

SENATE BILL NO. 1673

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURGER.

7179S.011

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 324, RSMo, by adding thereto one new section relating to licensure of massage therapists.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 324, RSMo, is amended by adding thereto
2 one new section, to be known as section 324.276, to read as
3 follows:

324.276. This section shall be known and may be cited
2 as the "Interstate Massage Compact".

3 ARTICLE 1 - PURPOSE

4 The purpose of this Compact is to reduce the burdens on
5 State governments and to facilitate the interstate practice
6 and regulation of Massage Therapy with the goal of improving
7 public access to, and the safety of, Massage Therapy
8 Services. Through this Compact, the Member States seek to
9 establish a regulatory framework which provides for a new
10 multistate licensing program. Through this additional
11 licensing pathway, the Member States seek to provide
12 increased value and mobility to licensed massage therapists
13 in the Member States, while ensuring the provision of safe,
14 competent, and reliable services to the public.

15 This Compact is designed to achieve the following
16 objectives, and the Member States hereby ratify the same
17 intentions by subscribing hereto:

48 A. "Active Military Member" - any person with full-
49 time duty status in the armed forces of the United States,
50 including members of the National Guard and Reserve.

51 B. "Adverse Action" - any administrative, civil,
52 equitable, or criminal action permitted by a Member State's
53 laws which is imposed by a Licensing Authority or other
54 regulatory body against a Licensee, including actions
55 against an individual's Authorization to Practice such as
56 revocation, suspension, probation, surrender in lieu of
57 discipline, monitoring of the Licensee, limitation of the
58 Licensee's practice, or any other Encumbrance on licensure
59 affecting an individual's ability to practice Massage
60 Therapy, including the issuance of a cease and desist order.

61 C. "Alternative Program" - a non-disciplinary
62 monitoring or prosecutorial diversion program approved by a
63 Member State's Licensing Authority.

64 D. "Authorization to Practice" - a legal authorization
65 by a Remote State pursuant to a Multistate License
66 permitting the Practice of Massage Therapy in that Remote
67 State, which shall be subject to the enforcement
68 jurisdiction of the Licensing Authority in that Remote State.

69 E. "Background Check" - the submission of an
70 applicant's criminal history record information, as further
71 defined in 28 C.F.R. § 20.3(d), as amended from the Federal
72 Bureau of Investigation and the agency responsible for
73 retaining State criminal records in the applicant's Home
74 State.

75 F. "Charter Member States" - Member States who have
76 enacted legislation to adopt this Compact where such
77 legislation predates the effective date of this Compact as
78 defined in Article 12.

79 G. "Commission" - the government agency whose
80 membership consists of all States that have enacted this
81 Compact, which is known as the Interstate Massage Compact
82 Commission, as defined in Article 8, and which shall operate
83 as an instrumentality of the Member States.

84 H. "Continuing Competence" - a requirement, as a
85 condition of license renewal, to provide evidence of
86 participation in, and completion of, educational or
87 professional activities that maintain, improve, or enhance
88 Massage Therapy fitness to practice.

89 I. "Current Significant Investigative Information" -
90 Investigative Information that a Licensing Authority, after
91 an inquiry or investigation that complies with a Member
92 State's due process requirements, has reason to believe is
93 not groundless and, if proved true, would indicate a
94 violation of that State's laws regarding the Practice of
95 Massage Therapy.

96 J. "Data System" - a repository of information about
97 Licensees who hold Multistate Licenses, which may include
98 but is not limited to license status, Investigative
99 Information, and Adverse Actions.

100 K. "Disqualifying Event" - any event which shall
101 disqualify an individual from holding a Multistate License
102 under this Compact, which the Commission may by Rule specify.

103 L. "Encumbrance" - a revocation or suspension of, or
104 any limitation or condition on, the full and unrestricted
105 Practice of Massage Therapy by a Licensing Authority.

106 M. "Executive Committee" - a group of delegates
107 elected or appointed to act on behalf of, and within the
108 powers granted to them by, the Commission.

109 N. "Home State" - the Member State which is a
110 Licensee's primary state of residence where the Licensee
111 holds an active Single-State License.

112 O. "Investigative Information" - information, records,
113 or documents received or generated by a Licensing Authority
114 pursuant to an investigation or other inquiry.

115 P. "Licensing Authority" - a State's regulatory body
116 responsible for issuing Massage Therapy licenses or
117 otherwise overseeing the Practice of Massage Therapy in that
118 State.

119 Q. "Licensee" - an individual who currently holds a
120 license from a Member State to fully practice Massage
121 Therapy, whose license is not a student, provisional,
122 temporary, inactive, or other similar status.

123 R. "Massage Therapy", "Massage Therapy Services", and
124 the "Practice of Massage Therapy" - the care and services
125 provided by a Licensee as set forth in the Member State's
126 statutes and regulations in the State where the services are
127 being provided.

128 S. "Member State" - any State that has adopted this
129 Compact.

130 T. "Multistate License" - a license that consists of
131 Authorizations to Practice Massage Therapy in all Remote
132 States pursuant to this Compact, which shall be subject to
133 the enforcement jurisdiction of the Licensing Authority in a
134 Licensee's Home State.

135 U. "National Licensing Examination" - a national
136 examination developed by a national association of Massage
137 Therapy regulatory boards, as defined by Commission Rule,
138 that is derived from a practice analysis and is consistent
139 with generally accepted psychometric principles of fairness,

140 validity and reliability, and is administered under secure
141 and confidential examination protocols.

142 V. "Remote State" - any Member State, other than the
143 Licensee's Home State.

144 W. "Rule" - any opinion or regulation promulgated by
145 the Commission under this Compact, which shall have the
146 force of law.

147 X. "Single-State License" - a current, valid
148 authorization issued by a Member State's Licensing Authority
149 allowing an individual to fully practice Massage Therapy,
150 that is not a restricted, student, provisional, temporary,
151 or inactive practice authorization and authorizes practice
152 only within the issuing State.

