

By: Wilson

H.B. No. 4857

A BILL TO BE ENTITLED

AN ACT

relating to the cosmetology licensure compact.

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

SECTION 1. The cosmetology licensure compact is adopted to read 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 hereto:

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

B. Enhance the abilities of Member States to protect public

1 health and safety, and prevent fraud and unlicensed activity within
2 the profession;

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

5 D. Support relocating military members and their spouses;

6 E. Facilitate the exchange of information between Member
7 States related to the licensure, investigation, and discipline of
8 the Practice of Cosmetology;

9 F. Provide for meaningful dispute resolution while allowing
10 a Remote State to hold a Licensee accountable under the Remote
11 State's Practice Laws, even where that Licensee holds a Multistate
12 License; and

13 G. Provide for the licensure and mobility of the workforce
14 in the 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,
18 the following definitions shall govern the terms herein:

19 A. "Active Duty Military" means any individual in full-time
20 duty status in the active uniformed service of the United States
21 including members of the National Guard and Reserve.

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

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

4 C. "Authorization to Practice" means a legal authorization
5 associated with a Multistate License permitting the Practice of
6 Cosmetology in a remote state.

7 D. "Alternative Program" means a non-disciplinary
8 monitoring or prosecutorial diversion program approved by a Member
9 State's Licensing Authority.

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

16 F. "Commission" shall refer to the national administrative
17 body whose membership consists of all states that have enacted this
18 Compact, and which is known as the Cosmetology Licensure Compact
19 Commission.

20 G. "Cosmetologist" means an individual licensed in their
21 Home State to practice Cosmetology.

22 H. "Cosmetology", "Cosmetology Services", and the "Practice
23 of Cosmetology" mean the care and services provided by a
24 Cosmetologist as set forth in the Member State's statutes and
25 regulations in the State where the services are being provided.

26 I. "Current Significant Investigative Information" means:

27 1. Investigative Information that a Licensing

1 Authority, after an inquiry or investigation that complies with a
2 Member State's due process requirements, has reason to believe is
3 not groundless and, if proved true, would indicate a violation of
4 that State's laws regarding fraud or the Practice of Cosmetology;
5 or

6 2. Investigative Information that indicates that a
7 Licensee has engaged in fraud or represents an immediate threat to
8 public health and safety, regardless of whether the Licensee has
9 been notified and had an opportunity to respond.

10 J. "Data System" means a repository of information about
11 Licensees, including but not limited to license status,
12 Investigative Information, and Adverse Actions.

13 K. "Disqualifying Event" means any event which shall
14 disqualify an individual from holding a Multistate License under
15 this Compact, which the Commission may by Rule or order specify.

16 L. "Encumbered License" means a license in which an Adverse
17 Action restricts the Practice of Cosmetology by a Licensee, or
18 where said Adverse Action has been reported to the Commission.

19 M. "Encumbrance" means a revocation or suspension of, or any
20 limitation on, the full and unrestricted Practice of Cosmetology by
21 a Licensing Authority.

22 N. "Executive Committee" means a group of commissioners
23 elected or appointed to act on behalf of, and within the powers
24 granted to them by, the Commission.

25 O. "Home State" means the Member State which is a Licensee's
26 primary state of residence, and where that Licensee holds an active
27 and unencumbered license to practice Cosmetology.

1 P. "Investigative Information" means information, records,
2 or documents received or generated by a Licensing Authority
3 pursuant to an investigation or other inquiry.

4 Q. "Jurisprudence Requirement" means the assessment of an
5 individual's knowledge of the laws and rules governing the Practice
6 of Cosmetology in a State.

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

10 S. "Licensee" means an individual who currently holds an
11 authorization from a Member State to practice as a Cosmetologist.

12 T. "Member State" means any State that has adopted this
13 Compact.

14 U. "Multistate License" means a license to practice as a
15 Cosmetologist in all Member States issued by the Licensing
16 Authority of the Licensee's Home State pursuant to this Compact.

17 V. "Remote State" means any Member State, other than the
18 Licensee's Home State.

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

21 X. "Single-State License" means a Cosmetology license
22 issued by a Member State that authorizes practice of Cosmetology
23 only within the issuing state and does not include any
24 authorization outside of the issuing state.

25 Y. "State" means a state, territory, or possession of the
26 United States and the District of Columbia.

27 Z. "State Practice Laws" means a Member State's laws, rules,

1 and regulations that govern the Practice of Cosmetology, define the
2 scope of such practice, and create the methods and grounds for
3 imposing discipline.

