

House Bill 153

By: Representatives Scott of the 76th, Davis of the 87th, and Schofield of the 63rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 24A of Title 43 of the Official Code of Georgia Annotated, relating to
2 massage therapy practice, so as to enter into an interstate compact known as the "Interstate
3 Massage Compact"; to authorize the Georgia Board of Massage Therapy to administer the
4 compact in this state; to provide definitions; to provide for conditions; to provide for
5 eligibility; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 24A of Title 43 of the Official Code of Georgia Annotated, relating to massage
9 therapy practice, is amended by revising paragraph (6) of Code Section 43-24A-3, relating
10 to definitions, as follows:

11 "(6) 'License' means a valid and current certificate of registration issued by the board
12 pursuant to this chapter to practice massage therapy or a multistate license issued
13 pursuant to the Interstate Massage Compact contained in Article 3 of this chapter."

SECTION 2.

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Said chapter is further amended by revising subsection (b) of Code Section 43-24A-7, relating to the powers of the Georgia Board of Massage Therapy, as follows:

“(b) The board shall have the power to:

- (1) Examine and determine the qualifications and fitness of applicants for licenses to practice massage therapy in this state;
- (2) Issue, renew, refuse to renew, deny, suspend, or revoke licenses to practice massage therapy in this state or otherwise discipline licensed massage therapists;
- (3) Conduct investigations for the purpose of discovering violations of this chapter or grounds for disciplining persons or entities acting in violation of this chapter;
- (4) Upon reasonable notice, request on-site inspections of the facility, equipment, policies, and practices of a massage therapy business or board recognized massage therapy educational program by appropriate inspectors in the Office of the Secretary of State for the purpose of determining compliance with the standards established pursuant to this chapter;
- (5) Hold hearings on all matters properly brought before the board and, in conjunction therewith, to administer oaths, receive evidence, make the necessary determinations, and enter orders consistent with the findings. The board may designate one or more of its members as its hearing officer;
- (6) Adopt, revise, and enforce rules concerning advertising by licensees including, but not limited to, rules to prohibit false, misleading, or deceptive practices;
- (7) Periodically evaluate board recognized massage therapy educational programs and license such programs that meet the board's requirements;
- (8) Develop and enforce standards for continuing education courses required of licensed massage therapists which may include courses in massage therapy or any of the modalities described in paragraphs (5) through (8) of subsection (a) of Code Section 43-24A-19;

- 41 (9) Develop and enforce reasonable and uniform standards for massage therapy
42 educational programs and massage therapy practice;
- 43 (10) Deny or withdraw recognition of noncompliant massage therapy educational
44 programs that do not meet standards established pursuant to this chapter;
- 45 (11) Appoint standing or ad hoc committees as necessary to inform and make
46 recommendations to the board about issues and concerns of the massage therapy
47 profession and to facilitate communication amongst the board, licensees under this
48 chapter, and the community, which may include nonmembers of the board;
- 49 (12) Collect and publish data regarding existing massage therapy resources in Georgia
50 without violation of any state or federal privacy laws and coordinate planning for board
51 recognized massage therapy educational programs and practice;
- 52 (13) Adopt an official seal; ~~and~~
- 53 (14) Bring proceedings to the courts for the enforcement of this chapter or any rules and
54 regulations promulgated pursuant to this chapter; and
- 55 (15) Administer the Interstate Massage Compact contained in Article 3 of this chapter."

56 **SECTION 3.**

57 Said chapter is further amended by adding a new article to read as follows:

58 "ARTICLE 3

59 43-24A-40.

60 This article shall be known and may be cited as the 'Interstate Massage Compact Act.'

61 43-24A-41.

62 The Interstate Massage Compact is enacted into law and entered into by the State of
63 Georgia with any and all other states legally joining therein in the form substantially as
64 follows:

65 INTERSTATE MASSAGE COMPACT

66 ARTICLE 1- PURPOSE

67 The purpose of this Compact is to reduce the burdens on State governments and to facilitate
68 the interstate practice and regulation of Massage Therapy with the goal of improving public
69 access to, and the safety of, Massage Therapy Services. Through this Compact, the
70 Member States seek to establish a regulatory framework which provides for a new
71 multistate licensing program. Through this additional licensing pathway, the Member
72 States seek to provide increased value and mobility to licensed massage therapists in the
73 Member States, while ensuring the provision of safe, competent, and reliable services to
74 the public.