153 Y. "State" - a state, territory, possession of the
154 United States, or the District of Columbia.

155 ARTICLE 3 - MEMBER STATE REQUIREMENTS

156 A. To be eligible to join this Compact, and to
157 maintain eligibility as a Member State, a State must:

158 1. License and regulate the Practice of Massage
159 Therapy;

160 2. Have a mechanism or entity in place to receive and
161 investigate complaints from the public, regulatory or law
162 enforcement agencies, or the Commission about Licensees
163 practicing in that State;

164 3. Accept passage of a National Licensing Examination
165 as a criterion for Massage Therapy licensure in that State;

166 4. Require that Licensees satisfy educational
167 requirements prior to being licensed to provide Massage
168 Therapy Services to the public in that State;

169 5. Implement procedures for requiring the Background
170 Check of applicants for a Multistate License, and for the
171 reporting of any Disqualifying Events, including but not

172 limited to obtaining and submitting, for each Licensee
173 holding a Multistate License and each applicant for a
174 Multistate License, fingerprint or other biometric-based
175 information to the Federal Bureau of Investigation for
176 Background Checks; receiving the results of the Federal
177 Bureau of Investigation record search on Background Checks
178 and considering the results of such a Background Check in
179 making licensure decisions;

180 6. Have Continuing Competence requirements as a
181 condition for license renewal;

182 7. Participate in the Data System, including through
183 the use of unique identifying numbers as described herein;

184 8. Notify the Commission and other Member States, in
185 compliance with the terms of the Compact and Rules of the
186 Commission, of any disciplinary action taken by the State
187 against a Licensee practicing under a Multistate License in
188 that State, or of the existence of Investigative Information
189 or Current Significant Investigative Information regarding a
190 Licensee practicing in that State pursuant to a Multistate
191 License;

192 9. Comply with the Rules of the Commission;

193 10. Accept Licensees with valid Multistate Licenses
194 from other Member States as established herein;

195 B. Individuals not residing in a Member State shall
196 continue to be able to apply for a Member State's Single-
197 State License as provided under the laws of each Member
198 State. However, the Single-State License granted to those
199 individuals shall not be recognized as granting a Multistate
200 License for Massage Therapy in any other Member State;

201 C. Nothing in this Compact shall affect the
202 requirements established by a Member State for the issuance
203 of a Single-State License; and

204 D. A Multistate License issued to a Licensee shall be
205 recognized by each Remote State as an Authorization to
206 Practice Massage Therapy in each Remote State.

207 ARTICLE 4 - MULTISTATE LICENSE REQUIREMENTS

208 A. To qualify for a Multistate License under this
209 Compact, and to maintain eligibility for such a license, an
210 applicant must:

211 1. Hold an active Single-State License to practice
212 Massage Therapy in the applicant's Home State;

213 2. Have completed at least six hundred and twenty-five
214 (625) clock hours of Massage Therapy education or the
215 substantial equivalent which the Commission may approve by
216 Rule;

217 3. Have passed a National Licensing Examination or the
218 substantial equivalent which the Commission may approve by
219 Rule;

220 4. Submit to a Background Check;

221 5. Have not been convicted or found guilty, or have
222 entered into an agreed disposition, of a felony offense
223 under applicable State or federal criminal law, within five
224 (5) years prior to the date of their application, where such
225 a time period shall not include any time served for the
226 offense, and provided that the applicant has completed any
227 and all requirements arising as a result of any such offense;

228 6. Have not been convicted or found guilty, or have
229 entered into an agreed disposition, of a misdemeanor offense
230 related to the Practice of Massage Therapy under applicable
231 State or federal criminal law, within two (2) years prior to
232 the date of their application where such a time period shall
233 not include any time served for the offense, and provided
234 that the applicant has completed any and all requirements
235 arising as a result of any such offense;

236 7. Have not been convicted or found guilty, or have
237 entered into an agreed disposition, of any offense, whether
238 a misdemeanor or a felony, under State or federal law, at
239 any time, relating to any of the following:

240 a. Kidnapping;

241 b. Human trafficking;

242 c. Human smuggling;

243 d. Sexual battery, sexual assault, or any related
244 offenses; or

245 e. Any other category of offense which the Commission
246 may by Rule designate;

247 8. Have not previously held a Massage Therapy license
248 which was revoked by, or surrendered in lieu of discipline
249 to an applicable Licensing Authority;

250 9. Have no history of any Adverse Action on any
251 occupational or professional license within two (2) years
252 prior to the date of their application; and

253 10. Pay all required fees.

254 B. A Multistate License granted pursuant to this
255 Compact may be effective for a definite period of time
256 concurrent with the renewal of the Home State license.

257 C. A Licensee practicing in a Member State is subject
258 to all scope of practice laws governing Massage Therapy
259 Services in that State.

260 D. The Practice of Massage Therapy under a Multistate
261 License granted pursuant to this Compact will subject the
262 Licensee to the jurisdiction of the Licensing Authority, the
263 courts, and the laws of the Member State in which the
264 Massage Therapy Services are provided.

265 ARTICLE 5 - AUTHORITY OF INTERSTATE MASSAGE COMPACT
266 COMMISSION AND MEMBER STATE LICENSING AUTHORITIES

267 A. Nothing in this Compact, nor any Rule of the
268 Commission, shall be construed to limit, restrict, or in any
269 way reduce the ability of a Member State to enact and
270 enforce laws, regulations, or other rules related to the
271 Practice of Massage Therapy in that State, where those laws,
272 regulations, or other rules are not inconsistent with the
273 provisions of this Compact.

274 B. Nothing in this Compact, nor any Rule of the
275 Commission, shall be construed to limit, restrict, or in any
276 way reduce the ability of a Member State to take Adverse
277 Action against a Licensee's Single-State License to practice
278 Massage Therapy in that State.

