

By: Zaffirini

S.B. No. 16

A BILL TO BE ENTITLED

AN ACT

relating to the Cosmetology Licensure Compact; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 9, Occupations Code, is amended by adding Chapter 1604 to read as follows:

CHAPTER 1604. COSMETOLOGY LICENSURE COMPACT

Sec. 1604.001. COSMETOLOGY LICENSURE COMPACT. The Cosmetology Licensure Compact is enacted and entered into with all other jurisdictions that legally join the compact, which reads as follows:

COSMETOLOGY LICENSURE COMPACT

ARTICLE 1- 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 which 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

1 hereto:

2 A. Provide opportunities for interstate practice by Cosmetologists
3 who meet uniform requirements for multistate licensure;

4 B. Enhance the abilities of Member States to protect public health
5 and safety, and prevent fraud and unlicensed activity within the
6 profession;

7 C. Ensure and encourage cooperation between Member States in the
8 licensure and regulation of the Practice of Cosmetology;

9 D. Support relocating military members and their spouses;

10 E. Facilitate the exchange of information between Member States
11 related to the licensure, investigation, and discipline of the
12 Practice of Cosmetology;

13 F. Provide for the licensure and mobility of the workforce in the
14 profession, while addressing the shortage of workers and
15 lessening the associated burdens on the Member States.

16 ARTICLE 2- DEFINITIONS

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

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

22 B. "Adverse Action" means any administrative, civil, equitable, or
23 criminal action permitted by a Member State's laws which is
24 imposed by a State Licensing Authority or other regulatory body
25 against a Cosmetologist, including actions against an
26 individual's license or Authorization to Practice such as
27 revocation, suspension, probation, monitoring of the Licensee,

1 limitation of the Licensee's practice, or any other Encumbrance
2 on a license affecting an individual's ability to participate in
3 the Cosmetology industry, including the issuance of a cease and
4 desist order.

5 C. "Authorization to Practice" means a legal authorization
6 associated with a Multistate License permitting the Practice of
7 Cosmetology in that Remote State, which shall be subject to the
8 enforcement jurisdiction of the State Licensing Authority in
9 that Remote State.

10 D. "Alternative Program" means a non-disciplinary monitoring or
11 prosecutorial diversion program approved by a Member State's
12 State Licensing Authority.

13 E. "Background Check" means the submission of information for an
14 applicant for the purpose of obtaining that applicant's criminal
15 history record information, as further defined in 28 C.F.R. §
16 20.3(d), from the Federal Bureau of Investigation and the agency
17 responsible for retaining State criminal or disciplinary history
18 in the applicant's Home State.

19 F. "Charter Member State" means Member States who have enacted
20 legislation to adopt this Compact where such legislation
21 predates the effective date of this Compact as defined in Article
22 13.

23 G. "Commission" means the government agency whose membership
24 consists of all States that have enacted this Compact, which is
25 known as the Cosmetology Licensure Compact Commission, as
26 defined in Article 9, and which shall operate as an
27 instrumentality of the Member States.

1 H. "Cosmetologist" means an individual licensed in their Home State
2 to practice Cosmetology.

3 I. "Cosmetology", "Cosmetology Services", and the "Practice of
4 Cosmetology" mean the care and services provided by a
5 Cosmetologist as set forth in the Member State's statutes and
6 regulations in the State where the services are being provided.

7 J. "Current Significant Investigative Information" means:

8 1. Investigative Information that a State Licensing
9 Authority, after an inquiry or investigation that
10 complies with a Member State's due process
11 requirements, has reason to believe is not groundless
12 and, if proved true, would indicate a violation of that
13 State's laws regarding fraud or the Practice of
14 Cosmetology; or

15 2. Investigative Information that indicates that a
16 Licensee has engaged in fraud or represents an
17 immediate threat to public health and safety,
18 regardless of whether the Licensee has been notified
19 and had an opportunity to respond.

20 K. "Data System" means a repository of information about Licensees,
21 including, but not limited to, license status, Investigative
22 Information, and Adverse Actions.

23 L. "Disqualifying Event" means any event which shall disqualify an
24 individual from holding a Multistate License under this Compact,
25 which the Commission may by Rule or order specify.

26 M. "Encumbered License" means a license in which an Adverse Action
27 restricts the Practice of Cosmetology by a Licensee, or where

- 1 said Adverse Action has been reported to the Commission.
- 2 N. "Encumbrance" means a revocation or suspension of, or any
3 limitation on, the full and unrestricted Practice of Cosmetology
4 by a State Licensing Authority.
- 5 O. "Executive Committee" means a group of delegates elected or
6 appointed to act on behalf of, and within the powers granted to
7 them by, the Commission.
- 8 P. "Home State" means the Member State which is a Licensee's
9 primary State of residence, and where that Licensee holds an
10 active and unencumbered license to practice Cosmetology.
- 11 Q. "Investigative Information" means information, records, or
12 documents received or generated by a State Licensing Authority
13 pursuant to an investigation or other inquiry.
- 14 R. "Jurisprudence Requirement" means the assessment of an
15 individual's knowledge of the laws and rules governing the
16 Practice of Cosmetology in a State.
- 17 S. "Licensee" means an individual who currently holds a license
18 from a Member State to practice as a Cosmetologist.
- 19 T. "Member State" means any State that has adopted this Compact.
- 20 U. "Multistate License" means a license issued by and subject to
21 the enforcement jurisdiction of the State Licensing Authority in
22 a Licensee's Home State, which authorizes the Practice of
23 Cosmetology in Member States and includes Authorizations to
24 Practice Cosmetology in all Remote States pursuant to this
25 Compact.
- 26 V. "Remote State" means any Member State, other than the Licensee's
27 Home State.

