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1 HB300
2 UL27GXX-1
3 By Representatives Moore (P), Oliver, Paschal
4 RFD: Boards, Agencies and Commissions
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SYNOPSIS:

This bill would allow the Alabama Board of Massage Therapy to enter into the Interstate Massage Compact by adopting Article 2 of Chapter 43 of Title 34, Code of Alabama 1975, as a means of providing uniformity in licensing requirements and interstate practice throughout party states.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Board of Massage Therapy; to enter into the Interstate Massage Compact by adopting Article 2 of Chapter 43 of Title 34, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-43-1 through 34-43-21, Code of Alabama 1975, are designated as Article 1 of Chapter 43 of Title 34, Code of Alabama 1975.

Section 2. Article 2, commencing with Section 34-43-50, is added to Chapter 43 of Title 34, Code of Alabama 1975, to read as follows:

Article 2. INTERSTATE MASSAGE COMPACT

§34-43-50. Purpose.

The purpose of this compact is to reduce the burdens on



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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 that 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 those 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.



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(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.

(10) Serve the needs of licensed massage therapists and the public receiving their services.

(11) Nothing in this compact is intended to prevent a state from enforcing its own laws regarding the practice of massage therapy.

§34-43-51. 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:

(1) ACTIVE MILITARY MEMBER. Any person with full-time duty status in the armed forces of the United States, including members of the National Guard and Reserve.

(2) ADVERSE ACTION. Any administrative, civil, equitable, or criminal action permitted by a member state's laws which 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, imitation 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.



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85 (3) ALTERNATIVE PROGRAM. A non-disciplinary monitoring
86 or prosecutorial diversion program approved by a member
87 state's licensing authority.

88 (4) AUTHORIZATION TO PRACTICE. A legal authorization by
89 a remote state pursuant to a multistate license permitting the
90 practice of massage therapy in that remote state, which shall
91 be subject to the enforcement jurisdiction of the licensing
92 authority in that remote state.

93 (5) BACKGROUND CHECK. The submission of an applicant's
94 criminal history record information, as further defined in 28
95 C.F.R. § 20.3(d), as amended from the Federal Bureau of
96 Investigation and the agency responsible for retaining state
97 criminal records in the applicant's home state.

98 (6) CHARTER MEMBER STATES. Member states who have
99 enacted legislation to adopt this compact where such
100 legislation predates the effective date of this compact as
101 defined in Section 34-43-61.

102 (7) COMMISSION. The governmental agency whose
103 membership consists of all states that have enacted this
104 compact, which is known as the Interstate Massage Compact
105 Commission and which shall operate as an instrumentality of
106 the member states.

107 (8) CONTINUING COMPETENCE. A requirement, as a
108 condition of license renewal, to provide evidence of
109 participation in, and completion of, educational or
110 professional activities that maintain, improve, or enhance
111 massage therapy fitness to practice.

112 (9) CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION.



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Investigative information that a licensing authority, after an inquiry or investigation that complies with a member state's due process requirements, has reason to believe is not groundless and, if proved true, would indicate a violation of that state's laws regarding the practice of massage therapy.

(10) DATA SYSTEM. A repository of information about licensees who hold multistate licenses, which may include, but is not limited to, license status, investigative information, and adverse actions.

(11) DISQUALIFYING EVENT. Any event which shall disqualify an individual from holding a multistate license under this compact, which the commission may specify by rule.

(12) ENCUMBRANCE. A revocation or suspension of, or any limitation or condition on, the full and unrestricted practice of massage therapy by a licensing authority.

(13) EXECUTIVE COMMITTEE. A group of delegates elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

(14) HOME STATE. The member state which is a licensee's primary state of residence where the licensee holds an active single-state license.

(15) INVESTIGATIVE INFORMATION. Information, records, or documents received or generated by a licensing authority pursuant to an investigation or other inquiry.

(16) LICENSING AUTHORITY. A state's regulatory body responsible for issuing massage therapy licenses or otherwise overseeing the practice of massage therapy in that state.

(17) LICENSEE. An individual who currently holds a



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license from a member state to fully practice massage therapy, whose license is not student, provisional, temporary, inactive, or other similar status.

(18) MASSAGE THERAPY, MASSAGE THERAPY SERVICES, and the PRACTICE OF MASSAGE THERAPY. The care and services provided by a licensee as set forth in the member state's statutes and rules in the state where the services are being provided.

(19) MEMBER STATE. Any state that has adopted this compact.

(20) MULTISTATE LICENSE. A license that consists of authorizations to practice massage therapy in all remote states pursuant to this compact, which shall be subject to the enforcement jurisdiction of the licensing authority in a licensee's home state.

