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HOUSE BILL NO. 322

Offered January 10, 2024

Prefiled January 5, 2024

A BILL to amend the Code of Virginia by adding a section numbered 54.1-700.1, relating to Cosmetology Compact.

Patron—Glass

Referred to Committee on Health and Human Services

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 54.1-700.1 as follows:

§ 54.1-700.1. Cosmetology Compact.

The General Assembly hereby enacts, and the Commonwealth of Virginia hereby enters into, the Cosmetology Compact with any and all states legally joining therein according to its terms, in the form substantially as follows:

COSMETOLOGY COMPACT

Article I. Purpose.

The purpose of this Compact is to facilitate the interstate practice and regulation of cosmetology with the goal of improving public access to, and the safety of, cosmetology services and reducing unnecessary burdens related to cosmetology licensure. Through this Compact, the member states seek to establish a regulatory framework that provides for a new multistate licensing program. Through this new licensing program, the member states seek to provide increased value and mobility to licensed cosmetologists in the member states, while ensuring the provision of safe, effective, and reliable services to the public.

This Compact is designed to achieve the following objectives, and the member states hereby ratify the same intentions by subscribing hereto:

1. Provide opportunities for interstate practice by cosmetologists who meet uniform requirements for multistate licensure;
2. Enhance the abilities of member states to protect public health and safety and prevent fraud and unlicensed activity within the profession;
3. Ensure and encourage cooperation between member states in the licensure and regulation of the practice of cosmetology;
4. Support relocating military members and their spouses;
5. Facilitate the exchange of information between member states related to the licensure, investigation, and discipline of the practice of cosmetology; and
6. Provide for the licensure and mobility of the workforce in the profession, while addressing the shortage of workers and lessening the associated burdens on the member states.

Article II. Definitions.

As used in this Compact, and except as otherwise provided, the following definitions shall govern the terms herein:

"Active duty military" means any individual in full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve.

"Adverse action" means any administrative, civil, equitable, or criminal action permitted by a member state's laws that is imposed by a state licensing authority or other regulatory body against a cosmetologist, including actions against an individual's license or authorization to practice, such as revocation, suspension, probation, monitoring of the licensee, limitation of the licensee's practice, or any other encumbrance on a license affecting an individual's ability to participate in the cosmetology industry, including the issuance of a cease and desist order.

"Alternative program" means a non-disciplinary monitoring or prosecutorial diversion program approved by a member state's licensing authority.

"Authorization to practice" means a legal authorization associated with a multistate license permitting the practice of cosmetology in that remote state, which shall be subject to the enforcement jurisdiction of the licensing authority in that remote state.

"Background check" means the submission of information for an applicant for the purpose of obtaining that applicant's criminal history record information, as further defined in 28 C.F.R. § 20.3(d), from the Federal Bureau of Investigation and the agency responsible for retaining state criminal or disciplinary history in the applicant's home state.

"Charter member state" means any member state that has enacted legislation to adopt this Compact

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59 *where such legislation predates the effective date of this Compact as defined in Article XIII.*

60 *"Commission" means the government agency whose membership consists of all states that have*
 61 *enacted this Compact, which is known as the Cosmetology Licensure Compact Commission, as defined*
 62 *in Article IX, and which shall operate as an instrumentality of the member states.*

63 *"Cosmetologist" means an individual licensed in such individual's home state to practice*
 64 *cosmetology.*

65 *"Cosmetology," "cosmetology services," or "practice of cosmetology" means the care and services*
 66 *provided by a cosmetologist as set forth in the member state's statutes and regulations in the state*
 67 *where the services are being provided.*

68 *"Current significant investigative information" means:*

69 *1. Investigative Information that a state licensing authority, after an inquiry or investigation that*
 70 *complies with a member state's due process requirements, has reason to believe is not groundless and, if*
 71 *proved true, would indicate a violation of that state's laws regarding fraud or the practice of*
 72 *cosmetology; or*

73 *2. Investigative information that indicates that a licensee has engaged in fraud or represents an*
 74 *immediate threat to public health and safety, regardless of whether the licensee has been notified and*
 75 *had an opportunity to respond.*

76 *"Data system" means a repository of information about licensees, including license status,*
 77 *investigative information, and adverse actions.*

78 *"Disqualifying event" means any event that shall disqualify an individual from holding a multistate*
 79 *license under this Compact, which the Commission may by rule or order specify.*

80 *"Encumbered license" means a license in which an adverse action restricts the practice of*
 81 *cosmetology by a licensee or where such adverse action has been reported to the Commission.*

82 *"Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted*
 83 *practice of cosmetology by a state licensing authority.*

84 *"Executive Committee" means a group of delegates elected or appointed to act on behalf of, and*
 85 *within the powers granted to them by, the Commission.*

86 *"Home state" means the member state that is a licensee's primary state of residence and where that*
 87 *licensee holds an active and unencumbered license to practice cosmetology.*

88 *"Investigative information" means information, records, or documents received or generated by a*
 89 *state licensing authority pursuant to an investigation or other inquiry.*

90 *"Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and*
 91 *rules governing the practice of cosmetology in a state.*

92 *"Licensee" means an individual who currently holds a license from a member state to practice as a*
 93 *cosmetologist.*