1 W. "Rule" means any rule or regulation promulgated by the
2 Commission under this Compact which has the force of law.

3 X. "Single-State License" means a Cosmetology license issued by a
4 Member State that authorizes practice of Cosmetology only within
5 the issuing State and does not include any authorization outside
6 of the issuing State.

7 Y. "State" means a State, territory, or possession of the United
8 States and the District of Columbia.

9 Z. "State Licensing Authority" means a Member State's regulatory
10 body responsible for issuing Cosmetology licenses or otherwise
11 overseeing the Practice of Cosmetology in that State.

12 ARTICLE 3- MEMBER STATE REQUIREMENTS

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

15 1. License and regulate Cosmetology;

16 2. Have a mechanism or entity in place to receive and
17 investigate complaints about Licensees practicing in
18 that State;

19 3. Require that Licensees within the State pass a
20 Cosmetology competency examination prior to being
21 licensed to provide Cosmetology Services to the public
22 in that State;

23 4. Require that Licensees satisfy educational or training
24 requirements in Cosmetology prior to being licensed to
25 provide Cosmetology Services to the public in that
26 State;

27 5. Implement procedures for considering one or more of the

1 following categories of information from applicants for
2 licensure: criminal history; disciplinary history; or
3 Background Check. Such procedures may include the
4 submission of information by applicants for the purpose
5 of obtaining an applicant's Background Check as defined
6 herein;

7 6. Participate in the Data System, including through the
8 use of unique identifying numbers;

9 7. Share information related to Adverse Actions with the
10 Commission and other Member States, both through the
11 Data System and otherwise;

12 8. Notify the Commission and other Member States, in
13 compliance with the terms of the Compact and Rules of
14 the Commission, of the existence of Investigative
15 Information or Current Significant Investigative
16 Information in the State's possession regarding a
17 Licensee practicing in that State;

18 9. Comply with such Rules as may be enacted by the
19 Commission to administer the Compact; and

20 10. Accept Licensees from other Member States as
21 established herein.

22 B. Member States may charge a fee for granting a license to practice
23 Cosmetology.

24 C. Individuals not residing in a Member State shall continue to be
25 able to apply for a Member State's Single-State License as
26 provided under the laws of each Member State. However, the
27 Single-State License granted to these individuals shall not be

1 recognized as granting a Multistate License to provide services
2 in any other Member State.

3 D. Nothing in this Compact shall affect the requirements
4 established by a Member State for the issuance of a Single-State
5 License.

6 E. A Multistate License issued to a Licensee by a Home State to a
7 resident of that State shall be recognized by each Member State
8 as authorizing a Licensee to practice Cosmetology in each Member
9 State.

10 F. At no point shall the Commission have the power to define the
11 educational or professional requirements for a license to
12 practice Cosmetology. The Member States shall retain sole
13 jurisdiction over the provision of these requirements.

14 ARTICLE 4- MULTISTATE LICENSE

15 A. To be eligible to apply to their Home State's State Licensing
16 Authority for an initial Multistate License under this Compact,
17 a Licensee must hold an active and unencumbered Single-State
18 License to practice Cosmetology in their Home State.

19 B. Upon the receipt of an application for a Multistate License,
20 according to the Rules of the Commission, a Member State's State
21 Licensing Authority shall ascertain whether the applicant meets
22 the requirements for a Multistate License under this Compact.

23 C. If an applicant meets the requirements for a Multistate License
24 under this Compact and any applicable Rules of the Commission,
25 the State Licensing Authority in receipt of the application
26 shall, within a reasonable time, grant a Multistate License to
27 that applicant, and inform all Member States of the grant of said

1 Multistate License.

2 D. A Multistate License to practice Cosmetology issued by a Member
3 State's State Licensing Authority shall be recognized by each
4 Member State as authorizing the practice thereof as though that
5 Licensee held a Single-State License to do so in each Member
6 State, subject to the restrictions herein.

7 E. A Multistate License granted pursuant to this Compact may be
8 effective for a definite period of time, concurrent with the
9 licensure renewal period in the Home State.

10 F. To maintain a Multistate License under this Compact, a Licensee
11 must:

12 1. Agree to abide by the rules of the State Licensing
13 Authority, and the State scope of practice laws
14 governing the Practice of Cosmetology, of any Member
15 State in which the Licensee provides services;

16 2. Pay all required fees related to the application and
17 process, and any other fees which the Commission may by
18 Rule require; and

19 3. Comply with any and all other requirements regarding
20 Multistate Licenses which the Commission may by Rule
21 provide.

22 G. A Licensee practicing in a Member State is subject to all scope
23 of practice laws governing Cosmetology Services in that State.

24 H. The Practice of Cosmetology under a Multistate License granted
25 pursuant to this Compact will subject the Licensee to the
26 jurisdiction of the State Licensing Authority, the courts, and
27 the laws of the Member State in which the Cosmetology Services

1 are provided.

2 ARTICLE 5- REISSUANCE OF A MULTISTATE LICENSE BY A NEW HOME STATE

3 A. A Licensee may hold a Multistate License, issued by their Home
4 State, in only one Member State at any given time.

5 B. If a Licensee changes their Home State by moving between two
6 Member States:

7 1. The Licensee shall immediately apply for the reissuance
8 of their Multistate License in their new Home State. The
9 Licensee shall pay all applicable fees and notify the
10 prior Home State in accordance with the Rules of the
11 Commission.

12 2. Upon receipt of an application to reissue a Multistate
13 License, the new Home State shall verify that the
14 Multistate License is active, unencumbered and eligible
15 for reissuance under the terms of the Compact and the
16 Rules of the Commission. The Multistate License issued
17 by the prior Home State will be deactivated and all
18 Member States notified in accordance with the
19 applicable Rules adopted by the Commission.

20 3. If required for initial licensure, the new Home State
21 may require a Background Check as specified in the laws
22 of that State, or the compliance with any Jurisprudence
23 Requirements of the new Home State.

