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HOUSE BILL NO. 2448

Offered January 13, 2025

Prefiled January 8, 2025

A BILL to amend the Code of Virginia by adding in Article 5 of Chapter 30 of Title 54.1 a section numbered 54.1-3029.2, relating to Interstate Massage Compact.

Patron—Glass

Referred to Committee on Health and Human Services

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 5 of Chapter 30 of Title 54.1 a section numbered 54.1-3029.2 as follows:

§ 54.1-3029.2. Interstate Massage Compact.

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

INTERSTATE MASSAGE COMPACT.

Article 1. Purpose.

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

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

1. Increase public access to massage therapy services by providing for a multistate licensing pathway;
2. Enhance the Member States' ability to protect the public's health and safety;
3. Enhance the Member States' ability to prevent human trafficking and licensure fraud;
4. Encourage the cooperation of Member States in regulating the multistate practice of massage therapy;
5. Support relocating military members and their spouses;
6. Facilitate and enhance the exchange of licensure, investigative, and disciplinary information between the Member States;
7. Create an Interstate Commission that will exist to implement and administer the Compact;
8. Allow a Member State to hold a licensee accountable, even where that licensee holds a multistate license;
9. Create a streamlined pathway for licensees to practice in Member States, thus increasing the mobility of duly licensed massage therapists; and
10. Serve the needs of licensed massage therapists and the public receiving their services; however, Nothing in this Compact is intended to prevent a state from enforcing its own laws regarding the practice of massage therapy.

Article 2. Definitions.

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

"Active military member" means any person with full-time duty status in the Armed Forces of the United States, including members of the National Guard and Reserve.

"Adverse action" means any administrative, civil, equitable, or criminal action permitted by a Member State's laws that is imposed by a licensing authority or other regulatory body against a licensee, including actions against an individual's authorization to practice, such as revocation, suspension, probation, surrender in lieu of discipline, monitoring of the licensee, limitation of the licensee's practice, or any other encumbrance on licensure affecting an individual's ability to practice massage therapy, including the issuance of a cease and desist order.

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

"Authorization to practice" means a legal authorization by a remote state pursuant to a multistate license permitting the practice of massage therapy in that remote state, which shall be subject to the enforcement jurisdiction of the licensing authority in that remote state.

"Background check" means the submission of an applicant's criminal history record information, as

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59 further defined in 28 C.F.R. § 20.3(d), as amended, from the Federal Bureau of Investigation and the agency
60 responsible for retaining state criminal records in the applicant's home state.

61 "Charter Member States" means Member States who have enacted legislation to adopt this Compact
62 where such legislation predates the effective date of this Compact as defined in Article 12.

63 "Commission" means the government agency whose membership consists of all states that have enacted
64 this Compact, which is known as the Interstate Massage Compact Commission, as defined in Article 8, and
65 which shall operate as an instrumentality of the Member States.

66 "Compact" means the Interstate Massage Compact.

67 "Continuing competence" means a requirement, as a condition of license renewal, to provide evidence of
68 participation in, and completion of, educational or professional activities that maintain, improve, or enhance
69 massage therapy fitness to practice.

70 "Current significant investigative information" means investigative information that a licensing authority,
71 after an inquiry or investigation that complies with a Member State's due process requirements, has reason to
72 believe is not groundless and, if proved true, would indicate a violation of that state's laws regarding the
73 practice of massage therapy.

74 "Data system" means a repository of information about licensees who hold multistate licenses, which may
75 include but is not limited to license status, investigative information, and adverse actions.

76 "Disqualifying event" means any event that shall disqualify an individual from holding a multistate
77 license under this Compact, which the Commission may by rule specify.

78 "Encumbrance" means a revocation or suspension of, or any limitation or condition on, the full and
79 unrestricted practice of massage therapy by a licensing authority.

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

82 "Home state" means the Member State that is a licensee's primary state of residence where the licensee
83 holds an active single-state license.