94 *"Member state" means any state that has adopted this Compact.*

95 *"Multistate license" means a license issued by and subject to the enforcement jurisdiction of the state*
 96 *licensing authority in a licensee's home state, which authorizes the practice of cosmetology in member*
 97 *states and includes authorizations to practice cosmetology in all remote states pursuant to this Compact.*

98 *"Remote state" means any member state other than the licensee's home state.*

99 *"Rule" means any rule or regulation promulgated by the Commission under this Compact that has*
 100 *the force of law.*

101 *"Single-state license" means a cosmetology license issued by a member state that authorizes the*
 102 *practice of cosmetology only within the issuing state and does not include any authorization outside of*
 103 *the issuing State.*

104 *"State" means a state, territory, or possession of the United States and the District of Columbia.*

105 *"State licensing authority" means a member state's regulatory body responsible for issuing*
 106 *cosmetology licenses or otherwise overseeing the practice of cosmetology in that state.*

107 *Article III. Member State Requirements.*

108 *A. To be eligible to join this Compact, and to maintain eligibility as a member state, a state must:*

109 *1. License and regulate cosmetology;*

110 *2. Have a mechanism or entity in place to receive and investigate complaints about licensees*
 111 *practicing in that state;*

112 *3. Require that licensees within the state pass a cosmetology competency examination prior to being*
 113 *licensed to provide cosmetology services to the public in that state;*

114 *4. Require that licensees satisfy educational or training requirements prior to being licensed to*
 115 *provide cosmetology services to the public in that state;*

116 *5. Implement procedures for considering one or more of the following categories of information from*
 117 *applicants for licensure: criminal history; disciplinary history; or background check. Such procedures*
 118 *may include the submission of information by applicants for the purpose of obtaining an applicant's*
 119 *background check as defined herein;*

120 *6. Participate in the data system, including through the use of unique identifying numbers;*

121 7. Share information related to adverse actions with the Commission and other member states, both
122 through the data system and otherwise;

123 8. Notify the Commission and other member states, in compliance with the terms of the Compact and
124 rules of the Commission, of the existence of investigative information or current significant investigative
125 information in the state's possession regarding a licensee practicing in that state;

126 9. Comply with such rules as may be enacted by the Commission to administer the Compact; and

127 10. Accept licensees from other member states as established herein.

128 B. Member states may charge a fee for granting a license to practice cosmetology.

129 C. Individuals not residing in a member state shall continue to be able to apply for a member state's
130 single-state license as provided under the laws of each member state. However, the single-state license
131 granted to these individuals shall not be recognized as granting a multistate license to provide services
132 in any other member state.

133 D. Nothing in this Compact shall affect the requirements established by a member state for the
134 issuance of a single-state license.

135 E. A multistate license issued to a licensee by a home state to a resident of that state shall be
136 recognized by each member state as authorizing a licensee to practice cosmetology in each member
137 state.

138 F. At no point shall the Commission have the power to define the educational or professional
139 requirements for a license to practice cosmetology. The member states shall retain sole jurisdiction over
140 the provision of these requirements.

141 Article IV. Multistate License.

142 A. To be eligible to apply to his home state's licensing authority for an initial multistate license
143 under this Compact, a licensee must hold an active and unencumbered single-state license to practice
144 cosmetology in his home state.

145 B. Upon the receipt of an application for a multistate license, according to the rules of the
146 Commission, a member state's licensing authority shall ascertain whether the applicant meets the
147 requirements for a multistate license under this Compact.

148 C. If an applicant meets the requirements for a multistate license under this Compact and any
149 applicable rules of the Commission, the licensing authority in receipt of the application shall, within a
150 reasonable time, grant a multistate license to that applicant and inform all member states of the grant
151 of such multistate license.

152 D. A multistate license to practice cosmetology issued by a member state's licensing authority shall
153 be recognized by each member state as authorizing the practice thereof as though that licensee held a
154 single-state license to do so in each member state, subject to the restrictions herein.

155 E. A multistate license granted pursuant to this Compact may be effective for a definite period of
156 time, concurrent with renewal of the home state license.

157 F. To maintain a multistate license under this Compact, a licensee must:

158 1. Agree to abide by the rules of the licensing authority, and the state scope of practice laws
159 governing the practice of cosmetology, of any member state in which the licensee provides services;

160 2. Pay all required fees related to the application and process and any other fees that the
161 Commission may by rule require; and

162 3. Comply with any and all other requirements regarding multistate licenses that the Commission
163 may by rule provide.

164 G. A licensee practicing in a member state is subject to all scope of practice laws governing
165 cosmetology services in that state.

166 H. The practice of cosmetology under a multistate license granted pursuant to this Compact will
167 subject the licensee to the jurisdiction of the licensing authority, the courts, and the laws of the Member
168 state in which the cosmetology services are provided.

169 Article V. Reissuance of a Multistate License by a New Home State.

170 A. A licensee may hold a multistate license, issued by the licensee's home state, in only one member
171 state at any given time.

172 B. If a licensee changes the licensee's home state by moving between two member states:

173 1. The licensee shall immediately apply for the reissuance of his multistate license in his new home
174 state. The licensee shall pay all applicable fees and notify the prior home state in accordance with the
175 rules of the Commission.