279 C. Nothing in this Compact, nor any Rule of the
280 Commission, shall be construed to limit, restrict, or in any
281 way reduce the ability of a Remote State to take Adverse
282 Action against a Licensee's Authorization to Practice in
283 that State.

284 D. Nothing in this Compact, nor any Rule of the
285 Commission, shall be construed to limit, restrict, or in any
286 way reduce the ability of a Licensee's Home State to take
287 Adverse Action against a Licensee's Multistate License based
288 upon information provided by a Remote State.

289 E. Insofar as practical, a Member State's Licensing
290 Authority shall cooperate with the Commission and with each
291 entity exercising independent regulatory authority over the
292 Practice of Massage Therapy according to the provisions of
293 this Compact.

294 **ARTICLE 6 - ADVERSE ACTIONS**

295 A. A Licensee's Home State shall have exclusive power
296 to impose an Adverse Action against a Licensee's Multistate
297 License issued by the Home State.

298 B. A Home State may take Adverse Action on a
299 Multistate License based on the Investigative Information,
300 Current Significant Investigative Information, or Adverse
301 Action of a Remote State.

302 C. A Home State shall retain authority to complete any
303 pending investigations of a Licensee practicing under a
304 Multistate License who changes their Home State during the
305 course of such an investigation. The Licensing Authority
306 shall also be empowered to report the results of such an
307 investigation to the Commission through the Data System as
308 described herein.

309 D. Any Member State may investigate actual or alleged
310 violations of the scope of practice laws in any other Member
311 State for a massage therapist who holds a Multistate License.

312 E. A Remote State shall have the authority to:

313 1. Take Adverse Actions against a Licensee's
314 Authorization to Practice;

315 2. Issue cease and desist orders or impose an
316 Encumbrance on a Licensee's Authorization to Practice in
317 that State;

318 3. Issue subpoenas for both hearings and
319 investigations that require the attendance and testimony of
320 witnesses, as well as the production of evidence. Subpoenas
321 issued by a Licensing Authority in a Member State for the
322 attendance and testimony of witnesses or the production of
323 evidence from another Member State shall be enforced in the
324 latter State by any court of competent jurisdiction,
325 according to the practice and procedure of that court
326 applicable to subpoenas issued in proceedings before it.
327 The issuing Licensing Authority shall pay any witness fees,
328 travel expenses, mileage, and other fees required by the

329 service statutes of the State in which the witnesses or
330 evidence are located;

331 4. If otherwise permitted by State law, recover from
332 the affected Licensee the costs of investigations and
333 disposition of cases resulting from any Adverse Action taken
334 against that Licensee; and

335 5. Take Adverse Action against the Licensee's
336 Authorization to Practice in that State based on the factual
337 findings of another Member State.

338 F. If an Adverse Action is taken by the Home State
339 against a Licensee's Multistate License or Single-State
340 License to practice in the Home State, the Licensee's
341 Authorization to Practice in all other Member States shall
342 be deactivated until all Encumbrances have been removed from
343 such license. All Home State disciplinary orders that
344 impose an Adverse Action against a Licensee shall include a
345 statement that the Massage Therapist's Authorization to
346 Practice is deactivated in all Member States during the
347 pendency of the order.

348 G. If Adverse Action is taken by a Remote State
349 against a Licensee's Authorization to Practice, that Adverse
350 Action applies to all Authorizations to Practice in all
351 Remote States. A Licensee whose Authorization to Practice
352 in a Remote State is removed for a specified period of time
353 is not eligible to apply for a new Multistate License in any
354 other State until the specific time for removal of the
355 Authorization to Practice has passed and all encumbrance
356 requirements are satisfied.

357 H. Nothing in this Compact shall override a Member
358 State's authority to accept a Licensee's participation in an
359 Alternative Program in lieu of Adverse Action. A Licensee's

360 Multistate License shall be suspended for the duration of
361 the Licensee's participation in any Alternative Program.

362 I. Joint Investigations

363 1. In addition to the authority granted to a Member
364 State by its respective scope of practice laws or other
365 applicable State law, a Member State may participate with
366 other Member States in joint investigations of Licensees.

367 2. Member States shall share any investigative,
368 litigation, or compliance materials in furtherance of any
369 joint or individual investigation initiated under the
370 Compact.

371 ARTICLE 7 - ACTIVE MILITARY MEMBER AND THEIR SPOUSES

372 Active Military Member, or their spouses, shall
373 designate a Home State where the individual has a current
374 license to practice Massage Therapy in good standing. The
375 individual may retain their Home State designation during
376 any period of service when that individual or their spouse
377 is on active duty assignment.

378 ARTICLE 8 - ESTABLISHMENT AND OPERATION OF INTERSTATE
379 MASSAGE COMPACT COMMISSION

380 A. The Compact Member States hereby create and
381 establish a joint government agency whose membership
382 consists of all Member States that have enacted the Compact
383 known as the Interstate Massage Compact Commission. The
384 Commission is an instrumentality of the Compact States
385 acting jointly and not an instrumentality of any one State.
386 The Commission shall come into existence on or after the
387 effective date of the Compact as set forth in Article 12.

388 B. Membership, Voting, and Meetings

389 1. Each Member State shall have and be limited to one
390 (1) delegate selected by that Member State's State Licensing
391 Authority.

392 2. The delegate shall be the primary administrative
393 officer of the State Licensing Authority or their designee.

394 3. The Commission shall by Rule or bylaw establish a
395 term of office for delegates and may by Rule or bylaw
396 establish term limits.

397 4. The Commission may recommend removal or suspension
398 of any delegate from office.

399 5. A Member State's State Licensing Authority shall
400 fill any vacancy of its delegate occurring on the Commission
401 within 60 days of the vacancy.

402 6. Each delegate shall be entitled to one vote on all
403 matters that are voted on by the Commission.