84 "Investigative information" means information, records, or documents received or generated by a
85 licensing authority pursuant to an investigation or other inquiry.

86 "Licensee" means an individual who currently holds a license from a Member State to fully practice
87 massage therapy, whose license is not a student, provisional, temporary, inactive, or other similar status.

88 "Licensing authority" means a state's regulatory body responsible for issuing massage therapy licenses or
89 otherwise overseeing the practice of massage therapy in that state.

90 "Massage therapy," "massage therapy services," and the "practice of massage therapy" means the care
91 and services provided by a licensee as set forth in the Member State's statutes and regulations in the state
92 where the services are being provided.

93 "Member State" means any state that has adopted this Compact.

94 "Multistate license" means a license that consists of authorizations to practice massage therapy in all
95 remote states pursuant to this Compact, which shall be subject to the enforcement jurisdiction of the licensing
96 authority in a licensee's home state.

97 "National licensing examination" means a national examination developed by a national association of
98 massage therapy regulatory boards, as defined by Commission rule, that is derived from a practice analysis
99 and is consistent with generally accepted psychometric principles of fairness, validity, and reliability and is
100 administered under secure and confidential examination protocols.

101 "Remote state" means any Member State, other than the licensee's home state.

102 "Rule" means any opinion or regulation promulgated by the Commission under this Compact, which shall
103 have the force of law.

104 "Single-state license" means a current, valid authorization issued by a Member State's licensing authority
105 allowing an individual to fully practice massage therapy, that is not a restricted, student, provisional,
106 temporary, or inactive practice authorization and authorizes practice only within the issuing state.

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

108 Article 3. Member State Requirements.

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

110 1. License and regulate the practice of massage therapy;

111 2. Have a mechanism or entity in place to receive and investigate complaints from the public, regulatory
112 or law-enforcement agencies, or the Commission about licensees practicing in that state;

113 3. Accept passage of a national licensing examination as a criterion for massage therapy licensure in that
114 state;

115 4. Require that licensees satisfy educational requirements prior to being licensed to provide massage
116 therapy services to the public in that state;

117 5. Implement procedures for requiring the background check of applicants for a multistate license, and
118 for the reporting of any disqualifying events, including but not limited to obtaining and submitting, for each
119 licensee holding a multistate license and each applicant for a multistate license, fingerprint or other

120 biometric-based information to the Federal Bureau of Investigation for background checks; receiving the
121 results of the Federal Bureau of Investigation record search on background checks and considering the
122 results of such a background check in making licensure decisions;

123 6. Have continuing competence requirements as a condition for license renewal;

124 7. Participate in the data system, including through the use of unique identifying numbers as described
125 herein;

126 8. Notify the Commission and other Member States, in compliance with the terms of the Compact and
127 rules of the Commission, of any disciplinary action taken by the state against a licensee practicing under a
128 multistate license in that state, or of the existence of investigative information or current significant
129 investigative information regarding a licensee practicing in that state pursuant to a multistate license;

130 9. Comply with the rules of the Commission;

131 10. Accept licensees with valid multistate licenses from other member states as established herein;

132 B. Individuals not residing in a Member State shall continue to be able to apply for a Member State's
133 single-state license as provided under the laws of each Member State. However, the single-state license
134 granted to those individuals shall not be recognized as granting a multistate license for massage therapy in
135 any other Member State;

136 C. Nothing in this Compact shall affect the requirements established by a Member State for the issuance
137 of a single-state license; and

138 D. A multistate license issued to a licensee shall be recognized by each remote state as an authorization to
139 practice massage therapy in each remote state.

140 Article 4. Multistate License Requirements.

141 A. To qualify for a multistate license under this Compact, and to maintain eligibility for such a license, an
142 applicant must:

143 1. Hold an active single-state license to practice massage therapy in the applicant's home state;

144 2. Have completed at least six hundred and twenty-five (625) clock hours of massage therapy education or
145 the substantial equivalent that the Commission may approve by rule.

