

House Bill 232

By: Representatives Silcox of the 53rd, Hawkins of the 27th, and Powell of the 33rd

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) Initiate 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;

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

55 **SECTION 3.**

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

57 "ARTICLE 3

58 43-24A-40.

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

60 43-24A-41.

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

64 'INTERSTATE MASSAGE COMPACT

65 ARTICLE 1- PURPOSE

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

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

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

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

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

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

82 E. Support relocating military members and their spouses;

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

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

95 ARTICLE 2- DEFINITIONS

- 96 As used in this Compact, except as otherwise provided and subject to clarification by the
97 Rules of the Commission, the following definitions shall govern the terms herein:
98 A. "Active Duty Military" - any individual in full-time duty status in the active uniformed
99 service of the United States including members of the National Guard and Reserve.
100 B. "Adverse Action" - any administrative, civil, equitable, or criminal action permitted by
101 a Member State's laws which is imposed by a Licensing Authority or other regulatory body
102 against a Licensee, including actions against an individual's Authorization to Practice such
103 as revocation, suspension, probation, surrender in lieu of discipline, monitoring of the
104 Licensee, limitation of the Licensee's practice, or any other Encumbrance on licensure
105 affecting an individual's ability to practice Massage Therapy, including the issuance of a
106 cease and desist order.
107 C. "Alternative Program" - a non-disciplinary monitoring or prosecutorial diversion
108 program approved by a Member State's Licensing Authority.
109 D. "Authorization to Practice" - a legal authorization by a Remote State pursuant to a
110 Multistate License permitting the Practice of Massage Therapy in that Remote State, which

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

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

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

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

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

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

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

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

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

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

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

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

169 ARTICLE 3- MEMBER STATE REQUIREMENTS

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

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

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

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

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

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

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

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

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

195 9. Comply with the Rules of the Commission;

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

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

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

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

206 ARTICLE 4- MULTISTATE LICENSE REQUIREMENTS

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

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

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

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

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

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

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

248 ARTICLE 5- AUTHORITY OF INTERSTATE MASSAGE COMPACT COMMISSION

249 AND MEMBER STATE LICENSING AUTHORITIES

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

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

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

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

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

268 ARTICLE 6- ADVERSE ACTIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

315 I. Joint Investigations

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

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

321 ARTICLE 7- ACTIVE DUTY MILITARY AND THEIR SPOUSES

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

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

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

334 B. Membership, Voting, and Meetings

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

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

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

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

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

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

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

349 C. The Commission shall have the following powers:

350 1. Establish the fiscal year of the Commission;

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

352 3. Adopt Rules and bylaws;

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

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

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

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

362 8. Purchase and maintain insurance and bonds;

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

365 10. Conduct an annual financial review;

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

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

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

396 D. The Executive Committee

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

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

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

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

408 d. Preparing and recommending the budget;

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

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

412 g. Establishing additional committees as necessary;

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

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

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

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

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

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

475 i. Investigative records compiled for law enforcement purposes;

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

479 k. Legal advice;

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

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

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

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

492 G. Financing of the Commission

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

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

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

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

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

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

513 H. Qualified Immunity, Defense, and Indemnification

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

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

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

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

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

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

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

552 ARTICLE 9- DATA SYSTEM

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

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

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

560 1. Identifying information;

561 2. Licensure data;

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

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

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

568 6. The existence of Investigative Information;

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

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

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

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

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

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

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

591 ARTICLE 10- RULEMAKING

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

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

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

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

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

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

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

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

621 H. The Notice of Proposed Rulemaking shall include:

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

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

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

658 4. Protect public health and safety.

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

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

669 ARTICLE 11- OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

670 A. Oversight

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

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

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

686 B. Default, Technical Assistance, and Termination

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

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

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

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

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

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

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

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

720 I. Dispute Resolution

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

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

726 J. Enforcement

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

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

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

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

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

746 ARTICLE 12- EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

788 ARTICLE 13- CONSTRUCTION AND SEVERABILITY

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

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

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

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

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

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

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

816 **SECTION 4.**

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