 to cosmetology licensure. Through this compact, the member
61 states seek to establish a regulatory framework which provides
62 for a new multistate licensing program. Through this new
63 licensing program, the member states seek to provide increased
64 value and mobility to licensed cosmetologists in the member
65 states, while ensuring the provision of safe, effective, and
66 reliable services to the public.

67 (b) This compact is designed to achieve the following
68 objectives, and the member states ratify the same intentions,
69 by subscribing to all of the following:

70 (1) Provide opportunities for interstate practice by
71 cosmetologists who meet uniform requirements for multistate
72 licensure.

73 (2) Enhance the abilities of member states to protect
74 public health and safety, and prevent fraud and unlicensed
75 activity within the profession.

76 (3) Ensure and encourage cooperation between member
77 states in the licensure and regulation of the practice of
78 cosmetology.

79 (4) Support relocating military members and their
80 spouses.

81 (5) Facilitate the exchange of information between
82 member states related to the licensure, investigation, and
83 discipline of the practice of cosmetology.

84 (6) Provide for the licensure and mobility of the



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85 workforce in the profession, while addressing the shortage of
86 workers and lessening the associated burdens on the member
87 states.

88 Section 2. Definitions.

89 As used in this compact, and except as otherwise
90 provided, the following definitions shall govern the terms
91 herein:

92 (1) ACTIVE DUTY MILITARY. Any individual in full-time
93 duty status in the active uniformed service of the United
94 States including members of the National Guard and Reserve.

95 (2) ADVERSE ACTION. Any administrative, civil,
96 equitable, or criminal action permitted by a member state's
97 laws which is imposed by a state licensing authority or other
98 regulatory body against a cosmetologist, including actions
99 against an individual's license or authorization to practice,
100 such as revocation, suspension, probation, monitoring of the
101 licensee, limitation of the licensee's practice, or any other
102 encumbrance on a license affecting an individual's ability to
103 participate in the cosmetology industry, including the
104 issuance of a cease and desist order.

105 (3) ALTERNATIVE PROGRAM. A non-disciplinary monitoring
106 or prosecutorial diversion program approved by a member
107 state's state licensing authority.

108 (4) AUTHORIZATION TO PRACTICE. A legal authorization
109 associated with a multistate license permitting the practice
110 of cosmetology in that remote state, which shall be subject to
111 the enforcement jurisdiction of the state licensing authority
112 in that remote state.



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113 (5) BACKGROUND CHECK. The submission of information for
114 an applicant for the purpose of obtaining that applicant's
115 criminal history record information, as further defined in 28
116 C.F.R. § 20.33, from the Federal Bureau of Investigation and
117 the agency responsible for retaining state criminal or
118 disciplinary history in the applicant's home state.

119 (6) CHARTER MEMBER STATE. Member states that have
120 enacted legislation to adopt this compact where the
121 legislation predates the effective date of this compact as
122 defined in Section 13.

123 (7) COMMISSION. The government agency whose membership
124 consists of all states that have enacted this compact, which
125 is known as the Cosmetology Licensure Compact Commission, as
126 defined in Section 9, and which shall operate as an
127 instrumentality of the member states.

128 (8) COSMETOLOGIST. An individual licensed in his or her
129 home state to practice cosmetology.

130 (9) COSMETOLOGY, COSMETOLOGY SERVICES, and the PRACTICE
131 OF COSMETOLOGY. The care and services provided by a
132 cosmetologist as set forth in the member state's statutes and
133 rules in the state where the services are being provided.

134 (10) CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION:
135 Either of the following:

136 a. Investigative information that a state licensing
137 authority, after an inquiry or investigation that complies
138 with a member state's due process requirements, has reason to
139 believe is not groundless and, if proved true, would indicate
140 a violation of that state's laws regarding fraud or the



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141 practice of cosmetology.

142 b. Investigative information that indicates that a
143 licensee has engaged in fraud or represents an immediate
144 threat to public health and safety, regardless of whether the
145 licensee has been notified and had an opportunity to respond.

146 (11) DATA SYSTEM. A repository of information about
147 licensees including, but not limited to, license status,
148 investigative information, and adverse actions.

149 (12) DISQUALIFYING EVENT. Any event which shall
150 disqualify an individual from holding a multistate license
151 under this compact, which the commission may by rule or order
152 specify.

153 (13) ENCUMBRANCE. A revocation or suspension of, or any
154 limitation on, the full and unrestricted practice of
155 cosmetology by a state licensing authority.

156 (14) EXECUTIVE COMMITTEE. A group of delegates elected
157 or appointed to act on behalf of, and within the powers
158 granted to them by, the commission.

159 (15) HOME STATE. The member state which is a licensee's
160 primary state of residence, and where that licensee holds an
161 active and unencumbered license to practice cosmetology.

162 (16) INVESTIGATIVE INFORMATION. Information, records,
163 or documents received or generated by a state licensing
164 authority pursuant to an investigation or other inquiry.

165 (17) JURISPRUDENCE REQUIREMENT. The assessment of an
166 individual's knowledge of the laws and rules governing the
167 practice of cosmetology in a state.

168 (18) LICENSEE. An individual who currently holds a



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169 license from a member state to practice as a cosmetologist.

170 (19) MEMBER STATE. Any state that has adopted this
171 compact.