176 2. Upon receipt of an application to reissue a multistate license, the new home state shall verify that
177 the multistate licensee is active, unencumbered, and eligible for reissuance under the terms of the
178 Compact and the rules of the Commission. The multistate license issued by the prior home state will be
179 deactivated and all member states notified in accordance with the applicable rules adopted by the
180 Commission.

181 3. If required for initial licensure, the new home state may require a background check as specified

182 *in the laws of that state, or compliance with any jurisprudence requirements of the new home state.*

183 *4. Notwithstanding any other provision of this Compact, if a licensee does not meet the criteria set*
184 *forth in this Compact for the reissuance of a multistate license by the new home state, then the licensee*
185 *shall be subject to the new home state requirements for the issuance of a single-state license in that*
186 *state.*

187 *C. If a licensee changes the licensee's primary state of residence by moving from a member state to*
188 *a non-member state, or from a non-member state to a member state, then the licensee shall be subject*
189 *to the state requirements for the issuance of a single-state license in the new home state.*

190 *D. Nothing in this Compact shall interfere with a licensee's ability to hold a single-state license in*
191 *multiple states; however, for the purposes of this Compact, a licensee shall have only one home state*
192 *and only one multistate license.*

193 *E. Nothing in this Compact shall interfere with the requirements established by a member state for*
194 *the issuance of a single-state license.*

195 *Article VI. Authority of the Compact Commission and Member State Licensing Authorities.*

196 *A. Nothing in this Compact, nor any rule or regulation of the Commission, shall be construed to*
197 *limit, restrict, or in any way reduce the ability of a member state to enact and enforce laws, regulations,*
198 *or other rules related to the practice of cosmetology in that state, where those laws, regulations, or*
199 *other rules are not inconsistent with the provisions of this Compact.*

200 *B. Insofar as practical, a member state's licensing authority shall cooperate with the Commission*
201 *and with each entity exercising independent regulatory authority over the practice of cosmetology*
202 *according to the provisions of this Compact.*

203 *C. Discipline shall be the sole responsibility of the state in which cosmetology services are provided.*
204 *Accordingly, each member state's licensing authority shall be responsible for receiving complaints about*
205 *individuals practicing cosmetology in that state and for communicating all relevant investigative*
206 *information about any such adverse action to the other member states through the data system in*
207 *addition to any other methods the Commission may by rule require.*

208 *Article VII. Adverse Actions.*

209 *A. A licensee's home state shall have exclusive power to impose an adverse action against licensee's*
210 *multistate license issued by the home state.*

211 *B. A home state may take adverse action on a multistate license based on the investigative*
212 *information, current significant investigative information, or adverse action of a remote state.*

213 *C. In addition to the powers conferred by state law, each remote state's licensing authority shall*
214 *have the power to:*

215 *1. Take adverse action against a licensee's authorization to practice cosmetology through the*
216 *multistate license in that member state, provided that:*

217 *a. Only the licensee's home state shall have the power to take adverse action against the multistate*
218 *license issued by the home state; and*

219 *b. For the purposes of taking adverse action, the home state's licensing authority shall give the same*
220 *priority and effect to reported conduct received from a remote state as it would if such conduct had*
221 *occurred within the home state. In so doing, the home state shall apply its own state laws to determine*
222 *the appropriate action.*

223 *2. Issue cease and desist orders or impose an encumbrance on a licensee's authorization to practice*
224 *within that member state.*

225 *3. Complete any pending investigations of a licensee who changes the licensee's primary state of*
226 *residence during the course of such an investigation. The licensing authority shall also be empowered to*
227 *report the results of such an investigation to the Commission through the data system as described*
228 *herein.*

229 *4. Issue subpoenas for both hearings and investigations that require the attendance and testimony of*
230 *witnesses, as well as the production of evidence. Subpoenas issued by a state licensing authority in a*
231 *member state for the attendance and testimony of witnesses or the production of evidence from another*
232 *member state shall be enforced in the latter state by any court of competent jurisdiction, according to*
233 *the practice and procedure of that court applicable to subpoenas issued in proceedings before it. The*
234 *issuing state licensing authority shall pay any witness fees, travel expenses, mileage, and other fees*
235 *required by the service statutes of the state in which the witnesses or evidence are located.*

236 *5. If otherwise permitted by state law, recover from the affected licensee the costs of investigations*
237 *and disposition of cases resulting from any adverse action taken against that licensee.*

238 *6. Take adverse action against the licensee's authorization to practice in that state based on the*
239 *factual findings of another remote state.*

240 *D. A licensee's home state shall complete any pending investigation(s) of a cosmetologist who*
241 *changes his primary state of residence during the course of the investigation(s). The home state shall*
242 *also have the authority to take appropriate action(s) and shall promptly report the conclusions of the*
243 *investigations to the data system.*

244 E. If an adverse action is taken by the home state against a licensee's multistate license, the
 245 licensee's authorization to practice in all other member states shall be deactivated until all
 246 encumbrances have been removed from the home state license. All home state disciplinary orders that
 247 impose an adverse action against a licensee's multistate license shall include a statement that the
 248 cosmetologist's authorization to practice is deactivated in all member states during the pendency of the
 249 order.

