

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Article 5 of Chapter 30 of Title 54.1 a section numbered*  
 3 *54.1-3029.2, relating to Interstate Massage Compact.*

4 [H 2448]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**  
 7 **1. That the Code of Virginia is amended by adding in Article 5 of Chapter 30 of Title 54.1 a section**  
 8 **numbered 54.1-3029.2 as follows:**

9 **§ 54.1-3029.2. Interstate Massage Compact.**

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

13 **INTERSTATE MASSAGE COMPACT.**14 **Article 1. Purpose.**

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

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

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

38 **Article 2. Definitions.**

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

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

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

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

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

54 *"Background check" means the submission of an applicant's criminal history record information, as*  
 55 *further defined in 28 C.F.R. § 20.3(d), as amended, from the Federal Bureau of Investigation and the agency*  
 56 *responsible for retaining state criminal records in the applicant's home state.*

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

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

62 *"Compact" means the Interstate Massage Compact.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

104 *Article 3. Member State Requirements.*

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

106 *1. License and regulate the practice of massage therapy;*  
107 *2. Have a mechanism or entity in place to receive and investigate complaints from the public, regulatory*  
108 *or law-enforcement agencies, or the Commission about licensees practicing in that state;*

109 *3. Accept passage of a national licensing examination as a criterion for massage therapy licensure in that*  
110 *state;*

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

113 *5. Implement procedures for requiring the background check of applicants for a multistate license, and*  
114 *for the reporting of any disqualifying events, including but not limited to obtaining and submitting, for each*  
115 *licensee holding a multistate license and each applicant for a multistate license, fingerprint or other*  
116 *biometric-based information to the Federal Bureau of Investigation for background checks; receiving the*  
117 *results of the Federal Bureau of Investigation record search on background checks and considering the*  
118 *results of such a background check in making licensure decisions;*

- 119 6. Have continuing competence requirements as a condition for license renewal;
- 120 7. Participate in the data system, including through the use of unique identifying numbers as described
- 121 herein;
- 122 8. Notify the Commission and other Member States, in compliance with the terms of the Compact and
- 123 rules of the Commission, of any disciplinary action taken by the state against a licensee practicing under a
- 124 multistate license in that state, or of the existence of investigative information or current significant
- 125 investigative information regarding a licensee practicing in that state pursuant to a multistate license;
- 126 9. Comply with the rules of the Commission;
- 127 10. Accept licensees with valid multistate licenses from other member states as established herein;
- 128 B. Individuals not residing in a Member State shall continue to be able to apply for a Member State's
- 129 single-state license as provided under the laws of each Member State. However, the single-state license
- 130 granted to those individuals shall not be recognized as granting a multistate license for massage therapy in
- 131 any other Member State;
- 132 C. Nothing in this Compact shall affect the requirements established by a Member State for the issuance
- 133 of a single-state license; and
- 134 D. A multistate license issued to a licensee shall be recognized by each remote state as an authorization to
- 135 practice massage therapy in each remote state.
- 136 Article 4. Multistate License Requirements.
- 137 A. To qualify for a multistate license under this Compact, and to maintain eligibility for such a license, an
- 138 applicant must:
- 139 1. Hold an active single-state license to practice massage therapy in the applicant's home state;
- 140 2. Have completed at least six hundred and twenty-five (625) clock hours of massage therapy education or
- 141 the substantial equivalent that the Commission may approve by rule.
- 142 3. Have passed a national licensing examination or the substantial equivalent which the Commission may
- 143 approve by rule.
- 144 4. Submit to a background check;
- 145 5. Have not been convicted or found guilty, or have entered into an agreed disposition, of a felony offense
- 146 under applicable state or federal criminal law within five (5) years prior to the date of his application, where
- 147 such a time period shall not include any time served for the offense, and provided that the applicant has
- 148 completed any and all requirements arising as a result of any such offense;
- 149 6. Have not been convicted or found guilty, or have entered into an agreed disposition, of a misdemeanor
- 150 offense related to the practice of massage therapy under applicable state or federal criminal law within two
- 151 (2) years prior to the date of his application, where such a time period shall not include any time served for
- 152 the offense, and provided that the applicant has completed any and all requirements arising as a result of any
- 153 such offense;
- 154 7. Have not been convicted or found guilty, or have entered into an agreed disposition, of any offense,
- 155 whether a misdemeanor or a felony, under state or federal law, at any time, relating to any of the following:
- 156 a. Kidnapping;
- 157 b. Human trafficking;
- 158 c. Human smuggling;
- 159 d. Sexual battery, sexual assault, or any related offenses; or
- 160 e. Any other category of offense which the Commission may by rule designate.
- 161 8. Have not previously held a massage therapy license that was revoked by, or surrendered in lieu of
- 162 discipline, to an applicable licensing authority;
- 163 9. Have no history of any adverse action on any occupational or professional license within two (2) years
- 164 prior to the date of his application; and
- 165 10. Pay all required fees.
- 166 B. A multistate license granted pursuant to this Compact may be effective for a definite period of time
- 167 concurrent with the renewal of the home state license.
- 168 C. A licensee practicing in a Member State is subject to all scope of practice laws governing massage
- 169 therapy services in that state.
- 170 D. The practice of massage therapy under a multistate license granted pursuant to this Compact will
- 171 subject the licensee to the jurisdiction of the licensing authority, the courts, and the laws of the Member State
- 172 in which the massage therapy services are provided.
- 173 Article 5. Authority of Interstate Massage Compact Commission Member State Licensing Authorities.
- 174 A. Nothing in this Compact, nor any rule of the Commission, shall be construed to limit, restrict, or in any
- 175 way reduce the ability of a Member State to enact and enforce laws, regulations, or other rules related to the
- 176 practice of massage therapy in that state, where those laws, regulations, or other rules are not inconsistent
- 177 with the provisions of this Compact.
- 178 B. 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 take adverse action against a licensee's single-state license to
- 180 practice massage therapy in that state.