172 (20) MULTISTATE LICENSE. A license issued by and
173 subject to the enforcement jurisdiction of the state licensing
174 authority in a licensee's home state, which authorizes the
175 practice of cosmetology in member states and includes
176 authorizations to practice cosmetology in all remote states
177 pursuant to this compact.

178 (21) REMOTE STATE. Any member state, other than the
179 licensee's home state.

180 (22) RULE. Any rule or regulation adopted by the
181 commission under this compact which has the force of law.

182 (23) SINGLE-STATE LICENSE. A cosmetology license issued
183 by a member state that authorizes practice of cosmetology only
184 within the issuing state and does not include any
185 authorization outside of the issuing state.

186 (24) STATE. A state, territory, or possession of the
187 United States and the District of Columbia.

188 (25) STATE LICENSING AUTHORITY. A member state's
189 regulatory body responsible for issuing cosmetology licenses
190 or otherwise overseeing the practice of cosmetology in that
191 state.

192 Section 3. Member state requirements.

193 (a) To be eligible to join this compact, and to
194 maintain eligibility as a member state, a state must do all of
195 the following:

196 (1) License and regulate cosmetology.



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197 (2) Have a mechanism or entity in place to receive and
198 investigate complaints about licensees practicing in that
199 state.

200 (3) Require that licensees within the state pass a
201 cosmetology competency examination prior to being licensed to
202 provide cosmetology services to the public in that state.

203 (4) Require that licensees satisfy educational or
204 training requirements in cosmetology prior to being licensed
205 to provide cosmetology services to the public in that state.

206 (5) Implement procedures for considering one or more of
207 the following categories of information from applicants for
208 licensure: Criminal history; disciplinary history; or
209 background check. The procedures may include the submission of
210 information by applicants for the purpose of obtaining an
211 applicant's background check.

212 (6) Participate in the data system, including through
213 the use of unique identifying numbers.

214 (7) Share information related to adverse actions with
215 the commission and other member states, both through the data
216 system and otherwise.

217 (8) Notify the commission and other member states, in
218 compliance with the terms of the compact and rules of the
219 commission, of the existence of investigative information or
220 current significant investigative information in the state's
221 possession regarding a licensee practicing in that state.

222 (9) Comply with rules adopted by the commission to
223 administer the compact.

224 (10) Accept licensees from other member states as



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225 established herein.

226 (b) Member states may charge a fee for granting a
227 license to practice cosmetology.

228 (c) Individuals not residing in a member state shall
229 continue to be able to apply for a member state's single-state
230 license as provided under the laws of each member state.
231 However, the single-state license granted to these individuals
232 shall not be recognized as granting a multistate license to
233 provide services in any other member state.

234 (d) Nothing in this compact shall affect the
235 requirements established by a member state for the issuance of
236 a single-state license.

237 (e) A multistate license issued to a licensee by a home
238 state to a resident of that state shall be recognized by each
239 member state as authorizing a licensee to practice cosmetology
240 in each member state.

241 (f) At no point shall the commission have the power to
242 define the educational or professional requirements for a
243 license to practice cosmetology. The member states shall
244 retain sole jurisdiction over the provision of these
245 requirements.

246 Section 4. Multistate license.

247 (a) To be eligible to apply to his or her home state's
248 state licensing authority for an initial multistate license
249 under this compact, a licensee must hold an active and
250 unencumbered single-state license to practice cosmetology in
251 his or her home state.

252 (b) Upon the receipt of an application for a multistate



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253 license, according to the rules of the commission, a member
254 state's state licensing authority shall ascertain whether the
255 applicant meets the requirements for a multistate license
256 under this compact.

257 (c) If an applicant meets the requirements for a
258 multistate license under this compact and any applicable rules
259 of the commission, the state licensing authority in receipt of
260 the application, within a reasonable time, shall grant a
261 multistate license to that applicant, and inform all member
262 states of the grant of the multistate license.

263 (d) A multistate license to practice cosmetology issued
264 by a member state's state licensing authority shall be
265 recognized by each member state as authorizing the practice
266 thereof as though that licensee held a single-state license to
267 do so in each member state, subject to the restrictions
268 herein.

269 (e) A multistate license granted pursuant to this
270 compact may be effective for a definite period of time,
271 concurrent with the licensure renewal period in the home
272 state.

273 (f) To maintain a multistate license under this
274 compact, a licensee shall do all of the following:

275 (1) Agree to abide by the rules of the state licensing
276 authority, and the state scope of practice laws governing the
277 practice of cosmetology, of any member state in which the
278 licensee provides services.

279 (2) Pay all required fees related to the application
280 and process, and any other fees which the commission may by



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281 rule require.

282 (3) Comply with any and all other requirements
283 regarding multistate licenses which the commission may by rule
284 provide.

285 (g) A licensee practicing in a member state is subject
286 to all scope of practice laws governing cosmetology services
287 in that state.

288 (h) The practice of cosmetology under a multistate
289 license granted pursuant to this compact shall subject the
290 licensee to the jurisdiction of the state licensing authority,
291 the courts, and the laws of the member state in which the
292 cosmetology services are provided.

293 Section 5. Reissuance of a multistate license by a new
294 home state.

295 (a) A licensee may hold a multistate license, issued by
296 his or her home state, in only one member state at any given
297 time.

298 (b) If a licensee changes his or her home state by
299 moving between two member states:

300 (1) The licensee shall immediately apply for the
301 reissuance of his or her multistate license in his or her new
302 home state. The licensee shall pay all applicable fees and
303 notify the prior home state in accordance with the rules of
304 the commission.