250 F. Nothing in this Compact shall override a member state's authority to accept a licensee's
 251 participation in an alternative program in lieu of adverse action. A licensee's multistate license shall be
 252 suspended for the duration of the licensee's participation in any alternative program.

253 G. Joint investigations.

254 1. In addition to the authority granted to a member state by its respective scope of practice laws or
 255 other applicable state law, a member state may participate with other member states in joint
 256 investigations of licensees.

257 2. Member states shall share any investigative, litigation, or compliance materials in furtherance of
 258 any joint or individual investigation initiated under the Compact.

259 Article VIII. Active Duty Military and Their Spouses.

260 Active duty military personnel, or the spouses thereof, shall designate a home state where the
 261 individual has a current license to practice cosmetology in good standing. The individual may retain the
 262 home state designation during any period of service when that individual is on active duty assignment.

263 Article IX. Establishment and Operation of the Cosmetology Licensure Compact Commission.

264 A. The Compact member states hereby create and establish a joint government agency whose
 265 membership consists of all member states that have enacted the Compact known as the Cosmetology
 266 Licensure Compact Commission. The Commission is an instrumentality of the compact states acting
 267 jointly and not an instrumentality of any one state. The Commission shall come into existence on or
 268 after the effective date of the Compact as set forth in Article XIII.

269 B. Membership, voting, and meetings.

270 1. Each member state shall have and be limited to one delegate selected by that member state's
 271 licensing authority.

272 2. The delegate shall be an administrator of the licensing authority of the member state or such
 273 administrator's designee.

274 3. The Commission shall by rule or bylaw establish a term of office for delegates and may by rule or
 275 bylaw establish term limits.

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

277 5. A member state's licensing authority shall fill any vacancy of its delegate occurring on the
 278 Commission within 60 days of the occurrence of such vacancy.

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

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

283 C. The Commission shall have the following powers:

284 1. Establish the fiscal year of the Commission;

285 2. Establish code of conduct and conflict of interest policies;

286 3. Adopt rules and bylaws;

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

288 5. Meet and take such actions as are consistent with the provisions of this Compact, the
 289 Commission's rules, and the bylaws;

290 6. Initiate and conclude legal proceedings or actions in the name of the Commission, provided that
 291 the standing of any state licensing authority to sue or be sued under applicable law shall not be
 292 affected;

293 7. Maintain and certify records and information provided to a member state as the authenticated
 294 business records of the Commission, and designate an agent to do so on the Commission's behalf;

295 8. Purchase and maintain insurance and bonds;

296 9. Borrow, accept, or contract for services of personnel, including employees of a member state;

297 10. Conduct an annual financial review;

298 11. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals
 299 appropriate authority to carry out the purposes of the Compact, and establish the Commission's
 300 personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other
 301 related personnel matters;

302 12. As set forth in the Commission rules, charge a fee to a licensee for the grant of a multistate
 303 license and thereafter, as may be established by Commission rule, charge the licensee a multistate
 304 license renewal fee for each renewal period. Nothing herein shall be construed to prevent a home state

305 from charging a licensee a fee for a multistate license or renewals of a multistate license, or a fee for
306 the jurisprudence requirement if the member state imposes such a requirement for the grant of a
307 multistate license;

308 13. Assess and collect fees;

309 14. Accept any and all appropriate gifts, donations, grants of money, other sources of revenue,
310 equipment, supplies, materials, and services, and receive, utilize, and dispose of the same, provided that
311 at all times the Commission shall avoid any appearance of impropriety or conflict of interest;

312 15. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or
313 any undivided interest therein;

314 16. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property
315 real, personal, or mixed;

316 17. Establish a budget and make expenditures;

317 18. Borrow money;

318 19. Appoint committees, including standing committees, composed of members, state regulators, state
319 legislators or their representatives, and consumer representatives, and such other interested persons as
320 may be designated in this Compact and the bylaws;

321 20. Provide and receive information from, and cooperate with, law-enforcement agencies;

322 21. Elect a chair, vice-chair, secretary, and treasurer and such other officers of the Commission as
323 provided in the Commission's bylaws;

324 22. Establish and elect an Executive Committee, including a chair and vice-chair;

325 23. Adopt and provide to the member states an annual report;

326 24. Determine whether a state's adopted language is materially different from the model Compact
327 language such that the state would not qualify for participation in the Compact; and

328 25. Perform such other functions as may be necessary or appropriate to achieve the purposes of this
329 Compact.

330 D. The Executive Committee.

331 1. The Executive Committee shall have the power to act on behalf of the Commission according to
332 the terms of this Compact. The powers, duties, and responsibilities of the Executive Committee shall
333 include:

334 a. Overseeing the day-to-day activities of the administration of the Compact, including compliance
335 with the provisions of the Compact, the Commission's rules and bylaws, and other such duties as
336 deemed necessary;

337 b. Recommending to the Commission changes to the rules or bylaws, changes to this Compact
338 legislation, fees charged to compact member states, fees charged to licensees, and other fees;

339 c. Ensuring that Compact administration services are appropriately provided, including by contract;

340 d. Preparing and recommending the budget;

341 e. Maintaining financial records on behalf of the Commission;

342 f. Monitoring Compact compliance of member states and providing compliance reports to the
343 Commission;

344 g. Establishing additional committees as necessary;