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

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

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

#### 190 Article 6. Adverse Actions.

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

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

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

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

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

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

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

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

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

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

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

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

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

229 I. Joint Investigations.

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

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

#### 235 Article 7. Active Military Members and Their Spouses.

236 Active military members, or their spouses, shall designate a home state where the individual has a current  
 237 license to practice massage therapy in good standing. The individual may retain his home state designation  
 238 during any period of service when that individual or his spouse is on active duty assignment.

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

240 A. The Compact Member States hereby create and establish a joint government agency whose  
 241 membership consists of all Member States that have enacted the Compact known as the Interstate Massage  
 242 Compact Commission. The Commission is an instrumentality of the Compact States acting jointly and not an

243 instrumentality of any one state. The Commission shall come into existence on or after the effective date of  
 244 the Compact as set forth in Article 12.

245 B. Membership, voting, and meetings.

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

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

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

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

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

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

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

258 C. The Commission shall have the following powers:

259 1. Establish the fiscal year of the Commission;

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

261 3. Adopt rules and bylaws;

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

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

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

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

269 8. Purchase and maintain insurance and bonds;

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

272 10. Conduct an annual financial review;

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

277 12. Assess and collect fees;

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

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

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

285 16. Establish a budget and make expenditures;

286 17. Borrow money;

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

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

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

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

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

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

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

300 D. The Executive Committee.

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

303 a. Overseeing the day-to-day activities of the administration of the Compact including compliance with  
 304 the provisions of the Compact, the Commission's rules and bylaws, and other such duties as deemed