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

77 A. Increase public access to Massage Therapy Services by providing for a multistate
78 licensing pathway;

79 B. Enhance the Member States' ability to protect the public's health and safety;

80 C. Enhance the Member States' ability to prevent human trafficking and licensure fraud;

81 D. Encourage the cooperation of Member States in regulating the multistate Practice of
82 Massage Therapy;

83 E. Support relocating military members and their spouses;

84 F. Facilitate and enhance the exchange of licensure, investigative, and disciplinary
85 information between the Member States;

- 86 G. Create an Interstate Commission that will exist to implement and administer the
87 Compact;
- 88 H. Allow a Member State to hold a Licensee accountable, even where that Licensee holds
89 a Multistate License;
- 90 I. Create a streamlined pathway for Licensees to practice in Member States, thus
91 increasing the mobility of duly licensed massage therapists; and
- 92 J. Serve the needs of licensed massage therapists and the public receiving their services;
93 however,
- 94 K. Nothing in this Compact is intended to prevent a State from enforcing its own laws
95 regarding the Practice of Massage Therapy.

96 ARTICLE 2- DEFINITIONS

97 As used in this Compact, except as otherwise provided and subject to clarification by the
98 Rules of the Commission, the following definitions shall govern the terms herein:

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

101 B. "Adverse Action" - any administrative, civil, equitable, or criminal action permitted by
102 a Member State's laws which is imposed by a Licensing Authority or other regulatory body
103 against a Licensee, including actions against an individual's Authorization to Practice such
104 as revocation, suspension, probation, surrender in lieu of discipline, monitoring of the
105 Licensee, limitation of the Licensee's practice, or any other Encumbrance on licensure
106 affecting an individual's ability to practice Massage Therapy, including the issuance of a
107 cease and desist order.

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

110 D. "Authorization to Practice" - a legal authorization by a Remote State pursuant to a
111 Multistate License permitting the Practice of Massage Therapy in that Remote State, which

112 shall be subject to the enforcement jurisdiction of the Licensing Authority in that Remote
113 State.

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

118 F. "Charter Member States" - Member States who have enacted legislation to adopt this
119 Compact where such legislation predates the effective date of this Compact as defined in
120 Article 12.

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

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

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

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

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

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

- 139 M. "Executive Committee" - a group of delegates elected or appointed to act on behalf of,
140 and within the powers granted to them by, the Commission.
- 141 N. "Home State" - means the Member State which is a Licensee's primary state of
142 residence where the Licensee holds an active Single-State License.
- 143 O. "Investigative Information" - information, records, or documents received or generated
144 by a Licensing Authority pursuant to an investigation or other inquiry.
- 145 P. "Licensing Authority" - a State's regulatory body responsible for issuing Massage
146 Therapy licenses or otherwise overseeing the Practice of Massage Therapy in that State.
- 147 Q. "Licensee" - an individual who currently holds a license from a Member State to fully
148 practice Massage Therapy, whose license is not a student, provisional, temporary, inactive,
149 or other similar status.
- 150 R. "Massage Therapy", "Massage Therapy Services", and the "Practice of Massage
151 Therapy" - the care and services provided by a Licensee as set forth in the Member State's
152 statutes and regulations in the State where the services are being provided.
- 153 S. "Member State" - any State that has adopted this Compact.
- 154 T. "Multistate License" - a license that consists of Authorizations to Practice Massage
155 Therapy in all Remote States pursuant to this Compact, which shall be subject to the
156 enforcement jurisdiction of the Licensing Authority in a Licensee's Home State.
- 157 U. "National Licensing Examination" - A national examination developed by a national
158 association of Massage Therapy regulatory boards, as defined by Commission Rule, that
159 is derived from a practice analysis and is consistent with generally accepted psychometric
160 principles of fairness, validity and reliability, and is administered under secure and
161 confidential examination protocols.
- 162 V. "Remote State" - any Member State, other than the Licensee's Home State.
- 163 W. "Rule" - any opinion or regulation promulgated by the Commission under this
164 Compact, which shall have the force of law.

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

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

170 ARTICLE 3- MEMBER STATE REQUIREMENTS

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

173 1. License and regulate the Practice of Massage Therapy;

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

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

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

181 5. Implement procedures for requiring the Background Check of applicants for a
182 Multistate License, and for the reporting of any Disqualifying Events, including but not
183 limited to obtaining and submitting, for each Licensee holding a Multistate License and
184 each applicant for a Multistate License, fingerprint or other biometric-based information
185 to the Federal Bureau of Investigation for Background Checks; receiving the results of
186 the Federal Bureau of Investigation record search on Background Checks and considering
187 the results of such a Background Check in making licensure decisions;

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

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

191 8. Notify the Commission and other Member States, in compliance with the terms of the
192 Compact and Rules of the Commission, of any disciplinary action taken by the State
193 against a Licensee practicing under a Multistate License in that State, or of the existence
194 of Investigative Information or Current Significant Investigative Information regarding
195 a Licensee practicing in that State pursuant to a Multistate License;

196 9. Comply with the Rules of the Commission;

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

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

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

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

207 ARTICLE 4- MULTISTATE LICENSE REQUIREMENTS

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

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

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

215 3. Have passed a National Licensing Examination or the substantial equivalent which the
216 Commission may approve by Rule.