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

409 C. The Commission shall have the following powers:

410 1. Establish the fiscal year of the Commission;

411 2. Establish code of conduct and conflict of interest
412 policies;

413 3. Adopt Rules and bylaws;

414 4. Maintain its financial records in accordance with
415 the bylaws;

416 5. Meet and take such actions as are consistent with
417 the provisions of this Compact, the Commission's Rules, and
418 the bylaws;

419 6. Initiate and conclude legal proceedings or actions
420 in the name of the Commission, provided that the standing of
421 any State Licensing Authority to sue or be sued under
422 applicable law shall not be affected;

- 423 7. Maintain and certify records and information
424 provided to a Member State as the authenticated business
425 records of the Commission, and designate an agent to do so
426 on the Commission's behalf;
- 427 8. Purchase and maintain insurance and bonds;
- 428 9. Borrow, accept, or contract for services of
429 personnel, including, but not limited to, employees of a
430 Member State;
- 431 10. Conduct an annual financial review;
- 432 11. Hire employees, elect or appoint officers, fix
433 compensation, define duties, grant such individuals
434 appropriate authority to carry out the purposes of the
435 Compact, and establish the Commission's personnel policies
436 and programs relating to conflicts of interest,
437 qualifications of personnel, and other related personnel
438 matters;
- 439 12. Assess and collect fees;
- 440 13. Accept any and all appropriate gifts, donations,
441 grants of money, other sources of revenue, equipment,
442 supplies, materials, and services, and receive, utilize, and
443 dispose of the same; provided that at all times the
444 Commission shall avoid any appearance of impropriety or
445 conflict of interest;
- 446 14. Lease, purchase, retain, own, hold, improve, or
447 use any property, real, personal, or mixed, or any undivided
448 interest therein;
- 449 15. Sell, convey, mortgage, pledge, lease, exchange,
450 abandon, or otherwise dispose of any property real,
451 personal, or mixed;
- 452 16. Establish a budget and make expenditures;
- 453 17. Borrow money;

454 18. Appoint committees, including standing committees,
455 composed of members, State regulators, State legislators or
456 their representatives, and consumer representatives, and
457 such other interested persons as may be designated in this
458 Compact and the bylaws;

459 19. Accept and transmit complaints from the public,
460 regulatory or law enforcement agencies, or the Commission,
461 to the relevant Member State(s) regarding potential
462 misconduct of Licensees;

463 20. Elect a Chair, Vice Chair, Secretary and Treasurer
464 and such other officers of the Commission as provided in the
465 Commission's bylaws;

466 21. Establish and elect an Executive Committee,
467 including a chair and a vice chair;

468 22. Adopt and provide to the Member States an annual
469 report;

470 23. Determine whether a State's adopted language is
471 materially different from the model Compact language such
472 that the State would not qualify for participation in the
473 Compact; and

474 24. Perform such other functions as may be necessary
475 or appropriate to achieve the purposes of this Compact.

476 D. The Executive Committee

477 1. The Executive Committee shall have the power to act
478 on behalf of the Commission according to the terms of this
479 Compact. The powers, duties, and responsibilities of the
480 Executive Committee shall include:

481 a. Overseeing the day-to-day activities of the
482 administration of the Compact including compliance with the
483 provisions of the Compact, the Commission's Rules and
484 bylaws, and other such duties as deemed necessary;

485 b. Recommending to the Commission changes to the Rules
486 or bylaws, changes to this Compact legislation, fees charged
487 to Compact Member States, fees charged to Licensees, and
488 other fees;

489 c. Ensuring Compact administration services are
490 appropriately provided, including by contract;

491 d. Preparing and recommending the budget;

492 e. Maintaining financial records on behalf of the
493 Commission;

494 f. Monitoring Compact compliance of Member States and
495 providing compliance reports to the Commission;

496 g. Establishing additional committees as necessary;

497 h. Exercise the powers and duties of the Commission
498 during the interim between Commission meetings, except for
499 adopting or amending Rules, adopting or amending bylaws, and
500 exercising any other powers and duties expressly reserved to
501 the Commission by Rule or bylaw; and

502 i. Other duties as provided in the Rules or bylaws of
503 the Commission.

504 2. The Executive Committee shall be composed of seven
505 voting members and up to two ex-officio members as follows:

506 a. The chair and vice chair of the Commission and any
507 other members of the Commission who serve on the Executive
508 Committee shall be voting members of the Executive Committee;

509 b. Other than the chair, vice chair, secretary and
510 treasurer, the Commission shall elect three voting members
511 from the current membership of the Commission; and

512 c. The Commission may elect ex-officio, non-voting
513 members as necessary as follows:

514 i. One ex-officio member who is a representative of
515 the national association of State Massage Therapy regulatory
516 boards;

517 ii. One ex-officio member as specified in the
518 Commission's bylaws.

519 3. The Commission may remove any member of the
520 Executive Committee as provided in the Commission's bylaws.

521 4. The Executive Committee shall meet at least
522 annually.

523 a. Executive Committee meetings shall be open to the
524 public, except that the Executive Committee may meet in a
525 closed, non-public session of a public meeting when dealing
526 with any of the matters covered under subsection F.4 of this
527 Article.

528 b. The Executive Committee shall give five business
529 days advance notice of its public meetings, posted on its
530 website and as determined to provide notice to persons with
531 an interest in the public matters the Executive Committee
532 intends to address at those meetings.

533 5. The Executive Committee may hold an emergency
534 meeting when acting for the Commission to:

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

537 b. Prevent a loss of Commission or Participating State
538 funds; or

539 c. Protect public health and safety.

540 E. The Commission shall adopt and provide to the
541 Member States an annual report.

542 F. Meetings of the Commission

543 1. All meetings of the Commission that are not closed
544 pursuant to this subsection shall be open to the public.

545 Notice of public meetings shall be posted on the
546 Commission's website at least thirty (30) days prior to the
547 public meeting.