146 3. Have passed a national licensing examination or the substantial equivalent which the Commission may
147 approve by rule.

148 4. Submit to a background check;

149 5. Have not been convicted or found guilty, or have entered into an agreed disposition, of a felony offense
150 under applicable state or federal criminal law within five (5) years prior to the date of his application, where
151 such a time period shall not include any time served for the offense, and provided that the applicant has
152 completed any and all requirements arising as a result of any such offense;

153 6. Have not been convicted or found guilty, or have entered into an agreed disposition, of a misdemeanor
154 offense related to the practice of massage therapy under applicable state or federal criminal law within two
155 (2) years prior to the date of his application, where such a time period shall not include any time served for
156 the offense, and provided that the applicant has completed any and all requirements arising as a result of any
157 such offense;

158 7. Have not been convicted or found guilty, or have entered into an agreed disposition, of any offense,
159 whether a misdemeanor or a felony, under state or federal law, at any time, relating to any of the following:

160 a. Kidnapping;

161 b. Human trafficking;

162 c. Human smuggling;

163 d. Sexual battery, sexual assault, or any related offenses; or

164 e. Any other category of offense which the Commission may by rule designate.

165 8. Have not previously held a massage therapy license that was revoked by, or surrendered in lieu of
166 discipline, to an applicable licensing authority;

167 9. Have no history of any adverse action on any occupational or professional license within two (2) years
168 prior to the date of his application; and

169 10. Pay all required fees.

170 B. A multistate license granted pursuant to this Compact may be effective for a definite period of time
171 concurrent with the renewal of the home state license.

172 C. A licensee practicing in a Member State is subject to all scope of practice laws governing massage
173 therapy services in that state.

174 D. The practice of massage therapy under a multistate license granted pursuant to this Compact will
175 subject the licensee to the jurisdiction of the licensing authority, the courts, and the laws of the Member State
176 in which the massage therapy services are provided.

177 Article 5. Authority of Interstate Massage Compact Commission Member State Licensing Authorities.

178 A. Nothing in this Compact, nor any rule of the Commission, shall be construed to limit, restrict, or in any
179 way reduce the ability of a Member State to enact and enforce laws, regulations, or other rules related to the
180 practice of massage therapy in that state, where those laws, regulations, or other rules are not inconsistent

181 with the provisions of this Compact.

182 B. Nothing in this Compact, nor any rule of the Commission, shall be construed to limit, restrict, or in any
183 way reduce the ability of a Member State to take adverse action against a licensee's single-state license to
184 practice massage therapy in that state.

185 C. Nothing in this Compact, nor any rule of the Commission, shall be construed to limit, restrict, or in any
186 way reduce the ability of a remote state to take adverse action against a licensee's authorization to practice
187 in that state.

188 D. Nothing in this Compact, nor any rule of the Commission, shall be construed to limit, restrict, or in any
189 way reduce the ability of a licensee's home state to take adverse action against a licensee's multistate license
190 based upon information provided by a remote state.

191 E. Insofar as practical, a Member State's licensing authority shall cooperate with the Commission and
192 with each entity exercising independent regulatory authority over the practice of massage therapy according
193 to the provisions of this Compact.

194 Article 6. Adverse Actions.

195 A. A licensee's home state shall have exclusive power to impose an adverse action against a licensee's
196 multistate license issued by the home state.

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

199 C. A home state shall retain authority to complete any pending investigations of a licensee practicing
200 under a multistate license who changes his home state during the course of such an investigation. The
201 licensing authority shall also be empowered to report the results of such an investigation to the Commission
202 through the data system as described herein.

203 D. Any Member State may investigate actual or alleged violations of the scope of practice laws in any
204 other Member State for a massage therapist who holds a multistate license.