24 4. Notwithstanding any other provision of this Compact, if
25 a Licensee does not meet the requirements set forth in
26 this Compact for the reissuance of a Multistate License
27 by the new Home State, then the Licensee shall be

1 subject to the new Home State requirements for the
2 issuance of a Single-State License in that State.

3 C. If a Licensee changes their primary state of residence by moving
4 from a Member State to a non-Member State, or from a non-Member
5 State to a Member State, then the Licensee shall be subject to
6 the State requirements for the issuance of a Single-State
7 License in the new Home State.

8 D. Nothing in this Compact shall interfere with a Licensee's
9 ability to hold a Single-State License in multiple States;
10 however, for the purposes of this Compact, a Licensee shall have
11 only one Home State, and only one Multistate License.

12 E. Nothing in this Compact shall interfere with the requirements
13 established by a Member State for the issuance of a Single-State
14 License.

15 ARTICLE 6- AUTHORITY OF THE COMPACT COMMISSION AND MEMBER STATE
16 LICENSING AUTHORITIES

17 A. Nothing in this Compact, nor any Rule or regulation of the
18 Commission, shall be construed to limit, restrict, or in any way
19 reduce the ability of a Member State to enact and enforce laws,
20 regulations, or other rules related to the Practice of
21 Cosmetology in that State, where those laws, regulations, or
22 other rules are not inconsistent with the provisions of this
23 Compact.

24 B. Insofar as practical, a Member State's State Licensing Authority
25 shall cooperate with the Commission and with each entity
26 exercising independent regulatory authority over the Practice of
27 Cosmetology according to the provisions of this Compact.

1 C. Discipline shall be the sole responsibility of the State in
2 which Cosmetology Services are provided. Accordingly, each
3 Member State's State Licensing Authority shall be responsible
4 for receiving complaints about individuals practicing
5 Cosmetology in that State, and for communicating all relevant
6 Investigative Information about any such Adverse Action to the
7 other Member States through the Data System in addition to any
8 other methods the Commission may by Rule require.

9 ARTICLE 7- ADVERSE ACTIONS

10 A. A Licensee's Home State shall have exclusive power to impose an
11 Adverse Action against a Licensee's Multistate License issued by
12 the Home State.

13 B. A Home State may take Adverse Action on a Multistate License
14 based on the Investigative Information, Current Significant
15 Investigative Information, or Adverse Action of a Remote State.

16 C. In addition to the powers conferred by State law, each Remote
17 State's State Licensing Authority shall have the power to:

18 1. Take Adverse Action against a Licensee's Authorization
19 to Practice Cosmetology through the Multistate License
20 in that Member State, provided that:

21 a. Only the Licensee's Home State shall have the
22 power to take Adverse Action against the
23 Multistate License issued by the Home State; and

24 b. For the purposes of taking Adverse Action, the
25 Home State's State Licensing Authority shall give
26 the same priority and effect to reported conduct
27 received from a Remote State as it would if such

1 conduct had occurred within the Home State. In so
2 doing, the Home State shall apply its own State
3 laws to determine the appropriate action.

4 2. Issue cease and desist orders or impose an Encumbrance
5 on a Licensee's Authorization to Practice within that
6 Member State.

7 3. Complete any pending investigations of a Licensee who
8 changes their primary state of residence during the
9 course of such an investigation. The State Licensing
10 Authority shall also be empowered to report the results
11 of such an investigation to the Commission through the
12 Data System as described herein.

13 4. Issue subpoenas for both hearings and investigations
14 that require the attendance and testimony of witnesses,
15 as well as the production of evidence. Subpoenas issued
16 by a State Licensing Authority in a Member State for the
17 attendance and testimony of witnesses or the production
18 of evidence from another Member State shall be enforced
19 in the latter State by any court of competent
20 jurisdiction, according to the practice and procedure
21 of that court applicable to subpoenas issued in
22 proceedings before it. The issuing State Licensing
23 Authority shall pay any witness fees, travel expenses,
24 mileage, and other fees required by the service
25 statutes of the State in which the witnesses or evidence
26 are located.

27 5. If otherwise permitted by State law, recover from the

1 affected Licensee the costs of investigations and
2 disposition of cases resulting from any Adverse Action
3 taken against that Licensee.

4 6. Take Adverse Action against the Licensee's
5 Authorization to Practice in that State based on the
6 factual findings of another Remote State.

7 D. A Licensee's Home State shall complete any pending
8 investigation(s) of a Cosmetologist who changes their primary
9 state of residence during the course of the investigation(s).
10 The Home State shall also have the authority to take appropriate
11 action(s) and shall promptly report the conclusions of the
12 investigations to the Data System.

13 E. If an Adverse Action is taken by the Home State against a
14 Licensee's Multistate License, the Licensee's Authorization to
15 Practice in all other Member States shall be deactivated until
16 all Encumbrances have been removed from the Home State license.
17 All Home State disciplinary orders that impose an Adverse Action
18 against a Licensee's Multistate License shall include a
19 statement that the Cosmetologist's Authorization to Practice is
20 deactivated in all Member States during the pendency of the
21 order.

22 F. Nothing in this Compact shall override a Member State's
23 authority to accept a Licensee's participation in an Alternative
24 Program in lieu of Adverse Action. A Licensee's Multistate
25 License shall be suspended for the duration of the Licensee's
26 participation in any Alternative Program.

27 G. Joint Investigations

1 1. In addition to the authority granted to a Member State
2 by its respective scope of practice laws or other
3 applicable State law, a Member State may participate
4 with other Member States in joint investigations of
5 Licensees.

6 2. Member States shall share any investigative,
7 litigation, or compliance materials in furtherance of
8 any joint or individual investigation initiated under
9 the Compact.