548 2. Notwithstanding subsection F.1 of this Article, the
549 Commission may convene an emergency public meeting by
550 providing at least twenty-four (24) hours prior notice on
551 the Commission's website, and any other means as provided in
552 the Commission's Rules, for any of the reasons it may
553 dispense with notice of proposed rulemaking under Article
554 10.L. The Commission's legal counsel shall certify that one
555 of the reasons justifying an emergency public meeting has
556 been met.

557 3. Notice of all Commission meetings shall provide the
558 time, date, and location of the meeting, and if the meeting
559 is to be held or accessible via telecommunication, video
560 conference, or other electronic means, the notice shall
561 include the mechanism for access to the meeting.

562 4. The Commission may convene in a closed, non-public
563 meeting for the Commission to discuss:

564 a. Non-compliance of a Member State with its
565 obligations under the Compact;

566 b. The employment, compensation, discipline or other
567 matters, practices or procedures related to specific
568 employees or other matters related to the Commission's
569 internal personnel practices and procedures;

570 c. Current or threatened discipline of a Licensee by
571 the Commission or by a Member State's Licensing Authority;

572 d. Current, threatened, or reasonably anticipated
573 litigation;

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

576 f. Accusing any person of a crime or formally
577 censuring any person;

578 g. Trade secrets or commercial or financial
579 information that is privileged or confidential;

580 h. Information of a personal nature where disclosure
581 would constitute a clearly unwarranted invasion of personal
582 privacy;

583 i. Investigative records compiled for law enforcement
584 purposes;

585 j. Information related to any investigative reports
586 prepared by or on behalf of or for use of the Commission or
587 other committee charged with responsibility of investigation
588 or determination of compliance issues pursuant to the
589 Compact;

590 k. Legal advice;

591 l. Matters specifically exempted from disclosure to
592 the public by federal or Member State law; or

593 m. Other matters as promulgated by the Commission by
594 Rule.

595 5. If a meeting, or portion of a meeting, is closed,
596 the presiding officer shall state that the meeting will be
597 closed and reference each relevant exempting provision, and
598 such reference shall be recorded in the minutes.

599 6. The Commission shall keep minutes that fully and
600 clearly describe all matters discussed in a meeting and
601 shall provide a full and accurate summary of actions taken,
602 and the reasons therefore, including a description of the
603 views expressed. All documents considered in connection
604 with an action shall be identified in such minutes. All
605 minutes and documents of a closed meeting shall remain under
606 seal, subject to release only by a majority vote of the
607 Commission or order of a court of competent jurisdiction.

608 G. Financing of the Commission

609 1. The Commission shall pay, or provide for the
610 payment of, the reasonable expenses of its establishment,
611 organization, and ongoing activities.

612 2. The Commission may accept any and all appropriate
613 sources of revenue, donations, and grants of money,
614 equipment, supplies, materials, and services.

615 3. The Commission may levy on and collect an annual
616 assessment from each Member State and impose fees on
617 Licensees of Member States to whom it grants a Multistate
618 License to cover the cost of the operations and activities
619 of the Commission and its staff, which must be in a total
620 amount sufficient to cover its annual budget as approved
621 each year for which revenue is not provided by other
622 sources. The aggregate annual assessment amount for Member
623 States shall be allocated based upon a formula that the
624 Commission shall promulgate by Rule.

625 4. The Commission shall not incur obligations of any
626 kind prior to securing the funds adequate to meet the same;
627 nor shall the Commission pledge the credit of any Member
628 States, except by and with the authority of the Member State.

629 5. The Commission shall keep accurate accounts of all
630 receipts and disbursements. The receipts and disbursements
631 of the Commission shall be subject to the financial review
632 and accounting procedures established under its bylaws. All
633 receipts and disbursements of funds handled by the
634 Commission shall be subject to an annual financial review by
635 a certified or licensed public accountant, and the report of
636 the financial review shall be included in and become part of
637 the annual report of the Commission.

638 H. Qualified Immunity, Defense, and Indemnification

639 1. The members, officers, executive director,
640 employees and representatives of the Commission shall be
641 immune from suit and liability, both personally and in their
642 official capacity, for any claim for damage to or loss of
643 property or personal injury or other civil liability caused

644 by or arising out of any actual or alleged act, error, or
645 omission that occurred, or that the person against whom the
646 claim is made had a reasonable basis for believing occurred
647 within the scope of Commission employment, duties or
648 responsibilities; provided that nothing in this paragraph
649 shall be construed to protect any such person from suit or
650 liability for any damage, loss, injury, or liability caused
651 by the intentional or willful or wanton misconduct of that
652 person. The procurement of insurance of any type by the
653 Commission shall not in any way compromise or limit the
654 immunity granted hereunder.

655 2. The Commission shall defend any member, officer,
656 executive director, employee, and representative of the
657 Commission in any civil action seeking to impose liability
658 arising out of any actual or alleged act, error, or omission
659 that occurred within the scope of Commission employment,
660 duties, or responsibilities, or as determined by the
661 Commission that the person against whom the claim is made
662 had a reasonable basis for believing occurred within the
663 scope of Commission employment, duties, or responsibilities;
664 provided that nothing herein shall be construed to prohibit
665 that person from retaining their own counsel at their own
666 expense; and provided further, that the actual or alleged
667 act, error, or omission did not result from that person's
668 intentional or willful or wanton misconduct.

669 3. The Commission shall indemnify and hold harmless
670 any member, officer, executive director, employee, and
671 representative of the Commission for the amount of any
672 settlement or judgment obtained against that person arising
673 out of any actual or alleged act, error, or omission that
674 occurred within the scope of Commission employment, duties,
675 or responsibilities, or that such person had a reasonable

676 basis for believing occurred within the scope of Commission
677 employment, duties, or responsibilities, provided that the
678 actual or alleged act, error, or omission did not result
679 from the intentional or willful or wanton misconduct of that
680 person.

681 4. Nothing herein shall be construed as a limitation
682 on the liability of any Licensee for professional
683 malpractice or misconduct, which shall be governed solely by
684 any other applicable State laws.