205 E. A remote state shall have the authority to:

206 1. Take adverse actions against a licensee's authorization to practice;

207 2. Issue cease and desist orders or impose an encumbrance on a licensee's authorization to practice in
208 that state.

209 3. Issue subpoenas for both hearings and investigations that require the attendance and testimony of
210 witnesses, as well as the production of evidence. Subpoenas issued by a licensing authority in a Member State
211 for the attendance and testimony of witnesses or the production of evidence from another Member State shall
212 be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure
213 of that court applicable to subpoenas issued in proceedings before it. The issuing licensing authority shall
214 pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in
215 which the witnesses or evidence are located.

216 4. If otherwise permitted by state law, recover from the affected licensee the costs of investigations and
217 disposition of cases resulting from any adverse action taken against that licensee.

218 5. Take adverse action against the licensee's authorization to practice in that state based on the factual
219 findings of another Member State.

220 F. If an adverse action is taken by the home state against a licensee's multistate license or single-state
221 license to practice in the home state, the licensee's authorization to practice in all other Member States shall
222 be deactivated until all encumbrances have been removed from such license. All home state disciplinary
223 orders that impose an adverse action against a licensee shall include a statement that the massage therapist's
224 authorization to practice is deactivated in all Member States during the pendency of the order.

225 G. If adverse action is taken by a remote state against a licensee's authorization to practice, that adverse
226 action applies to all authorizations to practice in all remote states. A licensee whose authorization to practice
227 in a remote state is removed for a specified period of time is not eligible to apply for a new multistate license
228 in any other state until the specific time for removal of the authorization to practice has passed and all
229 encumbrance requirements are satisfied.

230 H. Nothing in this Compact shall override a Member State's authority to accept a licensee's participation
231 in an alternative program in lieu of adverse action. A licensee's multistate license shall be suspended for the
232 duration of the licensee's participation in any alternative program.

233 I. Joint Investigations.

234 1. In addition to the authority granted to a Member State by its respective scope of practice laws or other
235 applicable state law, a Member State may participate with other Member States in joint investigations of
236 licensees.

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

239 Article 7. Active Military Members and Their Spouses.

240 Active military members, or their spouses, shall designate a home state where the individual has a current
241 license to practice massage therapy in good standing. The individual may retain his home state designation

242 during any period of service when that individual or his spouse is on active duty assignment.

243 Article 8. Establishment and Operation of Interstate Massage Compact Commission.

244 A. The Compact Member States hereby create and establish a joint government agency whose
245 membership consists of all Member States that have enacted the Compact known as the Interstate Massage
246 Compact Commission. The Commission is an instrumentality of the Compact States acting jointly and not an
247 instrumentality of any one state. The Commission shall come into existence on or after the effective date of
248 the Compact as set forth in Article 12.

249 B. Membership, voting, and meetings.

250 1. Each Member State shall have and be limited to one (1) delegate selected by that Member State's state
251 licensing authority.

252 2. The delegate shall be the primary administrative officer of the state licensing authority or his designee.

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

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

256 5. A Member State's state licensing authority shall fill any vacancy of its delegate occurring on the
257 Commission within 60 days of the vacancy.

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

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

262 C. The Commission shall have the following powers:

263 1. Establish the fiscal year of the Commission;

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

265 3. Adopt rules and bylaws;

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

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

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

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

273 8. Purchase and maintain insurance and bonds;

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

276 10. Conduct an annual financial review;

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

281 12. Assess and collect fees;

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

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

287 15. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real,
288 personal, or mixed;

289 16. Establish a budget and make expenditures;

290 17. Borrow money;

291 18. Appoint committees, including standing committees, composed of members, state regulators, state
292 legislators or their representatives, and consumer representatives, and such other interested persons as may
293 be designated in this Compact and the bylaws;

294 19. Accept and transmit complaints from the public, regulatory or law-enforcement agencies, or the
295 Commission, to the relevant Member State(s) regarding potential misconduct of licensees;

296 20. Elect a chair, vice chair, secretary, and treasurer and such other officers of the Commission as
297 provided in the Commission's bylaws;

298 21. Establish and elect an Executive Committee, including a chair and a vice chair;

299 22. Adopt and provide to the Member States an annual report.