4 ARTICLE 3- MEMBER STATE REQUIREMENTS

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

- 7 1. License and regulate Cosmetology;
- 8 2. Have a mechanism or entity in place to receive and
9 investigate complaints about Licensees practicing in that state;
- 10 3. Require that Licensees within the State pass a
11 competency examination prior to being licensed to provide
12 Cosmetology Services to the public in that State;
- 13 4. Require that Licensees satisfy educational or
14 training requirements prior to being licensed to provide
15 Cosmetology Services to the public in that State;
- 16 5. Implement procedures for considering one or more of
17 the following categories of information from applicants for
18 licensure: criminal history; disciplinary history; or Background
19 Check. Such procedures may include the submission of information by
20 applicants for the purpose of obtaining an applicant's Background
21 Check as defined herein;
- 22 6. Participate in the Data System, including through
23 the use of unique identifying numbers;
- 24 7. Share information related to disciplinary actions
25 with the Commission and other Member States, both through the Data
26 System and otherwise;
- 27 8. Notify the Commission and other Member States, in

1 compliance with the terms of the Compact and Rules of the
2 Commission, of any Current Significant Investigative Information
3 in the State's possession regarding a Licensee practicing in that
4 State;

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

7 10. Accept Licensees from other Member States as
8 established herein.

9 B. Member States may charge a fee for granting a license to
10 practice Cosmetology.

11 C. Individuals not residing in a Member State shall continue
12 to be able to apply for a Member State's Single-State License as
13 provided under the laws of each Member State. However, the
14 Single-State License granted to these individuals shall not be
15 recognized as granting a Multistate License to provide services in
16 any other Member State.

17 D. Nothing in this Compact shall affect the requirements
18 established by a Member State for the issuance of a Single-State
19 License.

20 E. A Multistate License issued to a Licensee by a Home State
21 to a resident of that State shall be recognized by each Member State
22 as authorizing a Licensee to practice Cosmetology in each Member
23 State.

24 F. At no point shall the Commission have the power to define
25 the educational or professional requirements for a license to
26 practice Cosmetology. The Member States shall retain sole
27 jurisdiction over the provision of these requirements.

1 ARTICLE 4- MULTISTATE LICENSE PROGRAM

2 A. A Licensee who holds an active and unencumbered license
3 to practice Cosmetology in their Home State shall be entitled to
4 apply to their Home State's Licensing Authority for a Multistate
5 License.

6 B. Upon the receipt of an application for a Multistate
7 License for Cosmetology, according to the Rules of the Commission,
8 a Member State's Licensing Authority shall ascertain whether the
9 applicant meets the requirements for a Multistate License under
10 this Compact using any and all information available to the
11 Licensing Authority, including, but not limited to, information
12 uploaded to the Data System by the applicant's Home State.

13 C. If an applicant meets the requirements for a Multistate
14 License under this Compact and any Rules of the Commission, the
15 Licensing Authority in receipt of the application shall, within a
16 reasonable time, grant a Multistate License to that applicant, and
17 inform all Member States of the grant of said Multistate License.

18 D. A Multistate License to practice Cosmetology issued by a
19 Member State's Licensing Authority shall be recognized by each
20 Member State as authorizing the practice thereof as though that
21 Licensee held a Single-State License to do so in each Member State,
22 subject to the restrictions herein.

23 E. A Multistate License granted pursuant to this Compact may
24 be effective for a definite period of time, concurrent with renewal
25 of the Home State License.

26 F. To qualify for a Multistate License under this Compact,
27 and to maintain eligibility for such a license, an applicant must:

1 1. Hold an active, unencumbered license in the
2 applicant's Home State;

3 2. Be assigned and maintain a unique identifying
4 number, according to the Rules of the Commission;

5 3. Agree to abide by the rules and requirements of the
6 Licensing Authority, and the State Practice Laws, of any Member
7 State in which the applicant provides services;

8 4. Pay all required fees related to the application
9 and certification process, and any other fees which the Commission
10 may by Rule require; and

11 5. Comply with any and all other requirements
12 regarding Multistate Licenses which the Commission may by Rule
13 provide.

14 G. A Licensee providing services in a Member State must
15 comply with the State Practice Laws of the State in which the
16 services are provided, and all other applicable laws of that State.

17 H. The Practice of Cosmetology under a Multistate License
18 granted pursuant to this Compact will subject the Licensee to the
19 jurisdiction of the Licensing Authority, the courts, and the laws
20 of the Member State in which the Cosmetology Services are provided.