10 ARTICLE 8- ACTIVE MILITARY MEMBERS AND THEIR SPOUSES

11 Active Military Members, or their spouses, shall designate a Home
12 State where the individual has a current license to practice
13 Cosmetology in good standing. The individual may retain their Home
14 State designation during any period of service when that individual
15 or their spouse is on active duty assignment.

16 ARTICLE 9- ESTABLISHMENT AND OPERATION OF THE COSMETOLOGY LICENSURE
17 COMPACT COMMISSION

18 A. The Compact Member States hereby create and establish a joint
19 government agency whose membership consists of all Member States
20 that have enacted the Compact known as the Cosmetology Licensure
21 Compact Commission. The Commission is an instrumentality of the
22 Compact Member States acting jointly and not an instrumentality
23 of any one State. The Commission shall come into existence on or
24 after the effective date of the Compact as set forth in Article
25 13.

26 B. Membership, Voting, and Meetings

27 1. Each Member State shall have and be limited to one (1)

1 delegate selected by that Member State's State
2 Licensing Authority.

3 2. The delegate shall be an administrator of the State
4 Licensing Authority of the Member State or their
5 designee.

6 3. The Commission shall by Rule or bylaw establish a term
7 of office for delegates and may by Rule or bylaw
8 establish term limits.

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

11 5. A Member State's State Licensing Authority shall fill
12 any vacancy of its delegate occurring on the Commission
13 within 60 days of the vacancy.

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

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

21 C. The Commission shall have the following powers:

22 1. Establish the fiscal year of the Commission;

23 2. Establish code of conduct and conflict of interest
24 policies;

25 3. Adopt Rules and bylaws;

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

1 5. Meet and take such actions as are consistent with the
2 provisions of this Compact, the Commission's Rules, and
3 the bylaws;

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

8 7. Maintain and certify records and information provided
9 to a Member State as the authenticated business records
10 of the Commission, and designate an agent to do so on
11 the Commission's behalf;

12 8. Purchase and maintain insurance and bonds;

13 9. Borrow, accept, or contract for services of personnel,
14 including, but not limited to, employees of a Member
15 State;

16 10. Conduct an annual financial review;

17 11. Hire employees, elect or appoint officers, fix
18 compensation, define duties, grant such individuals
19 appropriate authority to carry out the purposes of the
20 Compact, and establish the Commission's personnel
21 policies and programs relating to conflicts of
22 interest, qualifications of personnel, and other
23 related personnel matters;

24 12. As set forth in the Commission Rules, charge a fee to a
25 Licensee for the grant of a Multistate License and
26 thereafter, as may be established by Commission Rule,
27 charge the Licensee a Multistate License renewal fee

1 for each renewal period. Nothing herein shall be
2 construed to prevent a Home State from charging a
3 Licensee a fee for a Multistate License or renewals of a
4 Multistate License, or a fee for the jurisprudence
5 requirement if the Member State imposes such a
6 requirement for the grant of a Multistate License;

7 13. Assess and collect fees;

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

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

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

20 17. Establish a budget and make expenditures;

21 18. Borrow money;

22 19. Appoint committees, including standing committees,
23 composed of members, State regulators, State
24 legislators or their representatives, and consumer
25 representatives, and such other interested persons as
26 may be designated in this Compact and the bylaws;

27 20. Provide and receive information from, and cooperate

1 with, law enforcement agencies;

2 21. Elect a Chair, Vice Chair, Secretary and Treasurer and
3 such other officers of the Commission as provided in the
4 Commission's bylaws;

5 22. Establish and elect an Executive Committee, including
6 a chair and a vice chair;

7 23. Adopt and provide to the Member States an annual
8 report.

9 24. Determine whether a State's adopted language is
10 materially different from the model Compact language
11 such that the State would not qualify for participation
12 in the Compact; and

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

15 D. The Executive Committee

16 1. The Executive Committee shall have the power to act on
17 behalf of the Commission according to the terms of this
18 Compact. The powers, duties, and responsibilities of
19 the Executive Committee shall include:

20 a. Overseeing the day-to-day activities of the
21 administration of the Compact including
22 compliance with the provisions of the Compact, the
23 Commission's Rules and bylaws, and other such
24 duties as deemed necessary;

25 b. Recommending to the Commission changes to the
26 Rules or bylaws, changes to this Compact
27 legislation, fees charged to Compact Member

1 States, fees charged to Licensees, and other fees;

2 c. Ensuring Compact administration services are
3 appropriately provided, including by contract;

4 d. Preparing and recommending the budget;

5 e. Maintaining financial records on behalf of the
6 Commission;

7 f. Monitoring Compact compliance of Member States
8 and providing compliance reports to the
9 Commission;

10 g. Establishing additional committees as necessary;

11 h. Exercising the powers and duties of the
12 Commission during the interim between Commission
13 meetings, except for adopting or amending Rules,
14 adopting or amending bylaws, and exercising any
15 other powers and duties expressly reserved to the
16 Commission by Rule or bylaw; and

17 i. Other duties as provided in the Rules or bylaws of
18 the Commission.

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

21 a. The chair and vice chair of the Commission and any
22 other members of the Commission who serve on the
23 Executive Committee shall be voting members of the
24 Executive Committee; and

25 b. Other than the chair, vice-chair, secretary and
26 treasurer, the Commission shall elect three
27 voting members from the current membership of the

1 Commission.

2 c. The Commission may elect ex-officio, nonvoting
3 members from a recognized national Cosmetology
4 professional association as approved by the
5 Commission. The Commission's bylaws shall
6 identify qualifying organizations and the manner
7 of appointment if the number of organizations
8 seeking to appoint an ex officio member exceeds
9 the number of members specified in this Article.