685 5. Nothing in this Compact shall be interpreted to
686 waive or otherwise abrogate a Member State's State action
687 immunity or State action affirmative defense with respect to
688 antitrust claims under the Sherman Act, Clayton Act, or any
689 other State or federal antitrust or anticompetitive law or
690 regulation.

691 6. Nothing in this Compact shall be construed to be a
692 waiver of sovereign immunity by the Member States or by the
693 Commission.

694 ARTICLE 9 - DATA SYSTEM

695 A. The Commission shall provide for the development,
696 maintenance, operation, and utilization of a coordinated
697 database and reporting system.

698 B. The Commission shall assign each applicant for a
699 Multistate License a unique identifier, as determined by the
700 Rules of the Commission.

701 C. Notwithstanding any other provision of State law to
702 the contrary, a Member State shall submit a uniform data set
703 to the Data System on all individuals to whom this Compact
704 is applicable as required by the Rules of the Commission,
705 including:

- 706 1. Identifying information;
- 707 2. Licensure data;

708 3. Adverse Actions against a license and information
709 related thereto;

710 4. Non-confidential information related to Alternative
711 Program participation, the beginning and ending dates of
712 such participation, and other information related to such
713 participation;

714 5. Any denial of application for licensure, and the
715 reason(s) for such denial (excluding the reporting of any
716 criminal history record information where prohibited by law);

717 6. The existence of Investigative Information;

718 7. The existence or presence of Current Significant
719 Investigative Information; and

720 8. Other information that may facilitate the
721 administration of this Compact or the protection of the
722 public, as determined by the Rules of the Commission.

723 D. The records and information provided to a Member
724 State pursuant to this Compact or through the Data System,
725 when certified by the Commission or an agent thereof, shall
726 constitute the authenticated business records of the
727 Commission, and shall be entitled to any associated hearsay
728 exception in any relevant judicial, quasi-judicial or
729 administrative proceedings in a Member State.

730 E. The existence of Current Significant Investigative
731 Information and the existence of Investigative Information
732 pertaining to a Licensee in any Member State will only be
733 available to other Member States.

734 F. It is the responsibility of the Member States to
735 report any Adverse Action against a Licensee who holds a
736 Multistate License and to monitor the database to determine
737 whether Adverse Action has been taken against such a
738 Licensee or License applicant. Adverse Action information

739 pertaining to a Licensee or License applicant in any Member
740 State will be available to any other Member State.

741 G. Member States contributing information to the Data
742 System may designate information that may not be shared with
743 the public without the express permission of the
744 contributing State.

745 H. Any information submitted to the Data System that
746 is subsequently expunged pursuant to federal law or the laws
747 of the Member State contributing the information shall be
748 removed from the Data System.

749 ARTICLE 10 - RULEMAKING

750 A. The Commission shall promulgate reasonable Rules in
751 order to effectively and efficiently implement and
752 administer the purposes and provisions of the Compact. A
753 Rule shall be invalid and have no force or effect only if a
754 court of competent jurisdiction holds that the Rule is
755 invalid because the Commission exercised its rulemaking
756 authority in a manner that is beyond the scope and purposes
757 of the Compact, or the powers granted hereunder, or based
758 upon another applicable standard of review.

759 B. The Rules of the Commission shall have the force of
760 law in each Member State, provided however that where the
761 Rules of the Commission conflict with the laws of the Member
762 State that establish the Member State's scope of practice as
763 held by a court of competent jurisdiction, the Rules of the
764 Commission shall be ineffective in that State to the extent
765 of the conflict.

766 C. The Commission shall exercise its Rulemaking powers
767 pursuant to the criteria set forth in this Article and the
768 Rules adopted thereunder. Rules shall become binding as of
769 the date specified by the Commission for each Rule.

770 D. If a majority of the legislatures of the Member
771 States rejects a Rule or portion of a Rule, by enactment of
772 a statute or resolution in the same manner used to adopt the
773 Compact within four (4) years of the date of adoption of the
774 Rule, then such Rule shall have no further force and effect
775 in any Member State or to any State applying to participate
776 in the Compact.

777 E. Rules shall be adopted at a regular or special
778 meeting of the Commission.

779 F. Prior to adoption of a proposed Rule, the
780 Commission shall hold a public hearing and allow persons to
781 provide oral and written comments, data, facts, opinions,
782 and arguments.

783 G. Prior to adoption of a proposed Rule by the
784 Commission, and at least thirty (30) days in advance of the
785 meeting at which the Commission will hold a public hearing
786 on the proposed Rule, the Commission shall provide a Notice
787 of Proposed Rulemaking:

788 1. On the website of the Commission or other publicly
789 accessible platform;

790 2. To persons who have requested notice of the
791 Commission's notices of proposed rulemaking; and

792 3. In such other way(s) as the Commission may by Rule
793 specify.

794 H. The Notice of Proposed Rulemaking shall include:

795 1. The time, date, and location of the public hearing
796 at which the Commission will hear public comments on the
797 proposed Rule and, if different, the time, date, and
798 location of the meeting where the Commission will consider
799 and vote on the proposed Rule;

800 2. If the hearing is held via telecommunication, video
801 conference, or other electronic means, the Commission shall

802 include the mechanism for access to the hearing in the
803 Notice of Proposed Rulemaking;

804 3. The text of the proposed Rule and the reason
805 therefor;

806 4. A request for comments on the proposed Rule from
807 any interested person; and

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

810 I. All hearings will be recorded. A copy of the
811 recording and all written comments and documents received by
812 the Commission in response to the proposed Rule shall be
813 available to the public.

814 J. Nothing in this Article shall be construed as
815 requiring a separate hearing on each Rule. Rules may be
816 grouped for the convenience of the Commission at hearings
817 required by this Article.