21 ARTICLE 5- OBTAINING A NEW HOME STATE LICENSE UNDER THE MULTISTATE
22 LICENSE

23 A. Under the Multistate Licensure Program in Article 4, a
24 Licensee may hold a Home State License in only one Member State at
25 any given time.

26 B. If a Licensee changes their Primary State of Residence by
27 moving between two Member States:

1 1. The Licensee shall file an application for
2 obtaining a new Home State License under the Multistate Licensure
3 Program pursuant to Article 4, pay all applicable fees, and notify
4 the current and new Home States in accordance with the Rules of the
5 Commission.

6 2. Upon receipt of an application for obtaining a new
7 Home State License under the Multistate Licensure Program, the new
8 Home State shall verify that the Licensee meets the criteria
9 outlined in Article 4 via the Data System, without the need for
10 primary source verification.

11 3. If required for initial licensure in that State, a
12 Member State may require an additional Background Check as
13 specified in the laws of that State, or the compliance with any
14 Jurisprudence Requirements of the new Home State.

15 4. A Licensee may hold a Multistate License, as issued
16 by their Home State, in only one Member State at a time.

17 5. If a Licensee holding a Multistate License changes
18 their primary state of residence by moving between two Member
19 States, the Licensee shall apply for licensure in the new Home
20 State, and the Multistate License issued by the prior Home State
21 will be deactivated in accordance with the applicable Rules adopted
22 by the Commission.

23 6. Notwithstanding any other provision of this
24 Compact, if a Licensee cannot meet the criteria set out in Article
25 4, then the new Home State shall use the applicable requirements for
26 a Single-State License in that State.

27 7. A Licensee shall pay all applicable fees to the new

1 Home State in order to be issued a new Home State license.

2 C. If a Licensee changes their Primary State of Residence by
3 moving from a Member State to a non-Member State, or from a
4 non-Member State to a Member State, then the State criteria shall
5 apply for the issuance of a Single-State License in the new Home
6 State.

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

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

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

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

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

26 C. Licensees operating in a Member State under a Multistate
27 License shall be subject to both the Rules and requirements of the

1 Commission and those of the Member State in which Cosmetology
2 Services are being provided.

3 D. An Adverse Action by a Member State's Licensing Authority
4 against a Licensee shall in no way limit another Member State's
5 authority to grant a Single-State License to that Licensee, or to
6 regulate such Single-State Licenses.

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

15 ARTICLE 7- ADVERSE ACTIONS

16 A. A Licensee's Home State shall have exclusive power to
17 impose an Adverse Action against Licensee's Multistate License
18 issued by the Home State.

19 B. In addition to the powers conferred by state law, each
20 Member State's Licensing Authority shall have the power to:

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

24 a. Only the Licensee's Home State shall have the
25 power to take Adverse Action against the license issued by the Home
26 State; and

27 b. For the purposes of taking Adverse Action, the

1 Home State's Licensing Authority shall give the same priority and
2 effect to reported conduct received from a Remote State as it would
3 if such conduct had occurred within the Home State. In so doing, the
4 Home State shall apply its own state laws to determine the
5 appropriate action.

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

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

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

25 5. If otherwise permitted by state law, recover from
26 the affected Licensee the costs of investigations and disposition
27 of cases resulting from any Adverse Action taken against that

1 Licensee.

2 6. Take Adverse Action based on the factual findings
3 of a Remote State, provided that the Licensing Authority follows
4 its own procedures for taking such Adverse Action.

5 C. A Licensee's Home State shall complete any pending
6 investigation(s) of a Cosmetologist who changes their Primary State
7 of Residence during the course of the investigation(s). The Home
8 State, shall also have the authority to take appropriate action(s)
9 and shall promptly report the conclusions of the investigations to
10 the Data System.

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

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

24 ARTICLE 8- ACTIVE DUTY MILITARY AND THEIR SPOUSES

25 Active Duty Military personnel, or their spouses, shall designate a
26 Home State where the individual has a current license in good
27 standing. The individual may retain their Home State designation

1 during any period of service when that individual is on active duty
2 assignment.

3 ARTICLE 9- ESTABLISHMENT OF THE COSMETOLOGY LICENSURE COMPACT
4 COMMISSION

5 A. The Compact Member States hereby create and establish a
6 joint government agency whose membership consists of all member
7 states that have enacted the compact known as the Cosmetology
8 Compact Commission. The Commission is an instrumentality of the
9 Compact States acting jointly and not an instrumentality of any one
10 state.