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

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

303 *Compact.*

304 *D. The Executive Committee.*

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

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

310 *b. Recommending to the Commission changes to the rules or bylaws, changes to this Compact legislation,*
311 *fees charged to Compact Member States, fees charged to licensees, and other fees;*

312 *c. Ensuring Compact administration services are appropriately provided, including by contract;*

313 *d. Preparing and recommending the budget;*

314 *e. Maintaining financial records on behalf of the Commission;*

315 *f. Monitoring Compact compliance of Member States and providing compliance reports to the*
316 *Commission;*

317 *g. Establishing additional committees as necessary;*

318 *h. Exercise the powers and duties of the Commission during the interim between Commission meetings,*
319 *except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and*
320 *duties expressly reserved to the Commission by rule or bylaw; and*

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

322 *2. The Executive Committee shall be composed of seven voting members and up to two ex-officio members*
323 *as follows:*

324 *a. The chair and vice chair of the Commission and any other members of the Commission who serve on*
325 *the Executive Committee shall be voting members of the Executive Committee; and*

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

328 *c. The Commission may elect ex-officio, nonvoting members as necessary as follows:*

329 *(1) One ex-officio member who is a representative of the national association of state massage therapy*
330 *regulatory boards; and*

331 *(2) One ex-officio member as specified in the Commission's bylaws.*

332 *3. The Commission may remove any member of the Executive Committee as provided in the Commission's*
333 *bylaws.*

334 *4. The Executive Committee shall meet at least annually.*

335 *a. Executive Committee meetings shall be open to the public, except that the Executive Committee may*
336 *meet in a closed, non-public session of a public meeting when dealing with any of the matters covered under*
337 *subdivision F 4.*

338 *b. The Executive Committee shall give five business days advance notice of its public meetings, posted on*
339 *its website and as determined to provide notice to persons with an interest in the public matters the Executive*
340 *Committee intends to address at those meetings.*

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

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

343 *b. Prevent a loss of Commission or participating state funds; or*

344 *c. Protect public health and safety.*

345 *E. The Commission shall adopt and provide to the Member States an annual report.*

346 *F. Meetings of the Commission.*

347 *1. All meetings of the Commission that are not closed pursuant to this subsection shall be open to the*
348 *public. Notice of public meetings shall be posted on the Commission's website at least thirty (30) days prior*
349 *to the public meeting.*

350 *2. Notwithstanding subdivision 1, the Commission may convene an emergency public meeting by*
351 *providing at least twenty-four (24) hours' prior notice on the Commission's website, and any other means as*
352 *provided in the Commission's rules, for any of the reasons it may dispense with notice of proposed*
353 *rulemaking under subsection L of Article 10. The Commission's legal counsel shall certify that one of the*
354 *reasons justifying an emergency public meeting has been met.*

355 *3. Notice of all Commission meetings shall provide the time, date, and location of the meeting, and if the*
356 *meeting is to be held or accessible via telecommunication, video conference, or other electronic means, the*
357 *notice shall include the mechanism for access to the meeting.*

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

359 *a. Non-compliance of a Member State with its obligations under the Compact;*

360 *b. The employment, compensation, or discipline or other matters, practices, or procedures related to*
361 *specific employees or other matters related to the Commission's internal personnel practices and procedures;*

362 *c. Current or threatened discipline of a licensee by the Commission or by a Member State's licensing*
363 *authority;*