818 K. The Commission shall, by majority vote of all
819 Commissioners, take final action on the proposed Rule based
820 on the Rulemaking record.

821 1. The Commission may adopt changes to the proposed
822 Rule provided the changes do not enlarge the original
823 purpose of the proposed Rule.

824 2. The Commission shall provide an explanation of the
825 reasons for substantive changes made to the proposed Rule as
826 well as reasons for substantive changes not made that were
827 recommended by commenters.

828 3. The Commission shall determine a reasonable
829 effective date for the Rule. Except for an emergency as
830 provided in subsection L of this Article, the effective date
831 of the Rule shall be no sooner than thirty (30) days after
832 the Commission issuing the notice that it adopted or amended
833 the Rule.

834 L. Upon determination that an emergency exists, the
835 Commission may consider and adopt an emergency Rule with 24
836 hours notice, provided that the usual Rulemaking procedures
837 provided in the Compact and in this Article shall be
838 retroactively applied to the Rule as soon as reasonably
839 possible, in no event later than ninety (90) days after the
840 effective date of the Rule. For the purposes of this
841 provision, an emergency Rule is one that must be adopted
842 immediately to:

- 843 1. Meet an imminent threat to public health, safety,
844 or welfare;
- 845 2. Prevent a loss of Commission or Member State funds;
- 846 3. Meet a deadline for the promulgation of a Rule that
847 is established by federal law or rule; or
- 848 4. Protect public health and safety.

849 M. The Commission or an authorized committee of the
850 Commission may direct revisions to a previously adopted Rule
851 for purposes of correcting typographical errors, errors in
852 format, errors in consistency, or grammatical errors.
853 Public notice of any revisions shall be posted on the
854 website of the Commission. The revision shall be subject to
855 challenge by any person for a period of thirty (30) days
856 after posting. The revision may be challenged only on
857 grounds that the revision results in a material change to a
858 Rule. A challenge shall be made in writing and delivered to
859 the Commission prior to the end of the notice period. If no
860 challenge is made, the revision will take effect without
861 further action. If the revision is challenged, the revision
862 may not take effect without the approval of the Commission.

863 N. No Member State's rulemaking requirements shall
864 apply under this Compact.

865 ARTICLE 11 - OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

866 A. Oversight

867 1. The executive and judicial branches of State
868 government in each Member State shall enforce this Compact
869 and take all actions necessary and appropriate to implement
870 the Compact.

871 2. Venue is proper and judicial proceedings by or
872 against the Commission shall be brought solely and
873 exclusively in a court of competent jurisdiction where the
874 principal office of the Commission is located. The
875 Commission may waive venue and jurisdictional defenses to
876 the extent it adopts or consents to participate in
877 alternative dispute resolution proceedings. Nothing herein
878 shall affect or limit the selection or propriety of venue in
879 any action against a Licensee for professional malpractice,
880 misconduct or any such similar matter.

881 3. The Commission shall be entitled to receive service
882 of process in any proceeding regarding the enforcement or
883 interpretation of the Compact and shall have standing to
884 intervene in such a proceeding for all purposes. Failure to
885 provide the Commission service of process shall render a
886 judgment or order void as to the Commission, this Compact,
887 or promulgated Rules.

888 B. Default, Technical Assistance, and Termination

889 1. If the Commission determines that a Member State
890 has defaulted in the performance of its obligations or
891 responsibilities under this Compact or the promulgated
892 Rules, the Commission shall provide written notice to the
893 defaulting State. The notice of default shall describe the
894 default, the proposed means of curing the default, and any
895 other action that the Commission may take, and shall offer
896 training and specific technical assistance regarding the
897 default.

898 2. The Commission shall provide a copy of the notice
899 of default to the other Member States.

900 C. If a State in default fails to cure the default,
901 the defaulting State may be terminated from the Compact upon
902 an affirmative vote of a majority of the delegates of the
903 Member States, and all rights, privileges and benefits
904 conferred on that State by this Compact may be terminated on
905 the effective date of termination. A cure of the default
906 does not relieve the offending State of obligations or
907 liabilities incurred during the period of default.

908 D. Termination of membership in the Compact shall be
909 imposed only after all other means of securing compliance
910 have been exhausted. Notice of intent to suspend or
911 terminate shall be given by the Commission to the governor,
912 the majority and minority leaders of the defaulting State's
913 legislature, the defaulting State's State Licensing
914 Authority and each of the Member States' State Licensing
915 Authority.

916 E. A State that has been terminated is responsible for
917 all assessments, obligations, and liabilities incurred
918 through the effective date of termination, including
919 obligations that extend beyond the effective date of
920 termination.

921 F. Upon the termination of a State's membership from
922 this Compact, that State shall immediately provide notice to
923 all Licensees who hold a Multistate License within that
924 State of such termination. The terminated State shall
925 continue to recognize all licenses granted pursuant to this
926 Compact for a minimum of one hundred eighty (180) days after
927 the date of said notice of termination.

928 G. The Commission shall not bear any costs related to
929 a State that is found to be in default or that has been

930 terminated from the Compact, unless agreed upon in writing
931 between the Commission and the defaulting State.

932 H. The defaulting State may appeal the action of the
933 Commission by petitioning the United States District Court
934 for the District of Columbia or the federal district where
935 the Commission has its principal offices. The prevailing
936 party shall be awarded all costs of such litigation,
937 including reasonable attorney's fees.

938 I. Dispute Resolution

939 1. Upon request by a Member State, the Commission
940 shall attempt to resolve disputes related to the Compact
941 that arise among Member States and between Member and non-
942 Member States.

943 2. The Commission shall promulgate a Rule providing
944 for both mediation and binding dispute resolution for
945 disputes as appropriate.

946 J. Enforcement

947 1. The Commission, in the reasonable exercise of its
948 discretion, shall enforce the provisions of this Compact and
949 the Commission's Rules.