- 305 necessary;
- 306 *b. Recommending to the Commission changes to the rules or bylaws, changes to this Compact legislation,*
- 307 *fees charged to Compact Member States, fees charged to licensees, and other fees;*
- 308 *c. Ensuring Compact administration services are appropriately provided, including by contract;*
- 309 *d. Preparing and recommending the budget;*
- 310 *e. Maintaining financial records on behalf of the Commission;*
- 311 *f. Monitoring Compact compliance of Member States and providing compliance reports to the*
- 312 *Commission;*
- 313 *g. Establishing additional committees as necessary;*
- 314 *h. Exercise the powers and duties of the Commission during the interim between Commission meetings,*
- 315 *except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and*
- 316 *duties expressly reserved to the Commission by rule or bylaw; and*
- 317 *i. Other duties as provided in the rules or bylaws of the Commission.*
- 318 *2. The Executive Committee shall be composed of seven voting members and up to two ex-officio members*
- 319 *as follows:*
- 320 *a. The chair and vice chair of the Commission and any other members of the Commission who serve on*
- 321 *the Executive Committee shall be voting members of the Executive Committee; and*
- 322 *b. Other than the chair, vice-chair, secretary, and treasurer, the Commission shall elect three voting*
- 323 *members from the current membership of the Commission; and*
- 324 *c. The Commission may elect ex-officio, nonvoting members as necessary as follows:*
- 325 *(1) One ex-officio member who is a representative of the national association of state massage therapy*
- 326 *regulatory boards; and*
- 327 *(2) One ex-officio member as specified in the Commission's bylaws.*
- 328 *3. The Commission may remove any member of the Executive Committee as provided in the Commission's*
- 329 *bylaws.*
- 330 *4. The Executive Committee shall meet at least annually.*
- 331 *a. Executive Committee meetings shall be open to the public, except that the Executive Committee may*
- 332 *meet in a closed, non-public session of a public meeting when dealing with any of the matters covered under*
- 333 *subdivision F 4.*
- 334 *b. The Executive Committee shall give five business days advance notice of its public meetings, posted on*
- 335 *its website and as determined to provide notice to persons with an interest in the public matters the Executive*
- 336 *Committee intends to address at those meetings.*
- 337 *5. The Executive Committee may hold an emergency meeting when acting for the Commission to:*
- 338 *a. Meet an imminent threat to public health, safety, or welfare;*
- 339 *b. Prevent a loss of Commission or participating state funds; or*
- 340 *c. Protect public health and safety.*
- 341 *E. The Commission shall adopt and provide to the Member States an annual report.*
- 342 *F. Meetings of the Commission.*
- 343 *1. All meetings of the Commission that are not closed pursuant to this subsection shall be open to the*
- 344 *public. Notice of public meetings shall be posted on the Commission's website at least thirty (30) days prior*
- 345 *to the public meeting.*
- 346 *2. Notwithstanding subdivision 1, the Commission may convene an emergency public meeting by*
- 347 *providing at least twenty-four (24) hours' prior notice on the Commission's website, and any other means as*
- 348 *provided in the Commission's rules, for any of the reasons it may dispense with notice of proposed*
- 349 *rulemaking under subsection L of Article 10. The Commission's legal counsel shall certify that one of the*
- 350 *reasons justifying an emergency public meeting has been met.*
- 351 *3. Notice of all Commission meetings shall provide the time, date, and location of the meeting, and if the*
- 352 *meeting is to be held or accessible via telecommunication, video conference, or other electronic means, the*
- 353 *notice shall include the mechanism for access to the meeting.*
- 354 *4. The Commission may convene in a closed, non-public meeting for the Commission to discuss:*
- 355 *a. Non-compliance of a Member State with its obligations under the Compact;*
- 356 *b. The employment, compensation, or discipline or other matters, practices, or procedures related to*
- 357 *specific employees or other matters related to the Commission's internal personnel practices and procedures;*
- 358 *c. Current or threatened discipline of a licensee by the Commission or by a Member State's licensing*
- 359 *authority;*
- 360 *d. Current, threatened, or reasonably anticipated litigation;*
- 361 *e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;*
- 362 *f. Accusing any person of a crime or formally censuring any person;*
- 363 *g. Trade secrets or commercial or financial information that is privileged or confidential;*
- 364 *h. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of*
- 365 *personal privacy;*
- 366 *i. Investigative records compiled for law-enforcement purposes;*

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

370 k. Legal advice;

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

372 m. Other matters as promulgated by the Commission by rule.

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

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

380 G. Financing of the Commission.

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

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

385 3. The Commission may levy on and collect an annual assessment from each Member State and impose  
 386 fees on licensees of Member States to whom it grants a multistate license to cover the cost of the operations  
 387 and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual  
 388 budget as approved each year for which revenue is not provided by other sources. The aggregate annual  
 389 assessment amount for Member States shall be allocated based upon a formula that the Commission shall  
 390 promulgate by rule.