11 B. Membership, Voting, and Meetings

12 1. Each Member State shall have and be limited to one
13 (1) delegate selected by that Member State's State Licensing
14 Authority.

15 2. The delegate shall be an administrator of the
16 Licensing Authority of the Member State or their designee.

17 3. The Commission shall by Rule or bylaw establish a
18 term of office for delegates and may by Rule or bylaw establish term
19 limits.

20 4. The Commission may recommend removal or suspension
21 any delegate from office.

22 5. A Member State's State Licensing Authority shall
23 fill any vacancy of its delegate occurring on the Commission within
24 60 days of the vacancy.

25 6. Each delegate shall be entitled to one vote on all
26 matters before the Commission requiring a vote by Commission
27 delegates.

1 7. A delegate shall vote in person or by such other
2 means as provided in the bylaws. The bylaws may provide for
3 delegates to meet by telecommunication, videoconference, or other
4 means of communication.

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

9 C. The Commission shall have the following powers:

10 1. Establish the fiscal year of the Commission;
11 2. Establish code of conduct and conflict of interest
12 policies;

13 3. Establish and amend Rules and bylaws;

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

16 5. Meet and take such actions as are consistent with
17 the provisions of this Compact, the Commission's Rules, and the
18 bylaws;

19 6. Initiate and conclude legal proceedings or actions
20 in the name of the Commission, provided that the standing of any
21 State Licensing Board to sue or be sued under applicable law shall
22 not be affected;

23 7. Purchase and maintain insurance and bonds;

24 8. Borrow, accept, or contract for services of
25 personnel, including, but not limited to, employees of a Member
26 State;

27 9. Conduct an annual financial review

1 10. Hire employees, elect or appoint officers, fix
2 compensation, define duties, grant such individuals appropriate
3 authority to carry out the purposes of the Compact, and establish
4 the Commission's personnel policies and programs relating to
5 conflicts of interest, qualifications of personnel, and other
6 related personnel matters;

7 11. Assess and collect fees;

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

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

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

19 15. Establish a budget and make expenditures;

20 16. Borrow money;

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

26 18. Provide and receive information from, and
27 cooperate with, law enforcement agencies;

1 19. Establish and elect an Executive Committee,
2 including a chair and a vice chair;

3 20. Determine whether a State's adopted language is
4 materially different from the model compact language such that the
5 State would not qualify for participation in the Compact; and

6 21. Perform such other functions as may be necessary
7 or appropriate to achieve the purposes of this Compact.

8 D. The Executive Committee

9 1. The Executive Committee shall have the power to act
10 on behalf of the Commission according to the terms of this Compact.
11 The powers, duties, and responsibilities of the Executive Committee
12 shall include:

13 a. Oversee the day-to-day activities of the
14 administration of the compact including enforcement and compliance
15 with the provisions of the compact, its Rules and bylaws, and other
16 such duties as deemed necessary;

17 b. Recommend to the Commission changes to the
18 Rules or bylaws, changes to this Compact legislation, fees charged
19 to Compact Member States, fees charged to licensees, and other
20 fees;

21 c. Ensure Compact administration services are
22 appropriately provided, including by contract;

23 d. Prepare and recommend the budget;

24 e. Maintain financial records on behalf of the
25 Commission;

26 f. Monitor Compact compliance of Member States
27 and provide compliance reports to the Commission;

1 g. Establish additional committees as necessary;

2 h. Exercise the powers and duties of the
3 Commission during the interim between Commission meetings, except
4 for adopting or amending Rules, adopting or amending bylaws, and
5 exercising any other powers and duties expressly reserved to the
6 Commission by Rule or bylaw; and

7 i. Other duties as provided in the Rules or
8 bylaws of the Commission.

9 2. The Executive Committee shall be composed of seven
10 members:

11 a. The chair and vice chair of the Commission
12 shall be voting members of the Executive Committee; and

13 b. The Commission shall elect seven voting
14 members from the current membership of the Commission.

15 c. The Commission may elect ex-officio,
16 nonvoting members from a recognized national Cosmetology
17 professional association as approved by the Commission. The
18 Commission's bylaws shall identify qualifying organizations and
19 the manner of appointment if the number of organizations seeking to
20 appoint an ex officio member exceeds the number of members
21 specified in this section.

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

24 4. The Executive Committee shall meet at least
25 annually.