- 217 4. Submit to a Background Check;
- 218 5. Have not been convicted or found guilty, or have entered into an agreed disposition,
- 219 of a felony offense under applicable State or federal criminal law, within five (5) years
- 220 prior to the date of their application, where such a time period shall not include any time
- 221 served for the offense, and provided that the applicant has completed any and all
- 222 requirements arising as a result of any such offense;
- 223 6. Have not been convicted or found guilty, or have entered into an agreed disposition,
- 224 of a misdemeanor offense related to the Practice of Massage Therapy under applicable
- 225 State or federal criminal law, within two (2) years prior to the date of their application
- 226 where such a time period shall not include any time served for the offense, and provided
- 227 that the applicant has completed any and all requirements arising as a result of any such
- 228 offense;
- 229 7. Have not been convicted or found guilty, or have entered into an agreed disposition,
- 230 of any offense, whether a misdemeanor or a felony, under State or federal law, at any
- 231 time, relating to any of the following:
- 232 a. Kidnapping;
- 233 b. Human trafficking;
- 234 c. Human smuggling;
- 235 d. Sexual battery, sexual assault, or any related offenses; or
- 236 e. Any other category of offense which the Commission may by Rule designate.
- 237 8. Have not previously held a Massage Therapy license which was revoked by, or
- 238 surrendered in lieu of discipline to an applicable Licensing Authority;
- 239 9. Have no history of any Adverse Action on any occupational or professional license
- 240 within two (2) years prior to the date of their application; and
- 241 10. Pay all required fees.
- 242 B. A Multistate License granted pursuant to this Compact may be effective for a definite
- 243 period of time concurrent with the renewal of the Home State license.

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

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

249 ARTICLE 5- AUTHORITY OF INTERSTATE MASSAGE COMPACT COMMISSION

250 AND MEMBER STATE LICENSING AUTHORITIES

251 A. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit,
252 restrict, or in any way reduce the ability of a Member State to enact and enforce laws,
253 regulations, or other rules related to the Practice of Massage Therapy in that State, where
254 those laws, regulations, or other rules are not inconsistent with the provisions of this
255 Compact.

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

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

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

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

ARTICLE 6- ADVERSE ACTIONS

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

272 B. A Home State may take Adverse Action on a Multistate License based on the
273 Investigative Information, Current Significant Investigative Information, or Adverse Action
274 of a Remote State.

275 C. A Home State shall retain authority to complete any pending investigations of a
276 Licensee practicing under a Multistate License who changes their Home State during the
277 course of such an investigation. The Licensing Authority shall also be empowered to
278 report the results of such an investigation to the Commission through the Data System as
279 described herein.

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

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

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

284 2. Issue cease and desist orders or impose an Encumbrance on a Licensee's Authorization
285 to Practice in that State.

286 3. Issue subpoenas for both hearings and investigations that require the attendance and
287 testimony of witnesses, as well as the production of evidence. Subpoenas issued by a
288 Licensing Authority in a Member State for the attendance and testimony of witnesses or
289 the production of evidence from another Member State shall be enforced in the latter
290 State by any court of competent jurisdiction, according to the practice and procedure of
291 that court applicable to subpoenas issued in proceedings before it. The issuing Licensing
292 Authority shall pay any witness fees, travel expenses, mileage, and other fees required
293 by the service statutes of the State in which the witnesses or evidence are located.

294 4. If otherwise permitted by State law, recover from the affected Licensee the costs of
295 investigations and disposition of cases resulting from any Adverse Action taken against
296 that Licensee.

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

299 F. If an Adverse Action is taken by the Home State against a Licensee's Multistate License
300 or Single-State License to practice in the Home State, the Licensee's Authorization to
301 Practice in all other Member States shall be deactivated until all Encumbrances have been
302 removed from such license. All Home State disciplinary orders that impose an Adverse
303 Action against a Licensee shall include a statement that the Massage Therapist's
304 Authorization to Practice is deactivated in all Member States during the pendency of the
305 order.