305 (2) Upon receipt of an application to reissue a
306 multistate license, the new home state shall verify that the
307 multistate license is active, unencumbered, and eligible for
308 reissuance under the terms of the compact and the rules of the



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309 commission. The multistate license issued by the prior home
310 state shall be deactivated and all member states notified in
311 accordance with the applicable rules adopted by the
312 commission.

313 (3) If required for initial licensure, the new home
314 state may require a background check as specified in the laws
315 of that state, or the compliance with any jurisprudence
316 requirements of the new home state.

317 (4) Notwithstanding any other provision of this
318 compact, if a licensee does not meet the requirements set
319 forth in this compact for the reissuance of a multistate
320 license by the new home state, then the licensee shall be
321 subject to the new home state requirements for the issuance of
322 a single-state license in that state.

323 (c) If a licensee changes his or her primary state of
324 residence by moving from a member state to a non-member state,
325 or from a non-member state to a member state, then the
326 licensee shall be subject to the state requirements for the
327 issuance of a single-state license in the new home state.

328 (d) Nothing in this compact shall interfere with a
329 licensee's ability to hold a single-state license in multiple
330 states; however, for the purposes of this compact, a licensee
331 shall have only one home state, and only one multistate
332 license.

333 (e) Nothing in this compact shall interfere with the
334 requirements established by a member state for the issuance of
335 a single-state license.

336 Section 6. Authority of the compact commission and



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337 member state licensing authorities.

338 (a) Nothing in this compact, nor any rule of the
339 commission, shall be construed to limit, restrict, or in any
340 way reduce the ability of a member state to enact and enforce
341 laws, regulations, or other rules related to the practice of
342 cosmetology in that state, where those laws, regulations, or
343 other rules are not inconsistent with this compact.

344 (b) Insofar as practical, a member state's state
345 licensing authority shall cooperate with the commission and
346 with each entity exercising independent regulatory authority
347 over the practice of cosmetology according to this compact.

348 (c) Discipline shall be the sole responsibility of the
349 state in which cosmetology services are provided. Accordingly,
350 each member state's state licensing authority shall be
351 responsible for receiving complaints about individuals
352 practicing cosmetology in that state, and for communicating
353 all relevant investigative information about any adverse
354 action to the other member states through the data system in
355 addition to any other methods the commission may by rule
356 require.

357 Section 7. Adverse actions.

358 (a) A licensee's home state shall have exclusive power
359 to impose an adverse action against a licensee's multistate
360 license issued by the home state.

361 (b) A home state may take adverse action on a
362 multistate license based on the investigative information,
363 current significant investigative information, or adverse
364 action of a remote state.



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365 (c) In addition to the powers conferred by state law,
366 each remote state's state licensing authority shall have the
367 power to do all of the following:

368 (1) Take adverse action against a licensee's
369 authorization to practice cosmetology through the multistate
370 license in that member state, provided that:

371 a. Only the licensee's home state shall have the power
372 to take adverse action against the multistate license issued
373 by the home state; and

374 b. For the purposes of taking adverse action, the home
375 state's state licensing authority shall give the same priority
376 and effect to reported conduct received from a remote state as
377 it would if the conduct had occurred within the home state. In
378 so doing, the home state shall apply its own state laws to
379 determine the appropriate action.

380 (2) Issue cease and desist orders or impose an
381 encumbrance on a licensee's authorization to practice within
382 that member state.

383 (3) Complete any pending investigations of a licensee
384 who changes his or her primary state of residence during the
385 course of an investigation. The state licensing authority
386 shall also be empowered to report the results of an
387 investigation to the commission through the data system as
388 described herein.

389 (4) Issue subpoenas for both hearings and
390 investigations that require the attendance and testimony of
391 witnesses, as well as the production of evidence. Subpoenas
392 issued by a state licensing authority in a member state for



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393 the attendance and testimony of witnesses or the production of
394 evidence from another member state shall be enforced in the
395 latter state by any court of competent jurisdiction, according
396 to the practice and procedure of that court applicable to
397 subpoenas issued in proceedings before the court. The issuing
398 state licensing authority shall pay any witness fees, travel
399 expenses, mileage, and other fees required by the service
400 statutes of the state in which the witnesses or evidence are
401 located.

402 (5) If otherwise permitted by state law, recover from
403 the affected licensee the costs of investigations and
404 disposition of cases resulting from any adverse action taken
405 against that licensee.

406 (6) Take adverse action against the licensee's
407 authorization to practice in that state based on the factual
408 findings of another remote state.

409 (d) A licensee's home state shall complete any pending
410 investigation of a cosmetologist who changes his or her
411 primary state of residence during the course of the
412 investigation. The home state shall also have the authority to
413 take appropriate action and shall promptly report the
414 conclusions of the investigations to the data system.

415 (e) If an adverse action is taken by the home state
416 against a licensee's multistate license, the licensee's
417 authorization to practice in all other member states shall be
418 deactivated until all encumbrances have been removed from the
419 home state license. All home state disciplinary orders that
420 impose an adverse action against a licensee's multistate



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421 license shall include a statement that the cosmetologist's
422 authorization to practice is deactivated in all member states
423 during the pendency of the order.

424 (f) Nothing in this compact shall override a member
425 state's authority to accept a licensee's participation in an
426 alternative program in lieu of adverse action. A licensee's
427 multistate license shall be suspended for the duration of the
428 licensee's participation in any alternative program.