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

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

13 a. Annual Executive Committee meetings, as well as
14 any Executive Committee meeting at which it does
15 not take or intend to take formal action on a
16 matter for which a Commission vote would otherwise
17 be required, shall be open to the public, except
18 that the Executive Committee may meet in a closed,
19 non-public session of a public meeting when
20 dealing with any of the matters covered under
21 Article 9.F.4.

22 b. The Executive Committee shall give five business
23 days advance notice of its public meetings, posted
24 on its website and as determined to provide notice
25 to persons with an interest in the public matters
26 the Executive Committee intends to address at
27 those meetings.

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

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

5 b. Prevent a loss of Commission or Member State
6 funds; or

7 c. Protect public health and safety.

8 E. The Commission shall adopt and provide to the Member States an
9 annual report.

10 F. Meetings of the Commission

11 1. All meetings of the Commission that are not closed
12 pursuant to Article 9.F.4 shall be open to the public.
13 Notice of public meetings shall be posted on the
14 Commission's website at least thirty (30) days prior to
15 the public meeting.

16 2. Notwithstanding Article 9.F.1, the Commission may
17 convene an emergency public meeting by providing at
18 least twenty-four (24) hours prior notice on the
19 Commission's website, and any other means as provided in
20 the Commission's Rules, for any of the reasons it may
21 dispense with notice of proposed rulemaking under
22 Article 11.L. The Commission's legal counsel shall
23 certify that one of the reasons justifying an emergency
24 public meeting has been met.

25 3. Notice of all Commission meetings shall provide the
26 time, date, and location of the meeting, and if the
27 meeting is to be held or accessible via

1 telecommunication, video conference, or other
2 electronic means, the notice shall include the
3 mechanism for access to the meeting.

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

6 a. Non-compliance of a Member State with its
7 obligations under the Compact;

8 b. The employment, compensation, discipline or other
9 matters, practices or procedures related to
10 specific employees or other matters related to the
11 Commission's internal personnel practices and
12 procedures;

13 c. Current or threatened discipline of a Licensee by
14 the Commission or by a Member State's Licensing
15 Authority;

16 d. Current, threatened, or reasonably anticipated
17 litigation;

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

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

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

24 h. Information of a personal nature where disclosure
25 would constitute a clearly unwarranted invasion
26 of personal privacy;

27 i. Investigative records compiled for law

1 enforcement purposes;

2 j. Information related to any investigative reports
3 prepared by or on behalf of or for use of the
4 Commission or other committee charged with
5 responsibility of investigation or determination
6 of compliance issues pursuant to the Compact;

7 k. Legal advice;

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

10 m. Other matters as promulgated by the Commission by
11 Rule.

12 5. If a meeting, or portion of a meeting, is closed, the
13 presiding officer shall state that the meeting will be
14 closed and reference each relevant exempting provision,
15 and such reference shall be recorded in the minutes.

16 6. The Commission shall keep minutes that fully and
17 clearly describe all matters discussed in a meeting and
18 shall provide a full and accurate summary of actions
19 taken, and the reasons therefore, including a
20 description of the views expressed. All documents
21 considered in connection with an action shall be
22 identified in such minutes. All minutes and documents
23 of a closed meeting shall remain under seal, subject to
24 release only by a majority vote of the Commission or
25 order of a court of competent jurisdiction.

26 G. Financing of the Commission

27 1. The Commission shall pay, or provide for the payment

1 of, the reasonable expenses of its establishment,
2 organization, and ongoing activities.

3 2. The Commission may accept any and all appropriate
4 sources of revenue, donations, and grants of money,
5 equipment, supplies, materials, and services.

6 3. The Commission may levy on and collect an annual
7 assessment from each Member State and impose fees on
8 Licensees of Member States to whom it grants a
9 Multistate License to cover the cost of the operations
10 and activities of the Commission and its staff, which
11 must be in a total amount sufficient to cover its annual
12 budget as approved each year for which revenue is not
13 provided by other sources. The aggregate annual
14 assessment amount for Member States shall be allocated
15 based upon a formula that the Commission shall
16 promulgate by Rule.

17 4. The Commission shall not incur obligations of any kind
18 prior to securing the funds adequate to meet the same;
19 nor shall the Commission pledge the credit of any Member
20 States, except by and with the authority of the Member
21 State.

22 5. The Commission shall keep accurate accounts of all
23 receipts and disbursements. The receipts and
24 disbursements of the Commission shall be subject to the
25 financial review and accounting procedures established
26 under its bylaws. All receipts and disbursements of
27 funds handled by the Commission shall be subject to an

1 annual financial review by a certified or licensed
2 public accountant, and the report of the financial
3 review shall be included in and become part of the
4 annual report of the Commission.

5 H. Qualified Immunity, Defense, and Indemnification

6 1. The members, officers, executive director, employees
7 and representatives of the Commission shall be immune
8 from suit and liability, both personally and in their
9 official capacity, for any claim for damage to or loss
10 of property or personal injury or other civil liability
11 caused by or arising out of any actual or alleged act,
12 error, or omission that occurred, or that the person
13 against whom the claim is made had a reasonable basis
14 for believing occurred within the scope of Commission
15 employment, duties or responsibilities; provided that
16 nothing in this paragraph shall be construed to protect
17 any such person from suit or liability for any damage,
18 loss, injury, or liability caused by the intentional or
19 willful or wanton misconduct of that person. The
20 procurement of insurance of any type by the Commission
21 shall not in any way compromise or limit the immunity
22 granted hereunder.

23 2. The Commission shall defend any member, officer,
24 executive director, employee, and representative of the
25 Commission in any civil action seeking to impose
26 liability arising out of any actual or alleged act,
27 error, or omission that occurred within the scope of

1 Commission employment, duties, or responsibilities, or
2 as determined by the Commission that the person against
3 whom the claim is made had a reasonable basis for
4 believing occurred within the scope of Commission
5 employment, duties, or responsibilities; provided that
6 nothing herein shall be construed to prohibit that
7 person from retaining their own counsel at their own
8 expense; and provided further, that the actual or
9 alleged act, error, or omission did not result from that
10 person's intentional or willful or wanton misconduct.