364 *d. Current, threatened, or reasonably anticipated litigation;*

- 365 e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
 366 f. Accusing any person of a crime or formally censuring any person;
 367 g. Trade secrets or commercial or financial information that is privileged or confidential;
 368 h. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of
 369 personal privacy;
 370 i. Investigative records compiled for law-enforcement purposes;
 371 j. Information related to any investigative reports prepared by or on behalf of or for use of the
 372 Commission or other committee charged with responsibility of investigation or determination of compliance
 373 issues pursuant to the Compact;
 374 k. Legal advice;
 375 l. Matters specifically exempted from disclosure to the public by federal or Member State law; or
 376 m. Other matters as promulgated by the Commission by rule.
- 377 5. If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be
 378 closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.
- 379 6. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting
 380 and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a
 381 description of the views expressed. All documents considered in connection with an action shall be identified
 382 in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release
 383 only by a majority vote of the Commission or order of a court of competent jurisdiction.
- 384 G. Financing of the Commission.
- 385 1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment,
 386 organization, and ongoing activities.
- 387 2. The Commission may accept any and all appropriate sources of revenue, donations, and grants of
 388 money, equipment, supplies, materials, and services.
- 389 3. The Commission may levy on and collect an annual assessment from each Member State and impose
 390 fees on licensees of Member States to whom it grants a multistate license to cover the cost of the operations
 391 and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual
 392 budget as approved each year for which revenue is not provided by other sources. The aggregate annual
 393 assessment amount for Member States shall be allocated based upon a formula that the Commission shall
 394 promulgate by rule.
- 395 4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet
 396 the same, nor shall the Commission pledge the credit of any Member States, except by and with the authority
 397 of the Member State.
- 398 5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and
 399 disbursements of the Commission shall be subject to the financial review and accounting procedures
 400 established under its bylaws. All receipts and disbursements of funds handled by the Commission shall be
 401 subject to an annual financial review by a certified or licensed public accountant, and the report of the
 402 financial review shall be included in and become part of the annual report of the Commission.
- 403 H. Qualified immunity, defense, and indemnification.
- 404 1. The members, officers, executive director, employees, and representatives of the Commission shall be
 405 immune from suit and liability, both personally and in their official capacity, for any claim for damage to or
 406 loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged
 407 act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable
 408 basis for believing occurred, within the scope of Commission employment, duties, or responsibilities,
 409 provided that nothing in this subdivision shall be construed to protect any such person from suit or liability
 410 for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that
 411 person. The procurement of insurance of any type by the Commission shall not in any way compromise or
 412 limit the immunity granted hereunder.
- 413 2. The Commission shall defend any member, officer, executive director, employee, and representative of
 414 the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error,
 415 or omission that occurred within the scope of Commission employment, duties, or responsibilities, or as
 416 determined by the Commission that the person against whom the claim is made had a reasonable basis for
 417 believing occurred within the scope of Commission employment, duties, or responsibilities, provided that
 418 nothing herein shall be construed to prohibit that person from retaining his own counsel at his own expense,
 419 and provided further, that the actual or alleged act, error, or omission did not result from that person's
 420 intentional or willful or wanton misconduct.
- 421 3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee,
 422 and representative of the Commission for the amount of any settlement or judgment obtained against that
 423 person arising out of any actual or alleged act, error, or omission that occurred within the scope of
 424 Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing
 425 occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or

426 *alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that*
 427 *person.*

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

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

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

435 *Article 9. Data System.*

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

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

440 *C. Notwithstanding any other provision of state law to the contrary, a Member State shall submit a*
 441 *uniform data set to the data system on all individuals to whom this Compact is applicable as required by the*
 442 *rules of the Commission, including:*

443 *1. Identifying information;*

444 *2. Licensure data;*

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

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

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

450 *6. The existence of investigative information;*

451 *7. The existence or presence of current significant investigative information; and*

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

454 *D. The records and information provided to a Member State pursuant to this Compact or through the data*
 455 *system, when certified by the Commission or an agent thereof, shall constitute the authenticated business*
 456 *records of the Commission and shall be entitled to any associated hearsay exception in any relevant judicial,*
 457 *quasi-judicial or administrative proceedings in a Member State.*