429 (g) Joint investigations.

430 (1) In addition to the authority granted to a member
431 state by its respective scope of practice laws or other
432 applicable state law, a member state may participate with
433 other member states in joint investigations of licensees.

434 (2) Member states shall share any investigative,
435 litigation, or compliance materials in furtherance of any
436 joint or individual investigation initiated under the compact.

437 Section 8. Active duty military and their spouses.

438 Active duty military personnel, or their spouses, shall
439 designate a home state where the individual has a current
440 license to practice cosmetology in good standing. The
441 individual may retain his or her home state designation during
442 any period of service when that individual or his or her
443 spouse is on active duty assignment.

444 Section 9. Establishment and operation of the
445 Cosmetology Licensure Compact Commission.

446 (a) The compact member states hereby create and
447 establish a joint government agency whose membership consists
448 of all member states that have enacted the compact known as



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449 the Cosmetology Licensure Compact Commission. The commission
450 is an instrumentality of the compact member states acting
451 jointly and not an instrumentality of any one state. The
452 commission shall come into existence on or after the effective
453 date of the compact as set forth in Section 13.

454 (b) Membership, voting, and meetings.

455 (1) Each member state shall have and be limited to one
456 delegate selected by that member state's state licensing
457 authority.

458 (2) The delegate shall be an administrator of the state
459 licensing authority of the member state or his or her
460 designee.

461 (3) The commission shall by rule or bylaw establish a
462 term of office for delegates and may by rule or bylaw
463 establish term limits.

464 (4) The commission may recommend removal or suspension
465 of any delegate from office.

466 (5) A member state's state licensing authority shall
467 fill any vacancy of its delegate occurring on the commission
468 within 60 days of the vacancy.

469 (6) Each delegate shall be entitled to one vote on all
470 matters that are voted on by the commission.

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

475 (c) The commission shall do all of the following:

476 (1) Establish the fiscal year of the commission.



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

479 (3) Adopt rules and bylaws.

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

482 (5) Meet and take actions consistent with this compact,
483 the commission's rules, and the bylaws.

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

488 (7) Maintain and certify records and information
489 provided to a member state as the authenticated business
490 records of the commission, and designate an agent to do so on
491 the commission's behalf.

492 (8) Purchase and maintain insurance and bonds.

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

496 (10) Conduct an annual financial review.

497 (11) Hire employees, elect or appoint officers, fix
498 compensation, define duties, grant individuals appropriate
499 authority to carry out the purposes of the compact, and
500 establish the commission's personnel policies and programs
501 relating to conflicts of interest, qualifications of
502 personnel, and other related personnel matters.

503 (12) As set forth in the commission rules, charge a fee
504 to a licensee for the grant of a multistate license and



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505 thereafter, as may be established by commission rule, charge
506 the licensee a multistate license renewal fee for each renewal
507 period. Nothing herein shall be construed to prevent a home
508 state from charging a licensee a fee for a multistate license
509 or renewals of a multistate license, or a fee for the
510 jurisprudence requirement if the member state imposes a
511 requirement for the grant of a multistate license.

512 (13) Assess and collect fees.

513 (14) Accept any and all appropriate gifts, donations,
514 grants of money, other sources of revenue, equipment,
515 supplies, materials, and services, and receive, utilize, and
516 dispose of the same; provided that the commission shall avoid
517 any appearance of impropriety or conflict of interest.

518 (15) Lease, purchase, retain, own, hold, improve, or
519 use any property, real, personal, or mixed, or any undivided
520 interest therein.

521 (16) Sell, convey, mortgage, pledge, lease, exchange,
522 abandon, or otherwise dispose of any property real, personal,
523 or mixed.

524 (17) Establish a budget and make expenditures.

525 (18) Borrow money.

526 (19) Appoint committees, including standing committees,
527 composed of members, state regulators, state legislators or
528 their representatives, and consumer representatives, and other
529 interested individuals as may be designated in this compact
530 and the bylaws.

531 (20) Provide and receive information from, and
532 cooperate with, law enforcement agencies.



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533 (21) Elect a chair, vice chair, secretary, treasurer,
534 and other officers of the commission as provided in the
535 commission's bylaws.

536 (22) Establish and elect an executive committee,
537 including a chair and a vice chair.

538 (23) Adopt and provide to the participating states an
539 annual report.

540 (24) Determine whether a state's adopted language is
541 materially different from the model compact language such that
542 the state would not qualify for participation in the compact.

543 (25) Perform other functions as may be necessary or
544 appropriate to achieve the purposes of this compact.

545 (d) The executive committee.

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

550 a. Overseeing the day-to-day activities of the
551 administration of the compact including compliance with the
552 compact, the commission's rules and bylaws, and other duties
553 as deemed necessary.

554 b. Recommending to the commission changes to the rules
555 or bylaws, changes to this compact legislation, fees charged
556 to compact member states, fees charged to licensees, and other
557 fees.

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

560 d. Preparing and recommending the budget.



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561 e. Maintaining financial records on behalf of the
562 commission.

563 f. Monitoring compact compliance of member states and
564 providing compliance reports to the commission.

565 g. Establishing additional committees as necessary.

566 h. Exercising the powers and duties of the commission
567 during the interim between commission meetings, except for
568 adopting or amending rules, adopting or amending bylaws, and
569 exercising any other powers and duties expressly reserved to
570 the commission by rule or bylaw.