306 G. If Adverse Action is taken by a Remote State against a Licensee's Authorization to
307 Practice, that Adverse Action applies to all Authorizations to Practice in all Remote States.
308 A Licensee whose Authorization to Practice in a Remote State is removed for a specified
309 period of time is not eligible to apply for a new Multistate License in any other State until
310 the specific time for removal of the Authorization to Practice has passed and all
311 encumbrance requirements are satisfied.

312 H. Nothing in this Compact shall override a Member State's authority to accept a
313 Licensee's participation in an Alternative Program in lieu of Adverse Action. A Licensee's
314 Multistate License shall be suspended for the duration of the Licensee's participation in any
315 Alternative Program.

316 I. Joint Investigations

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

320 2. Member States shall share any investigative, litigation, or compliance materials in
321 furtherance of any joint or individual investigation initiated under the Compact.

322 ARTICLE 7- ACTIVE DUTY MILITARY AND THEIR SPOUSES

323 Active Duty Military personnel, or their spouses, shall designate a Home State where the
324 individual has a current license to practice Massage Therapy in good standing. The
325 individual may retain their Home State designation during any period of service when that
326 individual or their spouse is on active duty assignment.

327 ARTICLE 8- ESTABLISHMENT AND OPERATION OF
328 INTERSTATE MASSAGE COMPACT COMMISSION

329 A. The Compact Member States hereby create and establish a joint government agency
330 whose membership consists of all Member States that have enacted the Compact known
331 as the Interstate Massage Compact Commission. The Commission is an instrumentality
332 of the Compact States acting jointly and not an instrumentality of any one State. The
333 Commission shall come into existence on or after the effective date of the Compact as set
334 forth in Article 12.

335 B. Membership, Voting, and Meetings

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

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

340 3. The Commission shall by Rule or bylaw establish a term of office for delegates and
341 may by Rule or bylaw establish term limits.

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

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

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

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

350 C. The Commission shall have the following powers:

351 1. Establish the fiscal year of the Commission;

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

353 3. Adopt Rules and bylaws;

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

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

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

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

363 8. Purchase and maintain insurance and bonds;

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

366 10. Conduct an annual financial review;

367 11. Hire employees, elect or appoint officers, fix compensation, define duties, grant such
368 individuals appropriate authority to carry out the purposes of the Compact, and establish

369 the Commission's personnel policies and programs relating to conflicts of interest,
370 qualifications of personnel, and other related personnel matters;
371 12. Assess and collect fees;
372 13. Accept any and all appropriate gifts, donations, grants of money, other sources of
373 revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose
374 of the same; provided that at all times the Commission shall avoid any appearance of
375 impropriety or conflict of interest;
376 14. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or
377 mixed, or any undivided interest therein;
378 15. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
379 any property real, personal, or mixed;
380 16. Establish a budget and make expenditures;
381 17. Borrow money;
382 18. Appoint committees, including standing committees, composed of members, State
383 regulators, State legislators or their representatives, and consumer representatives, and
384 such other interested persons as may be designated in this Compact and the bylaws;
385 19. Accept and transmit complaints from the public, regulatory or law enforcement
386 agencies, or the Commission, to the relevant Member State(s) regarding potential
387 misconduct of Licensees;
388 20. Elect a Chair, Vice Chair, Secretary and Treasurer and such other officers of the
389 Commission as provided in the Commission's bylaws;
390 21. Establish and elect an Executive Committee, including a chair and a vice chair;
391 22. Adopt and provide to the Member States an annual report.
392 23. Determine whether a State's adopted language is materially different from the model
393 Compact language such that the State would not qualify for participation in the Compact;
394 and

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

397 D. The Executive Committee

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

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

404 b. Recommending to the Commission changes to the Rules or bylaws, changes to this
405 Compact legislation, fees charged to Compact Member States, fees charged to
406 Licensees, and other fees;

407 c. Ensuring Compact administration services are appropriately provided, including by
408 contract;

409 d. Preparing and recommending the budget;

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

411 f. Monitoring Compact compliance of Member States and providing compliance
412 reports to the Commission;

413 g. Establishing additional committees as necessary;

414 h. Exercise the powers and duties of the Commission during the interim between
415 Commission meetings, except for adopting or amending Rules, adopting or amending
416 bylaws, and exercising any other powers and duties expressly reserved to the
417 Commission by Rule or bylaw; and

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

419 2. The Executive Committee shall be composed of seven voting members and up to two
420 exofficio members as follows:

- 421 a. The chair and vice chair of the Commission and any other members of the
422 Commission who serve on the Executive Committee shall be voting members of the
423 Executive Committee; and
- 424 b. Other than the chair, vice-chair, secretary and treasurer, the Commission shall elect
425 three voting members from the current membership of the Commission.
- 426 c. The Commission may elect ex-officio, nonvoting members as necessary as follows:
- 427 i. One ex-officio member who is a representative of the national association of State
428 Massage Therapy regulatory boards
- 429 ii. One ex-officio member as specified in the Commission's bylaws.
- 430 3. The Commission may remove any member of the Executive Committee as provided
431 in the Commission's bylaws.
- 432 4. The Executive Committee shall meet at least annually.
- 433 a. Executive Committee meetings shall be open to the public, except that the Executive
434 Committee may meet in a closed, non-public session of a public meeting when dealing
435 with any of the matters covered under subsection F.4.
- 436 b. The Executive Committee shall give five business days advance notice of its public
437 meetings, posted on its website and as determined to provide notice to persons with an
438 interest in the public matters the Executive Committee intends to address at those
439 meetings.
- 440 5. The Executive Committee may hold an emergency meeting when acting for the
441 Commission to:
- 442 a. Meet an imminent threat to public health, safety, or welfare;
443 b. Prevent a loss of Commission or Participating State funds; or
444 c. Protect public health and safety.
- 445 E. The Commission shall adopt and provide to the Member States an annual report.
- 446 F. Meetings of the Commission

- 447 1. All meetings of the Commission that are not closed pursuant to this subsection shall
448 be open to the public. Notice of public meetings shall be posted on the Commission's
449 website at least thirty (30) days prior to the public meeting.
- 450 2. Notwithstanding subsection F.1 of this Article, the Commission may convene an
451 emergency public meeting by providing at least twenty-four (24) hours prior notice on
452 the Commission's website, and any other means as provided in the Commission's Rules,
453 for any of the reasons it may dispense with notice of proposed rulemaking under Article
454 10.L. The Commission's legal counsel shall certify the that one of the reasons justifying
455 an emergency public meeting has been met.
- 456 3. Notice of all Commission meetings shall provide the time, date, and location of the
457 meeting, and if the meeting is to be held or accessible via telecommunication, video
458 conference, or other electronic means, the notice shall include the mechanism for access
459 to the meeting.
- 460 4. The Commission may convene in a closed, non-public meeting for the Commission
461 to discuss:
- 462 a. Non-compliance of a Member State with its obligations under the Compact;
463 b. The employment, compensation, discipline or other matters, practices or procedures
464 related to specific employees or other matters related to the Commission's internal
465 personnel practices and procedures;
466 c. Current or threatened discipline of a Licensee by the Commission or by a Member
467 State's Licensing Authority;
468 d. Current, threatened, or reasonably anticipated litigation;
469 e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real
470 estate;
471 f. Accusing any person of a crime or formally censuring any person;
472 g. Trade secrets or commercial or financial information that is privileged or
473 confidential;

474 h. Information of a personal nature where disclosure would constitute a clearly
475 unwarranted invasion of personal privacy;

476 i. Investigative records compiled for law enforcement purposes;

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

480 k. Legal advice;

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

483 m. Other matters as promulgated by the Commission by Rule.

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

487 6. The Commission shall keep minutes that fully and clearly describe all matters
488 discussed in a meeting and shall provide a full and accurate summary of actions taken,
489 and the reasons therefore, including a description of the views expressed. All documents
490 considered in connection with an action shall be identified in such minutes. All minutes
491 and documents of a closed meeting shall remain under seal, subject to release only by a
492 majority vote of the Commission or order of a court of competent jurisdiction.

493 G. Financing of the Commission

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

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

498 3. The Commission may levy on and collect an annual assessment from each Member
499 State and impose fees on Licensees of Member States to whom it grants a Multistate
500 License to cover the cost of the operations and activities of the Commission and its staff,

501 which must be in a total amount sufficient to cover its annual budget as approved each
502 year for which revenue is not provided by other sources. The aggregate annual
503 assessment amount for Member States shall be allocated based upon a formula that the
504 Commission shall promulgate by Rule.

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

508 5. The Commission shall keep accurate accounts of all receipts and disbursements. The
509 receipts and disbursements of the Commission shall be subject to the financial review and
510 accounting procedures established under its bylaws. All receipts and disbursements of
511 funds handled by the Commission shall be subject to an annual financial review by a
512 certified or licensed public accountant, and the report of the financial review shall be
513 included in and become part of the annual report of the Commission.