345 h. Exercising the powers and duties of the Commission during the interim between Commission
346 meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any
347 other powers and duties expressly reserved to the Commission by rule or bylaw; and

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

349 2. The Executive Committee shall be composed of up to seven voting members:

350 a. The chair and vice-chair of the Commission and any other members of the Commission who serve
351 on the Executive Committee shall be voting members of the Executive Committee;

352 b. Other than the chair, vice-chair, secretary, and treasurer, the Commission shall elect three voting
353 members from the current membership of the Commission; and

354 c. The Commission may elect *ex officio*, nonvoting members from a recognized national cosmetology
355 professional association as approved by the Commission. The Commission's bylaws shall identify
356 qualifying organizations and the manner of appointment if the number of organizations seeking to
357 appoint an *ex officio* member exceeds the number of members specified in this article.

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

360 4. The Executive Committee shall meet at least annually.

361 a. Annual Executive Committee meetings, as well as any Executive Committee meeting at which it
362 does not take or intend to take formal action on a matter for which a Commission vote would otherwise
363 be required, shall be open to the public, except that the Executive Committee may meet in a closed,
364 nonpublic meeting when dealing with any of the matters covered under subsection F.

365 b. The Executive Committee shall give five business days' advance notice of its public meetings,
366 posted on its website and as determined to provide notice to persons with an interest in the public

367 matters the Executive Committee intends to address at those meetings.

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

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

370 b. Prevent a loss of Commission or member state funds; or

371 c. Protect public health and safety.

372 E. The Commission shall adopt and provide to the member states an annual report.

373 F. Meetings of the Commission.

374 1. All meetings of the Commission that are not closed pursuant to subdivision F 4 shall be open to

375 the public. Notice of public meetings shall be posted on the Commission's website at least 30 days prior

376 to the public meeting.

377 2. Notwithstanding subdivision F 1, the Commission may convene an emergency public meeting by

378 providing at least 24 hours' prior notice on the Commission's website, and any other means a provided

379 in the Commission's rules, for any of the reasons it may dispense with notice of proposed rulemaking

380 under subsection L of Article XI. The Commission's legal counsel shall certify that one of the reasons

381 justifying an emergency public meeting has been met.

382 3. Notice of all Commission meetings shall provide the time, date, and location of the meeting, and if

383 the meeting is to be held or accessible via telecommunication, video conference, or other electronic

384 means, the notice shall include the mechanism for access to the meeting.

385 4. The Commission may convene in a closed, nonpublic meeting for the Commission to discuss:

386 a. Noncompliance of a member state with its obligations under the Compact;

387 b. The employment, compensation, or discipline of, or other matters, practices, or procedures related

388 to, specific employees or other matters related to the Commission's internal personnel practices and

389 procedures;

390 c. Current or threatened discipline of a licensee by the Commission or by a member state's licensing

391 authority;

392 d. Current, threatened, or reasonably anticipated litigation;

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

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

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

396 h. Information of a personal nature where disclosure would constitute a clearly unwarranted

397 invasion of personal privacy;

398 i. Investigative records compiled for law-enforcement purposes;

399 j. Information related to any investigative reports prepared by or on behalf of or for use of the

400 Commission or other committee charged with responsibility of investigation or determination of

401 compliance issues pursuant to the Compact;

402 k. Legal advice;

403 l. Matters specifically exempted from disclosure by federal or member state law; or

404 m. Other matters as promulgated by the Commission by rule.

405 5. If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting

406 will be closed and reference each relevant exempting provision, and such reference shall be recorded in

407 the minutes.

408 6. The Commission shall keep minutes that fully and clearly describe all matters discussed in a

409 meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor,

410 including a description of the views expressed. All documents considered in connection with an action

411 shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under

412 seal, subject to release only by a majority vote of the Commission or order of a court of competent

413 jurisdiction.

414 G. Financing of the Commission.

415 1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its

416 establishment, organization, and ongoing activities.

417 2. The Commission may accept any and all appropriate revenue, donations, and grants of money,

418 equipment, supplies, materials, and services.

419 3. The Commission may levy on and collect an annual assessment from each member state and

420 impose fees on licensees of member states to whom it grants a multistate license to cover the cost of the

421 operations and activities of the Commission and its staff, which must be in a total amount sufficient to

422 cover its annual budget as approved each year for which revenue is not provided by other sources. The

423 aggregate annual assessment amount for member states shall be allocated based upon a formula that

424 the Commission shall promulgate by rule.

425 4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to

426 meet the same, nor shall the Commission pledge the credit of any of the member states, except by and

427 with the authority of the member state.

428 5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and
 429 disbursements of the Commission shall be subject to the financial review and accounting procedures
 430 established under its bylaws. However, all receipts and disbursements of funds handled by the
 431 Commission shall be subject to an annual financial review by a certified or licensed public accountant,
 432 and the report of the financial review shall be included in and become part of the annual report of the
 433 Commission.