950 2. By majority vote as provided by Commission Rule,
951 the Commission may initiate legal action against a Member
952 State in default in the United States District Court for the
953 District of Columbia or the federal district where the
954 Commission has its principal offices to enforce compliance
955 with the provisions of the Compact and its promulgated
956 Rules. The relief sought may include both injunctive relief
957 and damages. In the event judicial enforcement is
958 necessary, the prevailing party shall be awarded all costs
959 of such litigation, including reasonable attorney's fees.
960 The remedies herein shall not be the exclusive remedies of
961 the Commission. The Commission may pursue any other

962 remedies available under federal or the defaulting Member
963 State's law.

964 3. A Member State may initiate legal action against
965 the Commission in the United States District Court for the
966 District of Columbia or the federal district where the
967 Commission has its principal offices to enforce compliance
968 with the provisions of the Compact and its promulgated
969 Rules. The relief sought may include both injunctive relief
970 and damages. In the event judicial enforcement is
971 necessary, the prevailing party shall be awarded all costs
972 of such litigation, including reasonable attorney's fees.

973 4. No individual or entity other than a Member State
974 may enforce this Compact against the Commission.

975 ARTICLE 12 - EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

976 A. The Compact shall come into effect on the date on
977 which the Compact statute is enacted into law in the seventh
978 Member State.

979 1. On or after the effective date of the Compact, the
980 Commission shall convene and review the enactment of each of
981 the Charter Member States to determine if the statute
982 enacted by each such Charter Member State is materially
983 different than the model Compact statute.

984 a. A Charter Member State whose enactment is found to
985 be materially different from the model Compact statute shall
986 be entitled to the default process set forth in Article 11.

987 b. If any Member State is later found to be in
988 default, or is terminated or withdraws from the Compact, the
989 Commission shall remain in existence and the Compact shall
990 remain in effect even if the number of Member States should
991 be less than seven (7).

992 2. Member States enacting the Compact subsequent to
993 the Charter Member States shall be subject to the process

994 set forth in Article 8.C.23 to determine if their enactments
995 are materially different from the model Compact statute and
996 whether they qualify for participation in the Compact.

997 3. All actions taken for the benefit of the Commission
998 or in furtherance of the purposes of the administration of
999 the Compact prior to the effective date of the Compact or
1000 the Commission coming into existence shall be considered to
1001 be actions of the Commission unless specifically repudiated
1002 by the Commission.

1003 4. Any State that joins the Compact shall be subject
1004 to the Commission's Rules and bylaws as they exist on the
1005 date on which the Compact becomes law in that State. Any
1006 Rule that has been previously adopted by the Commission
1007 shall have the full force and effect of law on the day the
1008 Compact becomes law in that State.

1009 B. Any Member State may withdraw from this Compact by
1010 enacting a statute repealing that State's enactment of the
1011 Compact.

1012 1. A Member State's withdrawal shall not take effect
1013 until one hundred eighty (180) days after enactment of the
1014 repealing statute.

1015 2. Withdrawal shall not affect the continuing
1016 requirement of the withdrawing State's Licensing Authority
1017 to comply with the investigative and Adverse Action
1018 reporting requirements of this Compact prior to the
1019 effective date of withdrawal.

1020 3. Upon the enactment of a statute withdrawing from
1021 this Compact, a State shall immediately provide notice of
1022 such withdrawal to all Licensees within that State.
1023 Notwithstanding any subsequent statutory enactment to the
1024 contrary, such withdrawing State shall continue to recognize

1025 all licenses granted pursuant to this Compact for a minimum
1026 of 180 days after the date of such notice of withdrawal.

1027 C. Nothing contained in this Compact shall be
1028 construed to invalidate or prevent any licensure agreement
1029 or other cooperative arrangement between a Member State and
1030 a non-Member State that does not conflict with the
1031 provisions of this Compact.

1032 D. This Compact may be amended by the Member States.
1033 No amendment to this Compact shall become effective and
1034 binding upon any Member State until it is enacted into the
1035 laws of all Member States.

1036 ARTICLE 13 - CONSTRUCTION AND SEVERABILITY

1037 A. This Compact and the Commission's rulemaking
1038 authority shall be liberally construed so as to effectuate
1039 the purposes, and the implementation and administration of
1040 the Compact. Provisions of the Compact expressly
1041 authorizing or requiring the promulgation of Rules shall not
1042 be construed to limit the Commission's rulemaking authority
1043 solely for those purposes.

1044 B. The provisions of this Compact shall be severable
1045 and if any phrase, clause, sentence or provision of this
1046 Compact is held by a court of competent jurisdiction to be
1047 contrary to the constitution of any Member State, a State
1048 seeking participation in the Compact, or of the United
1049 States, or the applicability thereof to any government,
1050 agency, person or circumstance is held to be
1051 unconstitutional by a court of competent jurisdiction, the
1052 validity of the remainder of this Compact and the
1053 applicability thereof to any other government, agency,
1054 person or circumstance shall not be affected thereby.

1055 C. Notwithstanding subsection B of this Article, the
1056 Commission may deny a State's participation in the Compact

1057 or, in accordance with the requirements of Article 11.B,
1058 terminate a Member State's participation in the Compact, if
1059 it determines that a constitutional requirement of a Member
1060 State is a material departure from the Compact. Otherwise,
1061 if this Compact shall be held to be contrary to the
1062 constitution of any Member State, the Compact shall remain
1063 in full force and effect as to the remaining Member States
1064 and in full force and effect as to the Member State affected
1065 as to all severable matters.

1066 ARTICLE 14 - CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE
1067 LAWS

1068 A. Nothing herein shall prevent or inhibit the
1069 enforcement of any other law of a Member State that is not
1070 inconsistent with the Compact.

1071 B. Any laws, statutes, regulations, or other legal
1072 requirements in a Member State in conflict with the Compact
1073 are superseded to the extent of the conflict.

1074 C. All permissible agreements between the Commission
1075 and the Member States are binding in accordance with their
1076 terms.

✓