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

573 (2) The executive committee shall be composed of up to
574 seven voting members:

575 a. The chair and vice chair of the commission and any
576 other members of the commission who serve on the executive
577 committee shall be voting members of the executive committee.

578 b. Other than the chair, vice chair, secretary, and
579 treasurer, the commission shall elect three voting members
580 from the current membership of the commission.

581 c. The commission may elect ex officio, nonvoting
582 members from a recognized national cosmetology professional
583 association as approved by the commission. The commission's
584 bylaws shall identify qualifying organizations and the manner
585 of appointment if the number of organizations seeking to
586 appoint an ex officio member exceeds the number of members
587 specified in this section.

588 (3) The commission may remove any member of the



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589 executive committee as provided in the commission's bylaws.

590 (4) The executive committee shall meet at least
591 annually.

592 a. Annual executive committee meetings, as well as any
593 executive committee meeting at which the executive committee
594 does not take or intend to take formal action on a matter for
595 which a commission vote would otherwise be required, shall be
596 open to the public, except that the executive committee may
597 meet in a closed, non-public session of a public meeting when
598 dealing with any of the matters covered under subdivision (4)
599 of subsection (f).

600 b. The executive committee shall give five business
601 days' advance notice of its public meetings, posted on its
602 website and as determined to provide notice to individuals
603 with an interest in the public matters the executive committee
604 intends to address at those meetings.

605 (5) The executive committee may hold an emergency
606 meeting when acting for the commission to do any of the
607 following:

608 a. Meet an imminent threat to public health, safety, or
609 welfare.

610 b. Prevent a loss of commission or participating state
611 funds.

612 c. Protect public health and safety.

613 (e) The commission shall adopt and provide to the
614 member states an annual report.

615 (f) Meetings of the commission.

616 (1) All meetings of the commission that are not closed



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617 pursuant to subdivision (4) shall be open to the public.

618 Notice of public meetings shall be posted on the commission's
619 website at least 30 days prior to the public meeting.

620 (2) Notwithstanding subdivision (1), the commission may
621 convene an emergency public meeting by providing at least 24
622 hours' prior notice on the commission's website, and any other
623 means as provided in the commission's rules, for any of the
624 reasons it may dispense with notice of proposed rulemaking
625 under subsection (1) of Section 11. The commission's legal
626 counsel shall certify that one of the reasons justifying an
627 emergency public meeting has been met.

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

633 (4) The commission may convene in a closed, non-public
634 meeting for the commission to discuss any of the following:

635 a. Non-compliance of a member state with its
636 obligations under the compact.

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

641 c. Current or threatened discipline of a licensee by
642 the commission or by a member state's licensing authority.

643 d. Current, threatened, or reasonably anticipated
644 litigation.



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

647 f. Accusing any individual of a crime or formally
648 censuring any individual.

649 g. Trade secrets or commercial or financial information
650 that is privileged or confidential.

651 h. Information of a personal nature where disclosure
652 would constitute a clearly unwarranted invasion of personal
653 privacy.

654 i. Investigative records compiled for law enforcement
655 purposes.

656 j. Information related to any investigative reports
657 prepared by or on behalf of or for use of the commission or
658 other committee charged with responsibility of investigation
659 or determination of compliance issues pursuant to the compact.

660 k. Legal advice.

661 l. Matters specifically exempted from disclosure to the
662 public by federal or member state law.

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

664 (5) If a meeting, or portion of a meeting, is closed,
665 the presiding officer shall state that the meeting will be
666 closed and reference each relevant exempting provision, and
667 the reference shall be recorded in the minutes.

668 (6) The commission shall keep minutes that fully and
669 clearly describe all matters discussed in a meeting and shall
670 provide a full and accurate summary of actions taken, and the
671 reasons therefore, including a description of the views
672 expressed. All documents considered in connection with an



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673 action shall be identified in the minutes. All minutes and
674 documents of a closed meeting shall remain under seal, subject
675 to release only by a majority vote of the commission or order
676 of a court of competent jurisdiction.

677 (g) Financing of the commission.

678 (1) The commission shall pay, or provide for the
679 payment of, the reasonable expenses of its establishment,
680 organization, and ongoing activities.

681 (2) The commission may accept any and all appropriate
682 sources of revenue, donations, and grants of money, equipment,
683 supplies, materials, and services.

684 (3) The commission may levy on and collect an annual
685 assessment from each member state and impose fees on licensees
686 of member states to whom it grants a multistate license to
687 cover the cost of the operations and activities of the
688 commission and its staff, which shall be in a total amount
689 sufficient to cover its annual budget as approved each year
690 for which revenue is not provided by other sources. The
691 aggregate annual assessment amount for member states shall be
692 allocated based upon a formula that the commission shall adopt
693 by rule.

694 (4) The commission shall not incur obligations of any
695 kind prior to securing the funds adequate to meet the same;
696 nor shall the commission pledge the credit of any member
697 states, except by and with the authority of the member state.

698 (5) The commission shall keep accurate accounts of all
699 receipts and disbursements. The receipts and disbursements of
700 the commission shall be subject to the financial review and



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701 accounting procedures established under its bylaws. All
702 receipts and disbursements of funds handled by the commission
703 shall be subject to an annual financial review by a certified
704 or licensed public accountant, and the report of the financial
705 review shall be included in and become part of the annual
706 report of the commission.

707 (h) Qualified immunity, defense, and indemnification.