26 a. Executive Committee meetings shall be open to
27 the public, except that the Executive Committee may meet in a

1 closed, non-public meeting as provided in subsection E.2 below.

2 b. The Executive Committee shall give ten days'
3 notice of its meetings, posted on its website and as determined to
4 provide notice to persons with an interest in the business of the
5 Commission.

6 c. The Executive Committee may hold a special
7 meeting in accordance with subsection E.1.b. below.

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

10 F. Meetings of the Commission

11 1. All meetings shall be open to the public, except
12 that the Commission may meet in a closed, non-public meeting as
13 provided in subsection F.2 below.

14 a. Public notice for all meetings of the full
15 Commission of meetings shall be given in the same manner as required
16 under the Rulemaking provisions in Section 11, except that the
17 Commission may hold a special meeting as provided in subsection
18 F.1.b below.

19 b. The Commission may hold a special meeting when
20 it must meet to conduct emergency business by giving [24, 48, or
21 other] hours' notice to all commissioners, on the Commission's
22 website, and other means as provided in the Commission's rules. The
23 Commission's legal counsel shall certify that the Commission's need
24 to meet qualifies as an emergency.

25 2. The Commission or the Executive Committee or other
26 committees of the Commission may convene in a closed, non-public
27 meeting for the Commission or Executive Committee or other

1 committees of the Commission to receive legal advice or to discuss:

2 a. Non-compliance of a Member State with its
3 obligations under the Compact;

4 b. The employment, compensation, discipline or
5 other matters, practices or procedures related to specific
6 employees;

7 c. Current or threatened discipline of a Licensee
8 or by the Commission or by a Member State's Licensing Board;

9 d. Current, threatened, or reasonably
10 anticipated litigation;

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

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

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

17 h. Information of a personal nature where
18 disclosure would constitute a clearly unwarranted invasion of
19 personal privacy;

20 i. Investigative records compiled for law
21 enforcement purposes;

22 j. Information related to any investigative
23 reports prepared by or on behalf of or for use of the Commission or
24 other committee charged with responsibility of investigation or
25 determination of compliance issues pursuant to the Compact;

26 k. Matters specifically exempted from disclosure
27 by federal or Member State law; or

1 1. Other matters as promulgated by the Commission
2 by Rule.

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

7 4. The Commission shall keep minutes that fully and
8 clearly describe all matters discussed in a meeting and shall
9 provide a full and accurate summary of actions taken, and the
10 reasons therefore, including a description of the views expressed.
11 All documents considered in connection with an action shall be
12 identified in such minutes. All minutes and documents of a closed
13 meeting shall remain under seal, subject to release only by a
14 majority vote of the Commission or order of a court of competent
15 jurisdiction.

16 G. Financing of the Commission

17 1. The Commission shall pay, or provide for the
18 payment of, the reasonable expenses of its establishment,
19 organization, and ongoing activities.

20 2. The Commission may accept any and all appropriate
21 revenue sources as provided in C(12).

22 3. The Commission may levy on and collect an annual
23 assessment from each Member State and impose fees on licensees of
24 Member States to whom it grants a Multistate License to cover the
25 cost of the operations and activities of the Commission and its
26 staff, which must be in a total amount sufficient to cover its
27 annual budget as approved each year for which revenue is not

1 provided by other sources. The aggregate annual assessment amount
2 for Member States shall be allocated based upon a formula that the
3 Commission shall promulgate by Rule.

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

8 5. The Commission shall keep accurate accounts of all
9 receipts and disbursements. The receipts and disbursements of the
10 Commission shall be subject to the financial review and accounting
11 procedures established under its bylaws. However, all receipts and
12 disbursements of funds handled by the Commission shall be subject
13 to an annual financial review by a certified or licensed public
14 accountant, and the report of the financial review shall be
15 included in and become part of the annual report of the Commission.

16 H. Qualified Immunity, Defense, and Indemnification

17 1. The members, officers, executive director,
18 employees and representatives of the Commission shall be immune
19 from suit and liability, both personally and in their official
20 capacity, for any claim for damage to or loss of property or
21 personal injury or other civil liability caused by or arising out of
22 any actual or alleged act, error, or omission that occurred, or that
23 the person against whom the claim is made had a reasonable basis for
24 believing occurred within the scope of Commission employment,
25 duties or responsibilities; provided that nothing in this paragraph
26 shall be construed to protect any such person from suit or liability
27 for any damage, loss, injury, or liability caused by the

1 intentional or willful or wanton misconduct of that person. The
2 procurement of insurance of any type by the Commission shall not in
3 any way compromise or limit the immunity granted hereunder.