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

394 5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and  
 395 disbursements of the Commission shall be subject to the financial review and accounting procedures  
 396 established under its bylaws. All receipts and disbursements of funds handled by the Commission shall be  
 397 subject to an annual financial review by a certified or licensed public accountant, and the report of the  
 398 financial review shall be included in and become part of the annual report of the Commission.

399 H. Qualified immunity, defense, and indemnification.

400 1. The members, officers, executive director, employees, and representatives of the Commission shall be  
 401 immune from suit and liability, both personally and in their official capacity, for any claim for damage to or  
 402 loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged  
 403 act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable  
 404 basis for believing occurred, within the scope of Commission employment, duties, or responsibilities,  
 405 provided that nothing in this subdivision shall be construed to protect any such person from suit or liability  
 406 for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that  
 407 person. The procurement of insurance of any type by the Commission shall not in any way compromise or  
 408 limit the immunity granted hereunder.

409 2. The Commission shall defend any member, officer, executive director, employee, and representative of  
 410 the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error,  
 411 or omission that occurred within the scope of Commission employment, duties, or responsibilities, or as  
 412 determined by the Commission that the person against whom the claim is made had a reasonable basis for  
 413 believing occurred within the scope of Commission employment, duties, or responsibilities, provided that  
 414 nothing herein shall be construed to prohibit that person from retaining his own counsel at his own expense,  
 415 and provided further, that the actual or alleged act, error, or omission did not result from that person's  
 416 intentional or willful or wanton misconduct.

417 3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee,  
 418 and representative of the Commission for the amount of any settlement or judgment obtained against that  
 419 person arising out of any actual or alleged act, error, or omission that occurred within the scope of  
 420 Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing  
 421 occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or  
 422 alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that  
 423 person.

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

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

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

431 Article 9. Data System.

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

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

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

439 1. Identifying information;

440 2. Licensure data;

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

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

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

446 6. The existence of investigative information;

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

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

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

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

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

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

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

464 Article 10. Rulemaking.

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

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

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

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

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

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

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

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

488 2. To persons who have requested notice of the Commission's notices of proposed rulemaking; and

489 3. In such other way(s) as the Commission may by rule specify.

490 H. The notice of proposed rulemaking shall include:



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

520 4. Protect public health and safety.

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

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

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

531 A. Oversight.

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

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

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

543 B. Default, technical assistance, and termination.

544 1. If the Commission determines that a Member State has defaulted in the performance of its obligations  
 545 or responsibilities under this Compact or the promulgated rules, the Commission shall provide written notice  
 546 to the defaulting state. The notice of default shall describe the default, the proposed means of curing the  
 547 default, and any other action that the Commission may take and shall offer training and specific technical  
 548 assistance regarding the default.

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

550 C. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact  
 551 upon an affirmative vote of a majority of the delegates of the Member States, and all rights, privileges, and  
 552 benefits conferred on that state by this Compact may be terminated on the effective date of termination. A

553 *cure of the default does not relieve the offending state of obligations or liabilities incurred during the period*  
 554 *of default.*

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

559 *E. a state that has been terminated is responsible for all assessments, obligations, and liabilities incurred*  
 560 *through the effective date of termination, including obligations that extend beyond the effective date of*  
 561 *termination.*

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

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

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

572 *I. Dispute resolution.*

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

575 *2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution*  
 576 *for disputes as appropriate.*

577 *J. Enforcement.*

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

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

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

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

#### 593 *Article 12. Effective Date, Withdrawal, and Amendment.*

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

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

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

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

604 *2. Member States enacting the Compact subsequent to the Charter Member States shall be subject to the*  
 605 *process set forth in subdivision C 23 of Article 8 to determine if their enactments are materially different*  
 606 *from the model Compact statute and whether they qualify for participation in the Compact.*

607 *3. All actions taken for the benefit of the Commission or in furtherance of the purposes of the*  
 608 *administration of the Compact prior to the effective date of the Compact or the Commission coming into*  
 609 *existence shall be considered to be actions of the Commission unless specifically repudiated by the*  
 610 *Commission.*

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

614 *B. Any Member State may withdraw from this Compact by enacting a statute repealing that state's*

615 enactment of the Compact.

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

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

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

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

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

630 Article 13. Construction and Severability.

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

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

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

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

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

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

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

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

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