708 (1) The members, officers, executive director,
709 employees, and representatives of the commission shall be
710 immune from suit and liability, both personally and in their
711 official capacity, for any claim for damage to or loss of
712 property or personal injury or other civil liability caused by
713 or arising out of any actual or alleged act, error, or
714 omission that occurred, or that the individual against whom
715 the claim is made had a reasonable basis for believing
716 occurred within the scope of commission employment, duties, or
717 responsibilities; provided that nothing in this subdivision
718 shall be construed to protect any individual from suit or
719 liability for any damage, loss, injury, or liability caused by
720 the intentional or willful or wanton misconduct of that
721 individual. The procurement of insurance of any type by the
722 commission shall not in any way compromise or limit the
723 immunity granted hereunder.

724 (2) The commission shall defend any member, officer,
725 executive director, employee, and representative of the
726 commission in any civil action seeking to impose liability
727 arising out of any actual or alleged act, error, or omission
728 that occurred within the scope of commission employment,



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

738 (3) The commission shall indemnify and hold harmless
739 any member, officer, executive director, employee, and
740 representative of the commission for the amount of any
741 settlement or judgment obtained against that individual
742 arising out of any actual or alleged act, error, or omission
743 that occurred within the scope of commission employment,
744 duties, or responsibilities, or that the individual had a
745 reasonable basis for believing occurred within the scope of
746 commission employment, duties, or responsibilities, provided
747 that the actual or alleged act, error, or omission did not
748 result from the intentional or willful or wanton misconduct of
749 that individual.

750 (4) Nothing herein shall be construed as a limitation
751 on the liability of any licensee for professional malpractice
752 or misconduct, which shall be governed solely by any other
753 applicable state laws.

754 (5) Nothing in this compact shall be interpreted to
755 waive or otherwise abrogate a member state's state action
756 immunity or state action affirmative defense with respect to



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757 antitrust claims under the Sherman Act, Clayton Act, or any
758 other state or federal antitrust or anticompetitive law or
759 regulation.

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

763 Section 10. Data system.

764 (a) The commission shall provide for the development,
765 maintenance, operation, and utilization of a coordinated
766 database and reporting system.

767 (b) The commission shall assign each applicant for a
768 multistate license a unique identifier, as determined by the
769 rules of the commission.

770 (c) Notwithstanding any other provision of state law to
771 the contrary, a member state shall submit a uniform data set
772 to the data system on all individuals to whom this compact is
773 applicable as required by the rules of the commission,
774 including:

775 (1) Identifying information.

776 (2) Licensure data.

777 (3) Adverse actions against a license and information
778 related thereto.

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

782 (5) Any denial of application for licensure, and the
783 reasons for the denial, excluding the reporting of any
784 criminal history record information where prohibited by law.



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785 (6) The existence of investigative information.

786 (7) The existence of current significant investigative
787 information.

788 (8) Other information that may facilitate the
789 administration of this compact or the protection of the
790 public, as determined by the rules of the commission.

791 (d) The records and information provided to a member
792 state pursuant to this compact or through the data system,
793 when certified by the commission or an agent thereof, shall
794 constitute the authenticated business records of the
795 commission, and shall be entitled to any associated hearsay
796 exception in any relevant judicial, quasi-judicial, or
797 administrative proceedings in a member state.

798 (e) The existence of current significant investigative
799 information and the existence of investigative information
800 pertaining to a licensee in any member state shall only be
801 available to other member states.

802 (f) It is the responsibility of the member states to
803 monitor the database to determine whether adverse action has
804 been taken against a licensee or license applicant. Adverse
805 action information pertaining to a licensee or license
806 applicant in any member state shall be available to any other
807 member state.

808 (g) Member states contributing information to the data
809 system may designate information that may not be shared with
810 the public without the express permission of the contributing
811 state.

812 (h) Any information submitted to the data system that



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813 is subsequently expunged pursuant to federal law or the laws
814 of the member state contributing the information shall be
815 removed from the data system.

816 Section 11. Rulemaking.

817 (a) The commission shall adopt reasonable rules in
818 order to effectively and efficiently implement and administer
819 the purposes and provisions of this compact. A rule shall be
820 invalid and have no force or effect only if a court of
821 competent jurisdiction holds that the rule is invalid because
822 the commission exercised its rulemaking authority in a manner
823 that is beyond the scope and purposes of the compact, or the
824 powers granted hereunder, or based upon another applicable
825 standard of review.

826 (b) The rules of the commission shall have the force of
827 law in each member state. Where the rules of the commission
828 conflict with the laws of the member state that establish the
829 member state's scope of practice laws governing the practice
830 of cosmetology as held by a court of competent jurisdiction,
831 the rules of the commission shall be ineffective in that state
832 to the extent of the conflict.

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

837 (d) If a majority of the legislatures of the member
838 states rejects a rule or portion of a rule, by enactment of a
839 statute or resolution in the same manner used to adopt the
840 compact within four years of the date of adoption of the rule,



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841 then the rule shall have no further force and effect in any
842 member state or to any state applying to participate in the
843 compact.

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

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

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

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

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

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

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

863 (1) The time, date, and location of the public hearing
864 at which the commission will hear public comments on the
865 proposed rule and, if different, the time, date, and location
866 of the meeting where the commission will consider and vote on
867 the proposed rule.

868 (2) If the hearing is held via telecommunication, video



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869 conference, or other electronic means, the commission shall
870 include the mechanism for access to the hearing in the notice
871 of proposed rulemaking.