458 *E. The existence of current significant investigative information and the existence of investigative*
 459 *information pertaining to a licensee in any Member State will only be available to other Member States.*

460 *F. It is the responsibility of the Member States to report any adverse action against a licensee who holds a*
 461 *multistate license and to monitor the database to determine whether adverse action has been taken against*
 462 *such a licensee or license applicant. Adverse action information pertaining to a licensee or license applicant*
 463 *in any Member State will be available to any other Member State.*

464 *G. Member States contributing information to the data system may designate information that may not be*
 465 *shared with the public without the express permission of the contributing state.*

466 *H. Any information submitted to the data system that is subsequently expunged pursuant to federal law or*
 467 *the laws of the Member State contributing the information shall be removed from the data system.*

468 *Article 10. Rulemaking.*

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

474 *B. The rules of the Commission shall have the force of law in each Member State, provided however that*
 475 *where the rules of the Commission conflict with the laws of the Member State that establish the Member State*
 476 *'s scope of practice as held by a court of competent jurisdiction, the rules of the Commission shall be*
 477 *ineffective in that state to the extent of the conflict.*

478 *C. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article*
 479 *and the rules adopted thereunder. Rules shall become binding as of the date specified by the Commission for*
 480 *each rule.*

481 *D. If a majority of the legislatures of the Member States rejects a rule or portion of a rule, by enactment*
 482 *of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of*
 483 *adoption of the rule, then such rule shall have no further force and effect in any Member State or to any state*
 484 *applying to participate in the Compact.*

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

486 *F. Prior to adoption of a proposed rule, the Commission shall hold a public hearing and allow persons to*

487 provide oral and written comments, data, facts, opinions, and arguments.

488 G. Prior to adoption of a proposed rule by the Commission, and at least thirty (30) days in advance of the
489 meeting at which the Commission will hold a public hearing on the proposed rule, the Commission shall
490 provide a notice of proposed rulemaking:

- 491 1. On the website of the Commission or other publicly accessible platform;
- 492 2. To persons who have requested notice of the Commission's notices of proposed rulemaking; and
- 493 3. In such other way(s) as the Commission may by rule specify.

494 H. The notice of proposed rulemaking shall include:

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

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

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

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

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

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

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

507 K. The Commission shall, by majority vote of all commissioners, take final action on the proposed rule
508 based on the rulemaking record.

509 1. The Commission may adopt changes to the proposed rule provided the changes do not enlarge the
510 original purpose of the proposed rule.

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

513 3. The Commission shall determine a reasonable effective date for the rule. Except for an emergency as
514 provided in subsection L, the effective date of the rule shall be no sooner than thirty (30) days after the
515 Commission issuing the notice that it adopted or amended the rule.

516 L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency
517 rule with 24 hours' notice, provided that the usual rulemaking procedures provided in the Compact and in
518 this article shall be retroactively applied to the rule as soon as reasonably possible, in no event later than
519 ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is
520 one that must be adopted immediately to:

521 1. Meet an imminent threat to public health, safety, or welfare;

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

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

524 4. Protect public health and safety.

525 M. The Commission or an authorized committee of the Commission may direct revisions to a previously
526 adopted rule for purposes of correcting typographical errors, errors in format, errors in consistency, or
527 grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The
528 revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision
529 may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall
530 be made in writing and delivered to the Commission prior to the end of the notice period. If no challenge is
531 made, the revision will take effect without further action. If the revision is challenged, the revision may not
532 take effect without the approval of the Commission.

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

534 Article 11. Oversight, Dispute Resolution, and Enforcement.

535 A. Oversight.

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

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

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

547 B. Default, technical assistance, and termination.

548 1. If the Commission determines that a Member State has defaulted in the performance of its obligations

549 or responsibilities under this Compact or the promulgated rules, the Commission shall provide written notice
 550 to the defaulting state. The notice of default shall describe the default, the proposed means of curing the
 551 default, and any other action that the Commission may take and shall offer training and specific technical
 552 assistance regarding the default.