11 3. The Commission shall indemnify and hold harmless any
12 member, officer, executive director, employee, and
13 representative of the Commission for the amount of any
14 settlement or judgment obtained against that person
15 arising out of any actual or alleged act, error, or
16 omission that occurred within the scope of Commission
17 employment, duties, or responsibilities, or that such
18 person had a reasonable basis for believing occurred
19 within the scope of Commission employment, duties, or
20 responsibilities, provided that the actual or alleged
21 act, error, or omission did not result from the
22 intentional or willful or wanton misconduct of that
23 person.

24 4. Nothing herein shall be construed as a limitation on
25 the liability of any Licensee for professional
26 malpractice or misconduct, which shall be governed
27 solely by any other applicable State laws.

1 5. Nothing in this Compact shall be interpreted to waive
2 or otherwise abrogate a Member State's State action
3 immunity or State action affirmative defense with
4 respect to antitrust claims under the Sherman Act,
5 Clayton Act, or any other State or federal antitrust or
6 anticompetitive law or regulation.

7 6. Nothing in this Compact shall be construed to be a
8 waiver of sovereign immunity by the Member States or by
9 the Commission.

10 ARTICLE 10- DATA SYSTEM

11 A. The Commission shall provide for the development, maintenance,
12 operation, and utilization of a coordinated database and
13 reporting system.

14 B. The Commission shall assign each applicant for a Multistate
15 License a unique identifier, as determined by the Rules of the
16 Commission.

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

- 21 1. Identifying information;
- 22 2. Licensure data;
- 23 3. Adverse Actions against a license and information
24 related thereto;
- 25 4. Non-confidential information related to Alternative
26 Program participation, the beginning and ending dates
27 of such participation, and other information related to

1 such participation;

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

6 6. The existence of Investigative Information;

7 7. The existence of Current Significant Investigative
8 Information; and

9 8. Other information that may facilitate the
10 administration of this Compact or the protection of the
11 public, as determined by the Rules of the Commission.

12 D. The records and information provided to a Member State pursuant
13 to this Compact or through the Data System, when certified by the
14 Commission or an agent thereof, shall constitute the
15 authenticated business records of the Commission, and shall be
16 entitled to any associated hearsay exception in any relevant
17 judicial, quasi-judicial or administrative proceedings in a
18 Member State.

19 E. The existence of Current Significant Investigative Information
20 and the existence of Investigative Information pertaining to a
21 Licensee in any Member State will only be available to other
22 Member States.

23 F. It is the responsibility of the Member States to monitor the
24 database to determine whether Adverse Action has been taken
25 against such a Licensee or License applicant. Adverse Action
26 information pertaining to a Licensee or License applicant in any
27 Member State will be available to any other Member State.

1 G. Member States contributing information to the Data System may
2 designate information that may not be shared with the public
3 without the express permission of the contributing State.

4 H. Any information submitted to the Data System that is
5 subsequently expunged pursuant to federal law or the laws of the
6 Member State contributing the information shall be removed from
7 the Data System.

8 ARTICLE 11- RULEMAKING

9 A. The Commission shall promulgate reasonable Rules in order to
10 effectively and efficiently implement and administer the
11 purposes and provisions of the Compact. A Rule shall be invalid
12 and have no force or effect only if a court of competent
13 jurisdiction holds that the Rule is invalid because the
14 Commission exercised its rulemaking authority in a manner that
15 is beyond the scope and purposes of the Compact, or the powers
16 granted hereunder, or based upon another applicable standard of
17 review.

18 B. The Rules of the Commission shall have the force of law in each
19 Member State, provided however that where the Rules of the
20 Commission conflict with the laws of the Member State that
21 establish the Member State's scope of practice laws governing the
22 Practice of Cosmetology as held by a court of competent
23 jurisdiction, the Rules of the Commission shall be ineffective
24 in that State to the extent of the conflict.

25 C. The Commission shall exercise its rulemaking powers pursuant to
26 the criteria set forth in this Article and the Rules adopted
27 thereunder. Rules shall become binding as of the date specified

1 by the Commission for each Rule.

2 D. If a majority of the legislatures of the Member States rejects a
3 Rule or portion of a Rule, by enactment of a statute or
4 resolution in the same manner used to adopt the Compact within
5 four (4) years of the date of adoption of the Rule, then such Rule
6 shall have no further force and effect in any Member State or to
7 any State applying to participate in the Compact.

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

10 F. Prior to adoption of a proposed Rule, the Commission shall hold a
11 public hearing and allow persons to provide oral and written
12 comments, data, facts, opinions, and arguments.

13 G. Prior to adoption of a proposed Rule by the Commission, and at
14 least thirty (30) days in advance of the meeting at which the
15 Commission will hold a public hearing on the proposed Rule, the
16 Commission shall provide a notice of proposed rulemaking:

- 17 1. On the website of the Commission or other publicly
18 accessible platform;
- 19 2. To persons who have requested notice of the
20 Commission's notices of proposed rulemaking; and
- 21 3. In such other way(s) as the Commission may by Rule
22 specify.

23 H. The notice of proposed rulemaking shall include:

- 24 1. The time, date, and location of the public hearing at
25 which the Commission will hear public comments on the
26 proposed Rule and, if different, the time, date, and
27 location of the meeting where the Commission will

1 consider and vote on the proposed Rule;

2 2. If the hearing is held via telecommunication, video
3 conference, or other electronic means, the Commission
4 shall include the mechanism for access to the hearing in
5 the notice of proposed rulemaking;

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

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

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

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

14 J. Nothing in this Article shall be construed as requiring a
15 separate hearing on each Rule. Rules may be grouped for the
16 convenience of the Commission at hearings required by this
17 Article.