872 (3) The text of the proposed rule and the reason
873 therefor.

874 (4) A request for comments on the proposed rule from
875 any interested individual.

876 (5) The manner in which interested individuals may
877 submit written comments.

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

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

886 (k) The commission, by majority vote of all members,
887 shall take final action on the proposed rule based on the
888 rulemaking record and the full text of the rule.

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

892 (2) The commission shall provide an explanation of the
893 reasons for substantive changes made to the proposed rule as
894 well as reasons for substantive changes not made that were
895 recommended by commenters.

896 (3) The commission shall determine a reasonable



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897 effective date for the rule. Except for an emergency as
898 provided in subsection (1), the effective date of the rule
899 shall be no sooner than 45 days after the commission issuing
900 the notice that it adopted or amended the rule.

901 (1) Upon determination that an emergency exists, the
902 commission may consider and adopt an emergency rule with five
903 days' notice, with opportunity to comment, provided that the
904 usual rulemaking procedures provided in this compact and in
905 this section shall be retroactively applied to the rule as
906 soon as reasonably possible, in no event later than 90 days
907 after the effective date of the rule. For the purposes of this
908 subsection, an emergency rule is one that shall be adopted
909 immediately to do any of the following:

910 (1) Meet an imminent threat to public health, safety,
911 or welfare.

912 (2) Prevent a loss of commission or member state funds.

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

915 (4) Protect public health and safety.

916 (m) The commission or an authorized committee of the
917 commission may direct revisions to a previously adopted rule
918 for purposes of correcting typographical errors, errors in
919 format, errors in consistency, or grammatical errors. Public
920 notice of any revisions shall be posted on the website of the
921 commission. The revision shall be subject to challenge by any
922 individual for a period of 30 days after posting. The revision
923 may be challenged only on grounds that the revision results in
924 a material change to a rule. A challenge shall be made in



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925 writing and delivered to the commission prior to the end of
926 the notice period. If no challenge is made, the revision shall
927 take effect without further action. If the revision is
928 challenged, the revision may not take effect without the
929 approval of the commission.

930 (n) No member state's rulemaking requirements shall
931 apply under this compact.

932 Section 12. Oversight, dispute resolution, and
933 enforcement.

934 (a) Oversight.

935 (1) The executive and judicial branches of state
936 government in each member state shall enforce this compact and
937 take all actions necessary and appropriate to implement this
938 compact.

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

949 (3) The commission may receive service of process in
950 any proceeding regarding the enforcement or interpretation of
951 the compact and shall have standing to intervene in any
952 proceeding for all purposes. Failure to provide the commission



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953 service of process shall render a judgment or order void as to
954 the commission, this compact, or adopted rules.

955 (b) Default, technical assistance, and termination.

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

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

966 (3) If a state in default fails to cure the default,
967 the defaulting state may be terminated from the compact upon
968 an affirmative vote of a majority of the delegates of the
969 member states, and all rights, privileges and benefits
970 conferred on that state by this compact may be terminated on
971 the effective date of termination. A cure of the default does
972 not relieve the offending state of obligations or liabilities
973 incurred during the period of default.

974 (4) Termination of membership in the compact shall be
975 imposed only after all other means of securing compliance have
976 been exhausted. Notice of intent to suspend or terminate shall
977 be given by the commission to the governor, the majority and
978 minority leaders of the defaulting state's legislature, the
979 defaulting state's state licensing authority and each of the
980 member states' state licensing authority.



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981 (5) A state that has been terminated is responsible for
982 all assessments, obligations, and liabilities incurred through
983 the effective date of termination, including obligations that
984 extend beyond the effective date of termination.

985 (6) Upon the termination of a state's membership from
986 this compact, that state shall immediately provide notice to
987 all licensees who hold a multistate license within that state
988 of the termination. The terminated state shall continue to
989 recognize all licenses granted pursuant to this compact for a
990 minimum of 180 days after the date of the notice of
991 termination.

992 (7) The commission shall not bear any costs related to
993 a state that is found to be in default or that has been
994 terminated from the compact, unless agreed upon in writing
995 between the commission and the defaulting state.

996 (8) The defaulting state may appeal the action of the
997 commission by petitioning the United States District Court for
998 the District of Columbia or the federal district where the
999 commission has its principal offices. The prevailing party
1000 shall be awarded all costs of the litigation, including
1001 reasonable attorney's fees.

1002 (c) Dispute resolution.

1003 (1) Upon request by a member state, the commission
1004 shall attempt to resolve disputes related to the compact that
1005 arise among member states and between member and non-member
1006 states.

1007 (2) The commission shall adopt a rule providing for
1008 both mediation and binding dispute resolution for disputes as



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1009 appropriate.

1010 (d) Enforcement.

1011 (1) The commission, in the reasonable exercise of its
1012 discretion, shall enforce this compact and the commission's
1013 rules.

1014 (2) By majority vote as provided by commission rule,
1015 the commission may initiate legal action against a member
1016 state in default in the United States District Court for the
1017 District of Columbia or the federal district where the
1018 commission has its principal office to enforce compliance with
1019 this compact and its adopted rules. The relief sought may
1020 include both injunctive relief and damages. In the event
1021 judicial enforcement is necessary, the prevailing party shall
1022 be awarded all costs of the litigation, including reasonable
1023 attorney's fees. The remedies herein shall not be the
1024 exclusive remedies of the commission. The commission may
1025 pursue any other remedies available under federal or the
1026 defaulting member state's law.