434 H. Qualified immunity, defense, and indemnification.

435 1. The members, officers, executive director, employees, and representatives of the Commission shall
 436 be immune from suit and liability, both personally and in their official capacity, for any claim for
 437 damage to or loss of property or personal injury or other civil liability caused by or arising out of any
 438 actual or alleged act, error, or omission that occurred, or that the person against whom the claim is
 439 made had a reasonable basis for believing occurred within the scope of Commission employment, duties,
 440 or responsibilities, provided that nothing in this paragraph shall be construed to protect any such
 441 person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful
 442 or wanton misconduct of that person. The procurement of insurance of any type by the Commission
 443 shall not in any way compromise or limit the immunity granted hereunder.

444 2. The Commission shall defend any member, officer, executive director, employee, and
 445 representative of the Commission in any civil action seeking to impose liability arising out of any actual
 446 or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or
 447 responsibilities, or as determined by the Commission that the person against whom the claim is made
 448 had a reasonable basis for believing occurred within the scope of Commission employment, duties, or
 449 responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining
 450 their own counsel at their own expense and provided further that the actual or alleged act, error, or
 451 omission did not result from that person's intentional or willful or wanton misconduct.

452 3. The Commission shall indemnify and hold harmless any member, officer, executive director,
 453 employee, and representative of the Commission for the amount of any settlement or judgment obtained
 454 against that person arising out of any actual or alleged act, error, or omission that occurred within the
 455 scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis
 456 for believing occurred within the scope of Commission employment, duties, or responsibilities, provided
 457 that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton
 458 misconduct of that person.

459 4. Nothing herein shall be construed as a limitation on the liability of any licensee for professional
 460 malpractice or misconduct, which shall be governed solely by any other applicable state laws.

461 5. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a member state's
 462 state action immunity or state action affirmative defense with respect to antitrust claims under the
 463 federal Sherman Act (15 U.S.C. § 1 et seq.), the federal Clayton Act (15 U.S.C. § 12 et seq.), or any
 464 other state or federal antitrust or anticompetitive law or regulation.

465 6. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the member
 466 states or by the Commission.

467 Article X. Data System.

468 A. The Commission shall provide for the development, maintenance, operation, and utilization of a
 469 coordinated database and reporting.

470 B. The Commission shall assign each applicant for a multistate license a unique identifier, as
 471 determined by the rules of the Commission.

472 C. Notwithstanding any other provision of state law to the contrary, a member state shall submit a
 473 uniform data set to the data system on all individuals to whom this Compact is applicable as required
 474 by the rules of the Commission, including:

475 1. Identifying information;

476 2. Licensure data;

477 3. Adverse actions against a license and information related thereto;

478 4. Non-confidential information related to alternative program participation, the beginning and
 479 ending dates of such participation, and other information related to such participation;

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

482 6. The existence of investigative information;

483 7. The existence of current significant investigative information; and

484 8. Other information that may facilitate the administration of this Compact or the protection of the
 485 public, as determined by the rules of the Commission.

486 D. The records and information provided to a member state pursuant to this Compact or through the
 487 data system, when certified by the Commission or an agent thereof, shall constitute the authenticated
 488 business records of the Commission and shall be entitled to any associated hearsay exception in any
 489 relevant judicial, quasi-judicial or administrative proceedings in a member state.

490 E. The existence of current significant investigative information and the existence of investigative
491 information pertaining to a licensee in any member state will only be available to other member states.

492 F. It is the responsibility of the member states to monitor the database to determine whether adverse
493 action has been taken against a licensee or licensee applicant. Adverse action information pertaining to
494 a licensee or license applicant in any member state will be available to any other member state.

495 G. Member states contributing information to the data system may designate information that may
496 not be shared with the public without the express permission of the contributing state.

497 H. Any information submitted to the data system that is subsequently expunged pursuant to federal
498 law or the laws of the member state contributing the information shall be removed from the data system.

499 Article XI. Rulemaking.

500 A. The Commission shall promulgate reasonable rules in order to effectively and efficiently
501 implement and administer the purposes and provisions of the Compact. A rule shall be invalid and have
502 no force or effect only if a court of competent jurisdiction holds that the rule is invalid because the
503 Commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of
504 the Compact, or the powers granted hereunder, or based upon another applicable standard of review.

505 B. The rules of the Commission shall have the force of law in each member state, provided, however,
506 that where the rules of the Commission conflict with the laws of the member state that establish the
507 member state's scope of practice laws governing the practice of cosmetology as held by a court of
508 competent jurisdiction, the rules of the Commission shall be ineffective in that state to the extent of the
509 conflict.

510 C. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this
511 article and the rules adopted thereunder. Rules shall become binding as of the date specified in each
512 rule.

513 D. If a majority of the legislatures of the member states rejects a rule or portion of a rule, by
514 enactment of a statute or resolution in the same manner used to adopt the Compact within four years of
515 the date of adoption of the rule, then such Rule shall have no further force and effect in any member
516 state or to any state applying to participate in the Compact.

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

518 F. Prior to adoption of a proposed rule, the Commission shall hold a public hearing and allow
519 persons to provide oral and written comments, data, facts, opinions, and arguments.

520 G. Prior to adoption of a proposed rule by the Commission, and at least 30 days in advance of the
521 meeting at which the Commission will hold a public hearing on the proposed rule, the Commission shall
522 provide a notice of proposed rulemaking:

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

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

525 3. In such other way(s) as the Commission may by rule specify.