514 H. Qualified Immunity, Defense, and Indemnification

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

526 2. The Commission shall defend any member, officer, executive director, employee, and
527 representative of the Commission in any civil action seeking to impose liability arising

528 out of any actual or alleged act, error, or omission that occurred within the scope of
529 Commission employment, duties, or responsibilities, or as determined by the Commission
530 that the person against whom the claim is made had a reasonable basis for believing
531 occurred within the scope of Commission employment, duties, or responsibilities;
532 provided that nothing herein shall be construed to prohibit that person from retaining their
533 own counsel at their own expense; and provided further, that the actual or alleged act,
534 error, or omission did not result from that person's intentional or willful or wanton
535 misconduct.

536 3. The Commission shall indemnify and hold harmless any member, officer, executive
537 director, employee, and representative of the Commission for the amount of any
538 settlement or judgment obtained against that person arising out of any actual or alleged
539 act, error, or omission that occurred within the scope of Commission employment, duties,
540 or responsibilities, or that such person had a reasonable basis for believing occurred
541 within the scope of Commission employment, duties, or responsibilities, provided that
542 the actual or alleged act, error, or omission did not result from the intentional or willful
543 or wanton misconduct of that person.

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

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

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

553 ARTICLE 9- DATA SYSTEM

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

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

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

561 1. Identifying information;

562 2. Licensure data;

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

564 4. Non-confidential information related to Alternative Program participation, the
565 beginning and ending dates of such participation, and other information related to such
566 participation;

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

569 6. The existence of Investigative Information;

570 7. The existence presence of Current Significant Investigative Information; and

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

573 D. The records and information provided to a Member State pursuant to this Compact or
574 through the Data System, when certified by the Commission or an agent thereof, shall
575 constitute the authenticated business records of the Commission, and shall be entitled to
576 any associated hearsay exception in any relevant judicial, quasi-judicial or administrative
577 proceedings in a Member State.

578 E. The existence of Current Significant Investigative Information and the existence of
579 Investigative Information pertaining to a Licensee in any Member State will only be
580 available to other Member States.

581 F. It is the responsibility of the Member States to report any Adverse Action against a
582 Licensee who holds a Multistate License and to monitor the database to determine whether
583 Adverse Action has been taken against such a Licensee or License applicant. Adverse
584 Action information pertaining to a Licensee or License applicant in any Member State will
585 be available to any other Member State.

586 G. Member States contributing information to the Data System may designate information
587 that may not be shared with the public without the express permission of the contributing
588 State.

589 H. Any information submitted to the Data System that is subsequently expunged pursuant
590 to federal law or the laws of the Member State contributing the information shall be
591 removed from the Data System.

592 ARTICLE 10- RULEMAKING

593 A. The Commission shall promulgate reasonable Rules in order to effectively and
594 efficiently implement and administer the purposes and provisions of the Compact. A Rule
595 shall be invalid and have no force or effect only if a court of competent jurisdiction holds
596 that the Rule is invalid because the Commission exercised its rulemaking authority in a
597 manner that is beyond the scope and purposes of the Compact, or the powers granted
598 hereunder, or based upon another applicable standard of review.

599 B. The Rules of the Commission shall have the force of law in each Member State,
600 provided however that where the Rules of the Commission conflict with the laws of the
601 Member State that establish the Member State's scope of practice as held by a court of
602 competent jurisdiction, the Rules of the Commission shall be ineffective in that State to the
603 extent of the conflict.

604 C. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth
605 in this article and the Rules adopted thereunder. Rules shall become binding as of the date
606 specified by the Commission for each Rule.

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

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

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

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

- 618 1. On the website of the Commission or other publicly accessible platform;
- 619 2. To persons who have requested notice of the Commission's notices of proposed
620 rulemaking, and
- 621 3. In such other way(s) as the Commission may by Rule specify.

622 H. The Notice of Proposed Rulemaking shall include:

- 623 1. The time, date, and location of the public hearing at which the Commission will hear
624 public comments on the proposed Rule and, if different, the time, date, and location of
625 the meeting where the Commission will consider and vote on the proposed Rule;
- 626 2. If the hearing is held via telecommunication, video conference, or other electronic
627 means, the Commission shall include the mechanism for access to the hearing in the
628 Notice of Proposed Rulemaking;
- 629 3. The text of the proposed Rule and the reason therefor;
- 630 4. A request for comments on the proposed Rule from any interested person; and