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

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

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

563 E. a state that has been terminated is responsible for all assessments, obligations, and liabilities incurred
 564 through the effective date of termination, including obligations that extend beyond the effective date of
 565 termination.

566 F. Upon the termination of a state's membership from this Compact, that state shall immediately provide
 567 notice to all licensees who hold a multistate license within that state of such termination. The terminated state
 568 shall continue to recognize all licenses granted pursuant to this Compact for a minimum of one hundred
 569 eighty (180) days after the date of said notice of termination.

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

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

576 I. Dispute resolution.

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

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

581 J. Enforcement.

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

584 2. By majority vote as provided by Commission rule, the Commission may initiate legal action against a
 585 Member State in default in the United States District Court for the District of Columbia or the federal district
 586 where the Commission has its principal offices to enforce compliance with the provisions of the Compact and
 587 its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial
 588 enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including
 589 reasonable attorney fees. The remedies herein shall not be the exclusive remedies of the Commission. The
 590 Commission may pursue any other remedies available under federal or the defaulting Member State's law.

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

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

597 Article 12. Effective Date, Withdrawal, and Amendment.

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

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

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

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

608 2. Member States enacting the Compact subsequent to the Charter Member States shall be subject to the
 609 process set forth in subdivision C 23 of Article 8 to determine if their enactments are materially different

610 from the model Compact statute and whether they qualify for participation in the Compact.

611 3. All actions taken for the benefit of the Commission or in furtherance of the purposes of the
612 administration of the Compact prior to the effective date of the Compact or the Commission coming into
613 existence shall be considered to be actions of the Commission unless specifically repudiated by the
614 Commission.

615 4. Any state that joins the Compact shall be subject to the Commission's rules and bylaws as they exist on
616 the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the
617 Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

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

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

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

625 3. Upon the enactment of a statute withdrawing from this Compact, a state shall immediately provide
626 notice of such withdrawal to all licensees within that state. Notwithstanding any subsequent statutory
627 enactment to the contrary, such withdrawing state shall continue to recognize all licenses granted pursuant
628 to this Compact for a minimum of one hundred eighty (180) days after the date of such notice of withdrawal.

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

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

634 Article 13. Construction and Severability.

635 A. This Compact and the Commission's rulemaking authority shall be liberally construed so as to
636 effectuate the purposes and the implementation and administration of the Compact. Provisions of the
637 Compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the
638 Commission's rulemaking authority solely for those purposes.

639 B. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of
640 this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any Member
641 State, a state seeking participation in the Compact, or of the United States, or the applicability thereof to any
642 government, agency, person, or circumstance is held to be unconstitutional by a court of competent
643 jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any other
644 government, agency, person, or circumstance shall not be affected thereby.

645 C. Notwithstanding subsection B, the Commission may deny a state's participation in the Compact or, in
646 accordance with the requirements of subsection B of Article 11, terminate a Member State's participation in
647 the Compact, if it determines that a constitutional requirement of a Member State is a material departure
648 from the Compact. Otherwise, if this Compact shall be held to be contrary to the constitution of any Member
649 State, the Compact shall remain in full force and effect as to the remaining Member States and in full force
650 and effect as to the Member State affected as to all severable matters.

651 Article 14. Consistent Effect and Conflict With Other State Laws.

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

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

656 All permissible agreements between the Commission and the Member States are binding in accordance
657 with their terms.

658 2. That any applicant for a multistate license shall pay the costs of performing any background check
659 required by the Interstate Massage Compact, as entered into by this act.

660 3. Pursuant to Article 12 of § 54.1-3029.2 of the Code of Virginia, as created by this act, the Interstate
661 Massage Compact (the Compact) shall become effective on the date the Compact is enacted by a
662 seventh participating state or upon the effective date of this act, whichever is later.