526 H. The notice of proposed rulemaking shall include:

527 1. The time, date, and location of the public hearing at which the Commission will hear public
528 comments on the proposed rule and, if different, the time, date, and location of the meeting where the
529 Commission will consider and vote on the proposed rule;

530 2. If the hearing is held via telecommunication, video conference, or other electronic means, the
531 mechanism for access to the hearing;

532 3. The text of the proposed rule and the reason therefor;

533 4. A request for comments on the proposed rule from any interested person; and

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

535 I. All hearings will be recorded. A copy of the recording and all written comments and documents
536 received by the Commission in response to the proposed rule shall be available to the public.

537 J. Nothing in this article shall be construed as requiring a separate hearing on each rule. Rules may
538 be grouped for the convenience of the Commission at hearings required by this article.

539 K. The Commission shall, by majority vote of all members, take final action on the proposed rule
540 based on the rulemaking record and the full text of the rule.

541 1. The Commission may adopt changes to the proposed rule, provided the changes do not enlarge
542 the original purpose of the proposed rule.

543 2. The Commission shall provide an explanation of the reasons for substantive changes made to the
544 proposed rule as well as reasons for substantive changes not made that were recommended by
545 commenters.

546 3. The Commission shall determine a reasonable effective date for the rule. Except for an emergency
547 as provided in subsection L, the effective date of the rule shall be no sooner than 45 days after the
548 Commission issues the notice that it adopted or amended the rule.

549 L. Upon determination that an emergency exists, the Commission may consider and adopt an
550 emergency rule with five days' notice, with opportunity to comment, provided that the usual rulemaking

551 procedures provided in the Compact and in this article shall be retroactively applied to the rule as soon
 552 as reasonably possible, in no event later than 90 days after the effective date of the rule. For the
 553 purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

- 554 1. Meet an imminent threat to public health, safety, or welfare;
- 555 2. Prevent a loss of Commission or member state funds;
- 556 3. Meet a deadline for the promulgation of a rule that is established by federal law or rule; or
- 557 4. Protect public health and safety.

558 M. The Commission or an authorized committee of the Commission may direct revisions to a
 559 previously adopted rule for purposes of correcting typographical errors, errors in format, errors in
 560 consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the
 561 Commission. The revision shall be subject to challenge by any person for a period of 30 days after
 562 posting. The revision may be challenged only on grounds that the revision results in a material change
 563 to a rule. A challenge shall be made in writing and delivered to the Commission prior to the end of the
 564 notice period. If no challenge is made, the revision will take effect without further action. If the revision
 565 is challenged, the revision may not take effect without the approval of the Commission.

566 N. No member state's rulemaking requirements shall apply under this Compact.

567 Article XII. Oversight, Dispute Resolution, and Enforcement.

568 A. Oversight.

569 1. The executive and judicial branches of state government in each member state shall enforce this
 570 Compact and take all actions necessary and appropriate to implement the Compact.

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

577 3. The Commission shall be entitled to receive service of process in any proceeding regarding the
 578 enforcement or interpretation of the Compact and shall have standing to intervene in such a proceeding
 579 for all purposes. Failure to provide the Commission service of process shall render a judgment or order
 580 void as to the Commission, this Compact, or promulgated rules.

581 B. Default, technical assistance, and termination.

582 1. If the Commission determines that a member state has defaulted in the performance of its
 583 obligations or responsibilities under this Compact or the promulgated rules, the Commission shall
 584 provide written notice to the defaulting state. The notice of default shall describe the default, the
 585 proposed means of curing the default, and any other action that the Commission may take, and shall
 586 offer training and specific technical assistance regarding the default.

587 2. The Commission shall provide a copy of the notice of default to the other member states.

588 C. If a state in default fails to cure the default, the defaulting state may be terminated from the
 589 Compact upon an affirmative vote of a majority of the delegates of the member states, and all rights,
 590 privileges, and benefits conferred on that state by this Compact may be terminated on the effective date
 591 of termination. A cure of the default does not relieve the offending state of obligations or liabilities
 592 incurred during the period of default.

593 D. Termination of membership in the Compact shall be imposed only after all other means of
 594 securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the
 595 Commission to the governor, the majority and minority leaders of the defaulting state's legislature, the
 596 defaulting state's licensing authority, and each member state's licensing authority.

597 E. A state that has been terminated is responsible for all assessments, obligations, and liabilities
 598 incurred through the effective date of termination, including obligations that extend beyond the effective
 599 date of termination.

600 F. Upon the termination of a state's membership from this Compact, that state shall immediately
 601 provide notice to all licensees within that state of such termination. The terminated state shall continue
 602 to recognize all licenses granted pursuant to this Compact for a minimum of 180 days after the date of
 603 said notice of termination.

604 G. The Commission shall not bear any costs related to a state that is found to be in default or that
 605 has been terminated from the Compact, unless agreed upon in writing between the Commission and the
 606 defaulting state.

607 H. The defaulting State may appeal the action of the Commission by petitioning the U.S. District
 608 Court for the District of Columbia or the federal district where the Commission has its principal offices.
 609 The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

610 I. Dispute resolution.

611 1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the
 612 Compact that arise among member states and between member and non-member states.

613 2. The Commission shall promulgate a rule providing for both mediation and binding dispute
614 resolution for disputes as appropriate.