18 K. The Commission shall, by majority vote of all members, take
19 final action on the proposed Rule based on the rulemaking record
20 and the full text of the Rule.

21 1. The Commission may adopt changes to the proposed Rule
22 provided the changes do not enlarge the original
23 purpose of the proposed Rule.

24 2. The Commission shall provide an explanation of the
25 reasons for substantive changes made to the proposed
26 Rule as well as reasons for substantive changes not made
27 that were recommended by commenters.

1 3. The Commission shall determine a reasonable effective
2 date for the Rule. Except for an emergency as provided
3 in Article 11.L, the effective date of the Rule shall be
4 no sooner than forty-five (45) days after the
5 Commission issuing the notice that it adopted or
6 amended the Rule.

7 L. Upon determination that an emergency exists, the Commission may
8 consider and adopt an emergency Rule with five (5) days' notice,
9 with opportunity to comment, provided that the usual rulemaking
10 procedures provided in the Compact and in this Article shall be
11 retroactively applied to the Rule as soon as reasonably
12 possible, in no event later than ninety (90) days after the
13 effective date of the Rule. For the purposes of this provision,
14 an emergency Rule is one that must be adopted immediately to:

- 15 1. Meet an imminent threat to public health, safety, or
16 welfare;
- 17 2. Prevent a loss of Commission or Member State funds;
- 18 3. Meet a deadline for the promulgation of a Rule that is
19 established by federal law or rule; or
- 20 4. Protect public health and safety.

21 M. The Commission or an authorized committee of the Commission may
22 direct revisions to a previously adopted Rule for purposes of
23 correcting typographical errors, errors in format, errors in
24 consistency, or grammatical errors. Public notice of any
25 revisions shall be posted on the website of the Commission. The
26 revision shall be subject to challenge by any person for a period
27 of thirty (30) days after posting. The revision may be

1 challenged only on grounds that the revision results in a
2 material change to a Rule. A challenge shall be made in writing
3 and delivered to the Commission prior to the end of the notice
4 period. If no challenge is made, the revision will take effect
5 without further action. If the revision is challenged, the
6 revision may not take effect without the approval of the
7 Commission.

8 N. No Member State's rulemaking requirements shall apply under this
9 Compact.

10 ARTICLE 12- OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

11 A. Oversight

12 1. The executive and judicial branches of State
13 government in each Member State shall enforce this
14 Compact and take all actions necessary and appropriate
15 to implement the Compact.

16 2. Venue is proper and judicial proceedings by or against
17 the Commission shall be brought solely and exclusively
18 in a court of competent jurisdiction where the
19 principal office of the Commission is located. The
20 Commission may waive venue and jurisdictional defenses
21 to the extent it adopts or consents to participate in
22 alternative dispute resolution proceedings. Nothing
23 herein shall affect or limit the selection or propriety
24 of venue in any action against a Licensee for
25 professional malpractice, misconduct or any such
26 similar matter.

27 3. The Commission shall be entitled to receive service of

1 process in any proceeding regarding the enforcement or
2 interpretation of the Compact and shall have standing
3 to intervene in such a proceeding for all purposes.
4 Failure to provide the Commission service of process
5 shall render a judgment or order void as to the
6 Commission, this Compact, or promulgated Rules.

7 B. Default, Technical Assistance, and Termination

8 1. If the Commission determines that a Member State has
9 defaulted in the performance of its obligations or
10 responsibilities under this Compact or the promulgated
11 Rules, the Commission shall provide written notice to
12 the defaulting State. The notice of default shall
13 describe the default, the proposed means of curing the
14 default, and any other action that the Commission may
15 take, and shall offer training and specific technical
16 assistance regarding the default.

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

19 3. If a State in default fails to cure the default, the
20 defaulting State may be terminated from the Compact
21 upon an affirmative vote of a majority of the delegates
22 of the Member States, and all rights, privileges and
23 benefits conferred on that State by this Compact may be
24 terminated on the effective date of termination. A cure
25 of the default does not relieve the offending State of
26 obligations or liabilities incurred during the period
27 of default.

1 4. Termination of membership in the Compact shall be
2 imposed only after all other means of securing
3 compliance have been exhausted. Notice of intent to
4 suspend or terminate shall be given by the Commission to
5 the governor, the majority and minority leaders of the
6 defaulting State's legislature, the defaulting State's
7 State Licensing Authority and each of the Member States'
8 State Licensing Authority.

9 5. A State that has been terminated is responsible for all
10 assessments, obligations, and liabilities incurred
11 through the effective date of termination, including
12 obligations that extend beyond the effective date of
13 termination.

14 6. Upon the termination of a State's membership from this
15 Compact, that State shall immediately provide notice to
16 all Licensees who hold a Multistate License within that
17 State of such termination. The terminated State shall
18 continue to recognize all licenses granted pursuant to
19 this Compact for a minimum of one hundred eighty (180)
20 days after the date of said notice of termination.

21 7. The Commission shall not bear any costs related to a
22 State that is found to be in default or that has been
23 terminated from the Compact, unless agreed upon in
24 writing between the Commission and the defaulting
25 State.

26 8. The defaulting State may appeal the action of the
27 Commission by petitioning the United States District

1 Court for the District of Columbia or the federal
2 district where the Commission has its principal
3 offices. The prevailing party shall be awarded all
4 costs of such litigation, including reasonable
5 attorney's fees.

6 C. Dispute Resolution

7 1. Upon request by a Member State, the Commission shall
8 attempt to resolve disputes related to the Compact that
9 arise among Member States and between Member and
10 non-Member States.

11 2. The Commission shall promulgate a Rule providing for
12 both mediation and binding dispute resolution for
13 disputes as appropriate.