- 631 5. The manner in which interested persons may submit written comments.
- 632 I. All hearings will be recorded. A copy of the recording and all written comments and
633 documents received by the Commission in response to the proposed Rule shall be available
634 to the public.
- 635 J. Nothing in this article shall be construed as requiring a separate hearing on each Rule.
636 Rules may be grouped for the convenience of the Commission at hearings required by this
637 article.
- 638 K. The Commission shall, by majority vote of all Commissioners, take final action on the
639 proposed Rule based on the Rulemaking record.
- 640 1. The Commission may adopt changes to the proposed Rule provided the changes do
641 not enlarge the original purpose of the proposed Rule.
- 642 2. The Commission shall provide an explanation of the reasons for substantive changes
643 made to the proposed Rule as well as reasons for substantive changes not made that were
644 recommended by commenters.
- 645 3. The Commission shall determine a reasonable effective date for the Rule. Except for
646 an emergency as provided in subsection L of this article, the effective date of the Rule
647 shall be no sooner than thirty (30) days after the Commission issuing the notice that it
648 adopted or amended the Rule.
- 649 L. Upon determination that an emergency exists, the Commission may consider and adopt
650 an emergency Rule with 24 hours notice, provided that the usual Rulemaking procedures
651 provided in the Compact and in this article shall be retroactively applied to the Rule as
652 soon as reasonably possible, in no event later than ninety (90) days after the effective date
653 of the Rule. For the purposes of this provision, an emergency Rule is one that must be
654 adopted immediately to:
- 655 1. Meet an imminent threat to public health, safety, or welfare;
- 656 2. Prevent a loss of Commission or Member State funds;

657 3. Meet a deadline for the promulgation of a Rule that is established by federal law or
658 rule; or

659 4. Protect public health and safety.

660 M. The Commission or an authorized committee of the Commission may direct revisions
661 to a previously adopted Rule for purposes of correcting typographical errors, errors in
662 format, errors in consistency, or grammatical errors. Public notice of any revisions shall
663 be posted on the website of the Commission. The revision shall be subject to challenge by
664 any person for a period of thirty (30) days after posting. The revision may be challenged
665 only on grounds that the revision results in a material change to a Rule. A challenge shall
666 be made in writing and delivered to the Commission prior to the end of the notice period.
667 If no challenge is made, the revision will take effect without further action. If the revision
668 is challenged, the revision may not take effect without the approval of the Commission.

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

670 ARTICLE 11- OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

671 A. Oversight

672 1. The executive and judicial branches of State government in each Member State shall
673 enforce this Compact and take all actions necessary and appropriate to implement the
674 Compact.

675 2. Venue is proper and judicial proceedings by or against the Commission shall be
676 brought solely and exclusively in a court of competent jurisdiction where the principal
677 office of the Commission is located. The Commission may waive venue and
678 jurisdictional defenses to the extent it adopts or consents to participate in alternative
679 dispute resolution proceedings. Nothing herein shall affect or limit the selection or
680 propriety of venue in any action against a Licensee for professional malpractice,
681 misconduct or any such similar matter.

682 3. The Commission shall be entitled to receive service of process in any proceeding
683 regarding the enforcement or interpretation of the Compact and shall have standing to
684 intervene in such a proceeding for all purposes. Failure to provide the Commission
685 service of process shall render a judgment or order void as to the Commission, this
686 Compact, or promulgated Rules.

687 B. Default, Technical Assistance, and Termination

688 1. If the Commission determines that a Member State has defaulted in the performance
689 of its obligations or responsibilities under this Compact or the promulgated Rules, the
690 Commission shall provide written notice to the defaulting State. The notice of default
691 shall describe the default, the proposed means of curing the default, and any other action
692 that the Commission may take, and shall offer training and specific technical assistance
693 regarding the default.

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

696 C. If a State in default fails to cure the default, the defaulting State may be terminated from
697 the Compact upon an affirmative vote of a majority of the delegates of the Member States,
698 and all rights, privileges and benefits conferred on that State by this Compact may be
699 terminated on the effective date of termination. A cure of the default does not relieve the
700 offending State of obligations or liabilities incurred during the period of default.

701 D. Termination of membership in the Compact shall be imposed only after all other means
702 of securing compliance have been exhausted. Notice of intent to suspend or terminate shall
703 be given by the Commission to the governor, the majority and minority leaders of the
704 defaulting State's legislature, the defaulting State's State Licensing Authority and each of
705 the Member States' State Licensing Authority.

706 E. A State that has been terminated is responsible for all assessments, obligations, and
707 liabilities incurred through the effective date of termination, including obligations that
708 extend beyond the effective date of termination.

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

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

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

721 I. Dispute Resolution

722 1. Upon request by a Member State, the Commission shall attempt to resolve disputes
723 related to the Compact that arise among Member States and between Member and
724 non-Member States.