4 2. The Commission shall defend any member, officer,
5 executive director, employee, and representative of the Commission
6 in any civil action seeking to impose liability arising out of any
7 actual or alleged act, error, or omission that occurred within the
8 scope of Commission employment, duties, or responsibilities, or as
9 determined by the commission that the person against whom the claim
10 is made had a reasonable basis for believing occurred within the
11 scope of Commission employment, duties, or responsibilities;
12 provided that nothing herein shall be construed to prohibit that
13 person from retaining their own counsel at their own expense; and
14 provided further, that the actual or alleged act, error, or
15 omission did not result from that person's intentional or willful
16 or wanton misconduct.

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

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

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

10 6. Nothing in this Compact shall be construed to be a
11 waiver of sovereign immunity by the Member States or by the
12 Commission.

13 ARTICLE 10- DATA SYSTEM

14 A. The Commission shall provide for the development,
15 maintenance, operation, and utilization of a coordinated database
16 and reporting system containing licensure, Adverse Action, and the
17 presence of Current Significant Investigative Information on all
18 licensed individuals in Member States.

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

- 23 1. Identifying information;
- 24 2. Licensure data;
- 25 3. Adverse Actions against a license or Privilege to
26 Practice [and information related thereto];
- 27 4. Non-confidential information related to

1 Alternative Program participation, the beginning and ending dates
2 of such participation, and other information related to such
3 participation not made confidential under Member State law;

4 5. Any denial of application for licensure, and the
5 reason(s) for such denial;

6 6. The presence of Current Significant Investigative
7 Information; and

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

11 C. The information contained in the data system shall be
12 considered authentic and not hearsay in any civil action involving
13 the Commission when accompanied by a certification by the
14 Commission's data system manager concerning the authenticity of the
15 data.

16 D. Current Significant Investigative Information and
17 Investigative Information pertaining to a Licensee in any Member
18 State will only be available to other Member States.

19 E. It is the responsibility of the Member States to report
20 any Adverse Action against a Licensee. Adverse Action information
21 pertaining to a Licensee in any Member State will be available to
22 any other Member State.

23 F. Member States contributing information to the Data
24 System may designate information that may not be shared with the
25 public without the express permission of the contributing State.

26 G. Any information submitted to the Data System that is
27 subsequently expunged pursuant to federal law or the laws of the

1 Member State contributing the information shall be removed from the
2 Data System.

3 ARTICLE 11- RULEMAKING

4 A. The Commission shall promulgate reasonable Rules in
5 order to effectively and efficiently implement and administer the
6 purposes and provisions of the Compact. In addition to any other
7 applicable standard of review, in the event a court of competent
8 jurisdiction holds that the Commission exercised its Rulemaking
9 authority in a manner that is beyond the scope of the purposes of
10 the Compact, or the powers granted hereunder, then such an action by
11 the Commission shall be invalid and have no force or effect.

12 B. The Rules of the Commission shall have the force of law in
13 each Member State, provided however that where the Rules of the
14 Commission conflict with the State Practice Laws of a Member State
15 as held by a court of competent jurisdiction, the Rules of the
16 Commission shall be ineffective in that State to the extent of the
17 conflict.

18 C. The Commission shall exercise its Rulemaking powers
19 pursuant to the criteria set forth in this Section and the Rules
20 adopted thereunder. Rules and amendments shall become binding as of
21 the date specified in each Rule or amendment.

22 D. If a majority of the legislatures of the Member States
23 rejects a Rule or portion of a Rule, by enactment of a statute or
24 resolution in the same manner used to adopt the Compact within four
25 (4) years of the date of adoption of the Rule, then such Rule shall
26 have no further force and effect in any Member State.

27 E. Rules or amendments to the Rules shall be adopted at a

1 regular or special meeting of the Commission.

2 F. Prior to adoption of a proposed Rule, the Commission
3 shall hold a public hearing and allow persons to give oral testimony
4 and submit written data, facts, opinions, and arguments.

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

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

11 2. To persons who have requested notice of the
12 Commission's notices of proposed rulemaking, and

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

15 H. The Notice of Proposed Rulemaking shall include:

16 1. The time, date, and location of the public hearing
17 at which the Commission will hear testimony on the proposed Rule
18 and, if different, the time, date, and location of the meeting where
19 the Commission will consider and vote on the proposed Rule;

20 2. If the hearing is held via telecommunication, video
21 conference, or other electronic means, the Commission shall include
22 the mechanism for access to the hearing in the Notice of Proposed
23 Rulemaking;

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

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

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

3 I. Prior to adoption of a proposed Rule, the Commission
4 shall allow persons to submit written data, facts, opinions, and
5 arguments, which shall be made available to the public.