1027 (3) A member state may initiate legal action against
1028 the commission in the United States District Court for the
1029 District of Columbia or the federal district where the
1030 commission has its principal office to enforce compliance with
1031 this compact and its adopted rules. The relief sought may
1032 include both injunctive relief and damages. In the event
1033 judicial enforcement is necessary, the prevailing party shall
1034 be awarded all costs of the litigation, including reasonable
1035 attorney's fees.

1036 (4) No individual or entity other than a member state



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1037 may enforce this compact against the commission.

1038 Section 13. Effective date, withdrawal, and amendment.

1039 (a) The compact shall come into effect on the date on
1040 which the compact statute is enacted into law in the seventh
1041 member state.

1042 (1) On or after the effective date of the compact, the
1043 commission shall convene and review the enactment of each of
1044 the charter member states to determine if the statute enacted
1045 by each charter member state is materially different than the
1046 model compact statute.

1047 a. A charter member state whose enactment is found to
1048 be materially different from the model compact statute shall
1049 be entitled to the default process set forth in Section 12.

1050 b. If any member state is later found to be in default,
1051 or is terminated or withdraws from the compact, the commission
1052 shall remain in existence and the compact shall remain in
1053 effect even if the number of member states should be less than
1054 seven.

1055 (2) Member states enacting the compact subsequent to
1056 the charter member states shall be subject to the process set
1057 forth in subdivision (c)(24) of Section 9 to determine if
1058 their enactments are materially different from the model
1059 compact statute and whether they qualify for participation in
1060 the compact.

1061 (3) All actions taken for the benefit of the commission
1062 or in furtherance of the purposes of the administration of the
1063 compact prior to the effective date of the compact or the
1064 commission coming into existence shall be considered to be



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1065 actions of the commission unless specifically repudiated by
1066 the commission.

1067 (4) Any state that joins the compact shall be subject
1068 to the commission's rules and bylaws as they exist on the date
1069 on which the compact becomes law in that state. Any rule that
1070 has been previously adopted by the commission shall have the
1071 full force and effect of law on the day the compact becomes
1072 law in that state.

1073 (b) Any member state may withdraw from this compact by
1074 enacting a statute repealing that state's enactment of the
1075 compact.

1076 (1) A member state's withdrawal shall not take effect
1077 until 180 days after enactment of the repealing statute.

1078 (2) Withdrawal shall not affect the continuing
1079 requirement of the withdrawing state's state licensing
1080 authority to comply with the investigative and adverse action
1081 reporting requirements of this compact prior to the effective
1082 date of withdrawal.

1083 (3) Upon the enactment of a statute withdrawing from
1084 this compact, a state shall immediately provide notice of the
1085 withdrawal to all licensees within that state. Notwithstanding
1086 any subsequent statutory enactment to the contrary, the
1087 withdrawing state shall continue to recognize all licenses
1088 granted pursuant to this compact for a minimum of 180 days
1089 after the date of notice of withdrawal.

1090 (c) Nothing contained in this compact shall be
1091 construed to invalidate or prevent any licensure agreement or
1092 other cooperative arrangement between a member state and a



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1093 non-member state that does not conflict with this compact.

1094 (d) This compact may be amended by the member states.

1095 No amendment to this compact shall become effective and
1096 binding upon any member state until it is enacted into the
1097 laws of all member states.

1098 Section 14. Construction and severability.

1099 (a) This compact and the commission's rulemaking
1100 authority shall be liberally construed so as to effectuate the
1101 purposes, and the implementation and administration of the
1102 compact. Provisions of the compact expressly authorizing or
1103 requiring the adoption of rules shall not be construed to
1104 limit the commission's rulemaking authority solely for those
1105 purposes.

1106 (b) The provisions of this compact shall be severable
1107 and if any phrase, clause, sentence, or provision of this
1108 compact is held by a court of competent jurisdiction to be
1109 contrary to the constitution of any member state, a state
1110 seeking participation in the compact, or of the United States,
1111 or the applicability thereof to any government, agency,
1112 individual, or circumstance is held to be unconstitutional by
1113 a court of competent jurisdiction, the validity of the
1114 remainder of this compact and the applicability thereof to any
1115 other government, agency, individual, or circumstance shall
1116 not be affected thereby.

1117 (c) Notwithstanding subsection (b), the commission may
1118 deny a state's participation in the compact or, in accordance
1119 with the requirements of Section 12, terminate a member
1120 state's participation in the compact, if it determines that a



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1121 constitutional requirement of a member state is a material
1122 departure from the compact. Otherwise, if this compact shall
1123 be held to be contrary to the constitution of any member
1124 state, the compact shall remain in full force and effect as to
1125 the remaining member states and in full force and effect as to
1126 the member state affected as to all severable matters.

1127 Section 15. Consistent effect and conflict with other
1128 state laws.

1129 (a) Nothing herein shall prevent or inhibit the
1130 enforcement of any other law of a member state that is not
1131 inconsistent with this compact.

1132 (b) Any laws, statutes, regulations, or other legal
1133 requirements in a member state in conflict with this compact
1134 are superseded to the extent of the conflict.

1135 (c) All permissible agreements between the commission
1136 and the member states are binding in accordance with their
1137 terms.

1138 Section 16. This act shall become effective on the
1139 first day of the third month following its passage and
1140 approval by the Governor, or its otherwise becoming law.