725 2. The Commission shall promulgate a Rule providing for both mediation and binding
726 dispute resolution for disputes as appropriate.

727 J. Enforcement

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

730 2. By majority vote as provided by Commission Rule, the Commission may initiate legal
731 action against a Member State in default in the United States District Court for the
732 District of Columbia or the federal district where the Commission has its principal offices
733 to enforce compliance with the provisions of the Compact and its promulgated Rules.
734 The relief sought may include both injunctive relief and damages. In the event judicial
735 enforcement is necessary, the prevailing party shall be awarded all costs of such

736 litigation, including reasonable attorney's fees. The remedies herein shall not be the
737 exclusive remedies of the Commission. The Commission may pursue any other remedies
738 available under federal or the defaulting Member State's law.

739 3. A Member State may initiate legal action against the Commission in the U.S. District
740 Court for the District of Columbia or the federal district where the Commission has its
741 principal offices to enforce compliance with the provisions of the Compact and its
742 promulgated Rules. The relief sought may include both injunctive relief and damages.
743 In the event judicial enforcement is necessary, the prevailing party shall be awarded all
744 costs of such litigation, including reasonable attorney's fees.

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

747 ARTICLE 12- EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

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

750 1. On or after the effective date of the Compact, the Commission shall convene and
751 review the enactment of each of the Charter Member States to determine if the statute
752 enacted by each such Charter Member State is materially different than the model
753 Compact statute.

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

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

759 2. Member States enacting the Compact subsequent to the Charter Member States shall
760 be subject to the process set forth in Article 8.C.23 to determine if their enactments are

761 materially different from the model Compact statute and whether they qualify for
762 participation in the Compact.

763 3. All actions taken for the benefit of the Commission or in furtherance of the purposes
764 of the administration of the Compact prior to the effective date of the Compact or the
765 Commission coming into existence shall be considered to be actions of the Commission
766 unless specifically repudiated by the Commission.

767 4. Any State that joins the Compact shall be subject to the Commission's Rules and
768 bylaws as they exist on the date on which the Compact becomes law in that State. Any
769 Rule that has been previously adopted by the Commission shall have the full force and
770 effect of law on the day the Compact becomes law in that State.

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

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

775 2. Withdrawal shall not affect the continuing requirement of the withdrawing State's
776 Licensing Authority to comply with the investigative and Adverse Action reporting
777 requirements of this Compact prior to the effective date of withdrawal.

778 3. Upon the enactment of a statute withdrawing from this Compact, a State shall
779 immediately provide notice of such withdrawal to all Licensees within that State.
780 Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing
781 State shall continue to recognize all licenses granted pursuant to this Compact for a
782 minimum of 180 days after the date of such notice of withdrawal.

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

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

789 ARTICLE 13- CONSTRUCTION AND SEVERABILITY

790 A. This Compact and the Commission's rulemaking authority shall be liberally construed
791 so as to effectuate the purposes, and the implementation and administration of the
792 Compact. Provisions of the Compact expressly authorizing or requiring the promulgation
793 of Rules shall not be construed to limit the Commission's rulemaking authority solely for
794 those purposes.

795 B. The provisions of this Compact shall be severable and if any phrase, clause, sentence
796 or provision of this Compact is held by a court of competent jurisdiction to be contrary to
797 the constitution of any Member State, a State seeking participation in the Compact, or of
798 the United States, or the applicability thereof to any government, agency, person or
799 circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity
800 of the remainder of this Compact and the applicability thereof to any other government,
801 agency, person or circumstance shall not be affected thereby.

802 C. Notwithstanding subsection B of this article, the Commission may deny a State's
803 participation in the Compact or, in accordance with the requirements of Article 11.B,
804 terminate a Member State's participation in the Compact, if it determines that a
805 constitutional requirement of a Member State is a material departure from the Compact.
806 Otherwise, if this Compact shall be held to be contrary to the constitution of any Member
807 State, the Compact shall remain in full force and effect as to the remaining Member States
808 and in full force and effect as to the Member State affected as to all severable matters.

809 ARTICLE 14- CONSISTENT EFFECT AND
810 CONFLICT WITH OTHER STATE LAWS

811 Nothing herein shall prevent or inhibit the enforcement of any other law of a Member State
812 that is not inconsistent with the Compact.

813 Any laws, statutes, regulations, or other legal requirements in a Member State in conflict
814 with the Compact are superseded to the extent of the conflict.

815 All permissible agreements between the Commission and the Member States are binding
816 in accordance with their terms."

817 **SECTION 4.**

818 All laws and parts of laws in conflict with this Act are repealed.