14 D. Enforcement

15 1. The Commission, in the reasonable exercise of its
16 discretion, shall enforce the provisions of this
17 Compact and the Commission's Rules.

18 2. By majority vote as provided by Commission Rule, the
19 Commission may initiate legal action against a Member
20 State in default in the United States District Court for
21 the District of Columbia or the federal district where
22 the Commission has its principal offices to enforce
23 compliance with the provisions of the Compact and its
24 promulgated Rules. The relief sought may include both
25 injunctive relief and damages. In the event judicial
26 enforcement is necessary, the prevailing party shall be
27 awarded all costs of such litigation, including

1 reasonable attorney's fees. The remedies herein shall
2 not be the exclusive remedies of the Commission. The
3 Commission may pursue any other remedies available
4 under federal or the defaulting Member State's law.

5 3. A Member State may initiate legal action against the
6 Commission in the United States District Court for the
7 District of Columbia or the federal district where the
8 Commission has its principal offices to enforce
9 compliance with the provisions of the Compact and its
10 promulgated Rules. The relief sought may include both
11 injunctive relief and damages. In the event judicial
12 enforcement is necessary, the prevailing party shall be
13 awarded all costs of such litigation, including
14 reasonable attorney's fees.

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

17 ARTICLE 13- EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

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

20 1. On or after the effective date of the Compact, the
21 Commission shall convene and review the enactment of
22 each of the Charter Member States to determine if the
23 statute enacted by each such Charter Member State is
24 materially different than the model Compact statute.

25 a. A Charter Member State whose enactment is found to
26 be materially different from the model Compact
27 statute shall be entitled to the default process

1 set forth in Article 12.

2 b. If any Member State is later found to be in
3 default, or is terminated or withdraws from the
4 Compact, the Commission shall remain in existence
5 and the Compact shall remain in effect even if the
6 number of Member States should be less than seven
7 (7).

8 2. Member States enacting the Compact subsequent to the
9 Charter Member States shall be subject to the process
10 set forth in Article 9.C.24 to determine if their
11 enactments are materially different from the model
12 Compact statute and whether they qualify for
13 participation in the Compact.

14 3. All actions taken for the benefit of the Commission or
15 in furtherance of the purposes of the administration of
16 the Compact prior to the effective date of the Compact
17 or the Commission coming into existence shall be
18 considered to be actions of the Commission unless
19 specifically repudiated by the Commission.

20 4. Any State that joins the Compact shall be subject to the
21 Commission's Rules and bylaws as they exist on the date
22 on which the Compact becomes law in that State. Any
23 Rule that has been previously adopted by the Commission
24 shall have the full force and effect of law on the day
25 the Compact becomes law in that State.

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

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

4 2. Withdrawal shall not affect the continuing requirement
5 of the withdrawing State's State Licensing Authority to
6 comply with the investigative and Adverse Action
7 reporting requirements of this Compact prior to the
8 effective date of withdrawal.

9 3. Upon the enactment of a statute withdrawing from this
10 Compact, a State shall immediately provide notice of
11 such withdrawal to all Licensees within that State.
12 Notwithstanding any subsequent statutory enactment to
13 the contrary, such withdrawing State shall continue to
14 recognize all licenses granted pursuant to this Compact
15 for a minimum of one hundred eighty (180) days after the
16 date of such notice of withdrawal.

17 C. Nothing contained in this Compact shall be construed to
18 invalidate or prevent any licensure agreement or other
19 cooperative arrangement between a Member State and a non-Member
20 State that does not conflict with the provisions of this Compact.

21 D. This Compact may be amended by the Member States. No amendment
22 to this Compact shall become effective and binding upon any
23 Member State until it is enacted into the laws of all Member
24 States.

25 ARTICLE 14- CONSTRUCTION AND SEVERABILITY

26 A. This Compact and the Commission's rulemaking authority shall be
27 liberally construed so as to effectuate the purposes, and the

1 implementation and administration of the Compact. Provisions of
2 the Compact expressly authorizing or requiring the promulgation
3 of Rules shall not be construed to limit the Commission's
4 rulemaking authority solely for those purposes.

5 B. The provisions of this Compact shall be severable and if any
6 phrase, clause, sentence or provision of this Compact is held by
7 a court of competent jurisdiction to be contrary to the
8 constitution of any Member State, a State seeking participation
9 in the Compact, or of the United States, or the applicability
10 thereof to any government, agency, person or circumstance is
11 held to be unconstitutional by a court of competent
12 jurisdiction, the validity of the remainder of this Compact and
13 the applicability thereof to any other government, agency,
14 person or circumstance shall not be affected thereby.

15 C. Notwithstanding Article 14.B, the Commission may deny a State's
16 participation in the Compact or, in accordance with the
17 requirements of Article 12, terminate a Member State's
18 participation in the Compact, if it determines that a
19 constitutional requirement of a Member State is a material
20 departure from the Compact. Otherwise, if this Compact shall be
21 held to be contrary to the constitution of any Member State, the
22 Compact shall remain in full force and effect as to the remaining
23 Member States and in full force and effect as to the Member State
24 affected as to all severable matters.

25 ARTICLE 15- CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS

26 A. Nothing herein shall prevent or inhibit the enforcement of any
27 other law of a Member State that is not inconsistent with the

1 Compact.

2 B. All permissible agreements between the Commission and the Member
3 States are binding in accordance with their terms.

4 Sec. 1604.002. ADMINISTRATION OF COMPACT. The Texas
5 Department of Licensing and Regulation is the Cosmetology Licensure
6 Compact administrator for this state.

7 Sec. 1604.003. RULES. The Texas Commission of Licensing
8 and Regulation may adopt rules necessary to implement this chapter.

9 SECTION 2. This Act takes effect on the 91st day after the
10 last day of the legislative session.