615 J. Enforcement.

616 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this
617 Compact and the Commission's rules.

618 2. By majority vote as provided by Commission rule, the Commission may initiate legal action
619 against a member state in default in the U.S. District Court for the District of Columbia or the federal
620 district where the Commission has its principal offices to enforce compliance with the provisions of the
621 Compact and its promulgated rules. The relief sought may include both injunctive relief and damages.
622 In the event that judicial enforcement is necessary, the prevailing party shall be awarded all costs of
623 such litigation, including reasonable attorney fees. The remedies herein shall not be the exclusive
624 remedies of the Commission. The Commission may pursue any other remedies available under federal or
625 the defaulting member state's law.

626 3. A member state may initiate legal action against the Commission in the U.S. District Court for the
627 District of Columbia or the federal district where the Commission has its principal offices to enforce
628 compliance with the provisions of the Compact and its promulgated rules. The relief sought may include
629 both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party
630 shall be awarded all costs of such litigation, including reasonable attorney fees.

631 4. No individual or entity other than a member state may enforce this Compact against the
632 Commission.

633 Article XIII. Effective Date, Withdrawal, and Amendment.

634 A. The Compact shall come into effect on the date on which the Compact statute is enacted into law
635 in the seventh member state.

636 1. On or after the effective date of the Compact, the Commission shall convene and review the
637 enactment of each of the charter member states to determine if the statute enacted by each such charter
638 member state is materially different than the model Compact statute.

639 a. A charter member state whose enactment is found to be materially different from the model
640 Compact statute shall be entitled to the default process set forth in Article XII.

641 b. If any member state is later found to be in default, or is terminated or withdraws from the
642 Compact, the Commission shall remain in existence and the Compact shall remain in effect even if the
643 number of member states should be less than seven.

644 2. Member states enacting the Compact subsequent to the charter member states shall be subject to
645 the process set forth in subdivision C 24 of Article IX to determine if their enactments are materially
646 different from the model Compact statute and whether they qualify for participation in the Compact.

647 3. All actions taken for the benefit of the Commission or in furtherance of the purposes of the
648 administration of the Compact prior to the effective date of the Compact or the Commission coming into
649 existence shall be considered to be actions of the Commission unless specifically repudiated by the
650 Commission.

651 4. Any State that joins the Compact shall be subject to the rules and bylaws as they exist on the date
652 on which the Compact becomes law in that state. Any rule that has been previously adopted by the
653 Commission shall have the full force and effect of law on the day the Compact becomes law in that
654 state.

655 B. Any member state may withdraw from this Compact by enacting a statute repealing that state's
656 enactment of the Compact.

657 1. A member state's withdrawal shall not take effect until 180 days after enactment of the repealing
658 statute.

659 2. Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing
660 authority to comply with the investigative and adverse action reporting requirements of this Compact
661 prior to the effective date of withdrawal.

662 3. Upon the enactment of a statute withdrawing from this Compact, a state shall immediately provide
663 notice of such withdrawal to all licensees within that state. Notwithstanding any subsequent statutory
664 enactment to the contrary, such withdrawing state shall continue to recognize all licenses granted
665 pursuant to this Compact for a minimum of 180 days after the date of such notice of withdrawal.

666 C. Nothing contained in this Compact shall be construed to invalidate or prevent any licensure
667 agreement or other cooperative arrangement between a member state and a non-member state that does
668 not conflict with the provisions of this Compact.

669 D. This Compact may be amended by the member states. No amendment to this Compact shall
670 become effective and binding upon any member state until it is enacted into the laws of all member
671 states.

672 Article XIV. Construction and Severability.

673 A. This Compact and the Commission's rulemaking authority shall be liberally construed so as to

674 *effectuate the purposes and the implementation and administration of the Compact. Provisions of the*
675 *Compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the*
676 *Commission's rulemaking authority solely for those purposes.*

677 *B. The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or*
678 *provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution*
679 *of any member state, of a state seeking participation in the Compact, or of the United States, or the*
680 *applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional*
681 *by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability*
682 *thereof to any other government, agency, person, or circumstance shall not be affected thereby.*

683 *C. Notwithstanding subsection B, the Commission may deny a state's participation in the Compact*
684 *or, in accordance with the requirements of Article XII, terminate a member state's participation in the*
685 *Compact, if it determines that a constitutional requirement of a member state is a material departure*
686 *from the Compact. Otherwise, if this Compact shall be held to be contrary to the constitution of any*
687 *member state, the Compact shall remain in full force and effect as to the remaining member states and*
688 *in full force and effect as to the member state affected as to all severable matters.*

689 *Article XV. Consistent Effect and Conflict with Other State Laws.*

690 *A. Nothing herein shall prevent or inhibit the enforcement of any other law of a member state that is*
691 *not inconsistent with the Compact.*

692 *B. Any laws, statutes, regulations, or other legal requirements in a member state in conflict with the*
693 *Compact are superseded to the extent of the conflict.*

694 *C. All permissible agreements between the Commission and the member states are binding in*
695 *accordance with their terms.*

696 **2. That the Board for Barbers and Cosmetology shall promulgate regulations to implement the**
697 **provisions of this act to be effective within 280 days of its effective date.**