6 J. The Commission shall grant an opportunity for a public
7 hearing before it adopts a Rule or amendment if a hearing is
8 requested by:

9 1. At least twenty-five (25) persons;

10 2. A State or federal governmental subdivision or
11 agency; or

12 3. An association or organization having at least
13 twenty-five (25) members.

14 K. If a hearing is held on the proposed Rule or amendment,
15 the Commission shall publish the place, time, and date of the
16 scheduled public hearing. If the hearing is held via electronic
17 means, the Commission shall publish the mechanism for access to the
18 electronic hearing.

19 1. All persons wishing to be heard at the hearing shall
20 notify the executive director of the Commission or other designated
21 member in writing of their desire to appear and testify at the
22 hearing not less than five (5) business days before the scheduled
23 date of the hearing.

24 2. Hearings shall be conducted in a manner providing
25 each person who wishes to comment a fair and reasonable opportunity
26 to comment orally or in writing.

27 3. All hearings will be recorded. A copy of the

1 recording will be made available on request.

2 4. Nothing in this section shall be construed as
3 requiring a separate hearing on each Rule. Rules may be grouped for
4 the convenience of the Commission at hearings required by this
5 section.

6 L. Following the scheduled hearing date, or by the close of
7 business on the scheduled hearing date if the hearing was not held,
8 the Commission shall consider all written and oral comments
9 received.

10 M. If no written notice of intent to attend the public
11 hearing by interested parties is received, the Commission may
12 proceed with promulgation of the proposed Rule without a public
13 hearing.

14 N. The Commission shall, by majority vote of all members,
15 take final action on the proposed Rule and shall determine the
16 effective date of the Rule, if any, based on the Rulemaking record
17 and the full text of the Rule.

18 O. Upon determination that an emergency exists, the
19 Commission may consider and adopt an emergency Rule without prior
20 notice, opportunity for comment, or hearing, provided that the
21 usual Rulemaking procedures provided in the Compact and in this
22 Article shall be retroactively applied to the Rule as soon as
23 reasonably possible, in no event later than ninety (90) days after
24 the effective date of the Rule. For the purposes of this provision,
25 an emergency Rule is one that must be adopted immediately in order
26 to:

27 1. Meet an imminent threat to public health, safety,

1 or welfare;

2 2. Prevent a loss of Commission or Member State funds;

3 3. Meet a deadline for the promulgation of an
4 administrative Rule that is established by federal law or Rule; or

5 4. Protect public health and safety.

6 P. The Commission or authorized committee of the Commission
7 may direct revisions to a previously adopted Rule or amendment for
8 purposes of correcting typographical errors, errors in format,
9 errors in consistency, or grammatical errors. Public notice of any
10 revisions shall be posted on the website of the Commission. The
11 revision shall be subject to challenge by any person for a period of
12 thirty (30) days after posting. The revision may be challenged only
13 on grounds that the revision results in a material change to a Rule.
14 A challenge shall be made in writing and delivered to the chair of
15 the Commission prior to the end of the notice period. If not
16 challenge is made, the revision will take effect without further
17 action. If the revision is challenged, the revision may not take
18 effect with the approval of the Commission.

19 ARTICLE 12- OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

20 A. Oversight

21 1. The executive, legislative, and judicial branches
22 of State government in each Member State shall enforce this Compact
23 and take all actions necessary and appropriate to effectuate the
24 Compact's purposes and intent. The provisions of this Compact and
25 the Rules promulgated hereunder shall have standing as statutory
26 law.

27 2. All courts shall take judicial notice of the

1 Compact and the Rules in any judicial or administrative proceeding
2 in a Member State pertaining to the subject matter of this Compact
3 which may affect the powers, responsibilities, or actions of the
4 Commission.

5 3. The Commission shall be entitled to receive service
6 of process in any such proceeding, and shall have standing to
7 intervene in such a proceeding for all purposes. Failure to provide
8 service of process to the Commission shall render a judgment or
9 order void as to the Commission, this Compact, or promulgated
10 Rules.

11 B. Default, Technical Assistance, and Termination

12 1. If the Commission determines that a Member State
13 has defaulted in the performance of its obligations or
14 responsibilities under this Compact or the promulgated Rules, the
15 Commission shall:

16 a. Provide written notice to the defaulting State
17 and other Member States of the nature of the default, the proposed
18 means or curing the default and any other action to be taken by the
19 Commission; and

20 b. Provide remedial training and specific
21 technical assistance regarding the default.

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

1 during the period of default.

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

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

12 5. The Commission shall not bear any costs related to a
13 State that is found to be in default or that has been terminated
14 from the Compact, unless agreed upon in writing between the
15 Commission and the defaulting State.

16 6. The defaulting State may appeal the action of the
17 Commission by petitioning the U.S. District Court for the District
18 of Columbia or the federal district where the Commission has its
19 principal offices. The prevailing member shall be awarded all costs
20 of such litigation, including attorney's fees.

21 C. Dispute Resolution

22 1. Upon request by a Member State, the Commission
23 shall attempt to resolve disputes related to the Compact that arise
24 among Member States and between member and non-member States.

25 2. The Commission shall promulgate a Rule providing
26 for both mediation and binding dispute resolution for disputes as
27 appropriate.

1 D. Enforcement

2 1. The Commission, in the reasonable exercise of its
3 discretion, shall enforce the provisions and Rules of this Compact.

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

13 3. The remedies herein shall not be the exclusive
14 remedies of the Commission. The Commission may pursue any other
15 remedies available under federal or State law.

16 ARTICLE 13- DATE OF IMPLEMENTATION OF THE COSMETOLOGY LICENSURE
17 COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

18 A. The Compact shall come into effect on the date on which
19 the Compact statute is enacted into law in the tenth Member State.
20 The provisions, which become effective at that time, shall be
21 limited to the powers granted to the Commission relating to
22 assembly and the promulgation of Rules. Thereafter, the Commission
23 shall meet and exercise Rulemaking powers necessary to the
24 implementation and administration of this Compact.

25 B. Any State that joins the Compact subsequent to the
26 Commission's initial adoption of the Rules shall be subject to the
27 Rules as they exist on the date on which the Compact becomes law in

1 that State. Any Rule that has been previously adopted by the
2 Commission shall have the full force and effect of law on the day
3 the Compact becomes law in that State.

4 C. Any Member State may withdraw from this Compact by
5 enacting a statute repealing the same.

6 1. A Member State's withdrawal shall not take effect
7 until six (6) months after the enactment of the repealing statute.

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

13 D. Nothing contained in this Compact shall be construed to
14 invalidate or prevent any Cosmetology licensure agreement or other
15 cooperative agreement between a Member State and a non-member State
16 that does not conflict with the provisions of this Compact.

17 E. This Compact may be amended by the Member States. No
18 amendment to this Compact shall become effective and binding upon
19 any Member State until it is enacted into the laws of all Member
20 States.

21 ARTICLE 14- CONSTRUCTION AND SEVERABILITY

22 This Compact shall be liberally construed so as to effectuate the
23 purposes thereof. The provisions of this Compact shall be severable
24 and if any phrase, clause, sentence, or provision of this Compact is
25 declared to be contrary to the constitution of any Member State or
26 of the United States or the applicability thereof to any
27 government, agency, person, or circumstance is held invalid, the

1 validity of the remainder of this Compact and the applicability
2 thereof to any government, agency, person, or circumstance shall
3 not be affected thereby. If this Compact shall be held contrary to
4 the constitution of any Member State, the Compact shall remain in
5 full force and effect as to the remaining Member States and in full
6 force and effect as to the Member State affected as to all severable
7 matters.

8 ARTICLE 15- BINDING EFFECT OF COMPACT AND OTHER LAWS

9 A. A Licensee providing Cosmetology Services in a Remote
10 State under a Multistate License shall function within the laws and
11 regulations of the Remote State.

12 B. Nothing herein prevents the enforcement of any other law
13 of a Member State that is not inconsistent with this Compact.

14 C. Any laws in a Member State in conflict with this Compact
15 are superseded to the extent of the conflict.

16 D. Any lawful actions by the Commission, including all Rules
17 and bylaws promulgated by the Commission, are binding upon the
18 Member States.

19 E. All agreements between the Commission and the Member
20 States are binding in accordance with their terms.

21 F. In the event any provision of the Compact exceeds the
22 constitutional limits imposed on the legislature of any Member
23 State, the provision shall be ineffective to the extent of the
24 conflict with the constitutional provision in question in that
25 Member State.