(21) NATIONAL LICENSING EXAMINATION. A national examination developed by a national association of massage therapy regulatory boards, as defined by commission rule, that is derived from a practice analysis and is consistent with generally accepted psychometric principles of fairness, validity, and reliability, and is administered under secure and confidential examination protocols.

(22) REMOTE STATE. Any member state, other than the licensee's home state.

(23) RULE. Any opinion or regulation adopted by the commission under this compact, which shall have the force of law.

(24) SINGLE-STATE LICENSE. A current, valid authorization issued by a member state's licensing authority



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allowing an individual to fully practice massage therapy, that is not restricted, student, provisional, temporary, or inactive practice authorization and authorizes practice only within the issuing state.

(25) STATE. A state, territory, possession of the United States, or the District of Columbia.

§34-43-52. Member State Requirements.

(a) To be eligible to join this compact, and to maintain eligibility as a member state, a state must:

(1) License and regulate the practice of massage therapy.

(2) Have a mechanism or entity in place to receive and investigate complaints from the public, regulatory or law enforcement agencies, or the commission about licensees practicing in that state.

(3) Accept passage of a national licensing examination as a criterion for massage therapy licensure in that state.

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

(5) Implement procedures for requiring the background check of applicants for a multistate license, and for the reporting of any disqualifying events, including, but not limited to, obtaining and submitting, for each licensee holding a multistate license and each applicant for a multistate license, fingerprint or other biometric-based information to the Federal Bureau of Investigation for background checks; receiving the results of the Federal Bureau



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of Investigation record search on background checks and considering the results of such a background check in making licensure decisions.

(6) Have continuing competence requirements as a condition for license renewal.

(7) Participate in the data system, including through the use of unique identifying numbers as described herein.

(8) Notify the commission and other member states, in compliance with the terms of the compact and rules of the commission, of any disciplinary action taken by the state against a licensee practicing under a multistate license in that state, or of the existence of investigative information or current significant investigative information regarding a licensee practicing in that state pursuant to a multistate license.

(9) Comply with the rules of the commission.

(10) Accept licensees with valid multistate licenses from other member states as established herein.

(b) Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to those individuals shall not be recognized as granting a multistate license for massage therapy in any other member state.

(c) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

(d) A multistate license issued to a licensee shall be



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recognized by each remote state as an authorization to practice massage therapy in each remote state.

§34-43-53. Multistate License Requirements.

(a) To qualify for a multistate license under this compact, and to maintain eligibility for such a license, an applicant must:

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

(2) Have completed at least 625 clock hours of massage therapy, education, or the substantial equivalent which the commission may approve by rule.

(3) Have passed a national licensing examination or the substantial equivalent which the commission may approve by rule.

(4) Submit to a background check.

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

(6) Have not been convicted or found guilty, or have entered into an agreed disposition, of a misdemeanor offense related to the practice of massage therapy under applicable state or federal criminal law, within two years prior to the date of their application where such a time period shall not include any time served for the offense, and provided that the



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applicant has completed all requirements arising as a result of any offense.

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

- a. Kidnapping.
- b. Human trafficking.
- c. Human smuggling.
- d. Sexual battery, sexual assault, or any related offenses.
- e. Any other category of offense which the commission may by rule designate.

(8) Have not previously held a massage therapy license which was revoked by, or surrendered in lieu of discipline to, an applicable licensing authority.

(9) Have no history of any adverse action on any occupational or professional license within two years prior to the date of their application.

(10) Pay all required fees.

(b) A multistate license granted pursuant to this compact may be effective for a definite period of time concurrent with the renewal of the home state license.

(c) A licensee practicing in a member state is subject to all scope of practice laws governing massage therapy services in that state.

(d) The practice of massage therapy under a multistate license granted pursuant to this compact will subject the



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licensee to the jurisdiction of the licensing authority, the courts, and the laws of the member state in which the massage therapy services are provided.

§34-43-54. Authority of Interstate Massage Compact Commission and Member State Licensing Authorities.

(a) Nothing in this compact, nor any rule of the commission, shall be construed to limit, restrict, or reduce the ability of a member state to enact and enforce laws or rules related to the practice of massage therapy in that state, where those laws or rules are not inconsistent with the provisions of this compact.

(b) Nothing in this compact, nor any rule of the commission, shall be construed to limit, restrict, or reduce the ability of a member state to take adverse action against a licensee's single-state license to practice massage therapy in that state.

(c) Nothing in this compact, nor any rule of the commission, shall be construed to limit or reduce the ability of a remote state to take adverse action against a licensee's authorization to practice in that state.

(d) Nothing in this compact, nor any rule of the commission, shall be construed to limit, restrict, or reduce the ability of a licensee's home state to take adverse action against a licensee's multistate license based upon information provided by a remote state.

(e) Insofar as practical, a member state's licensing authority shall cooperate with the commission and with each entity exercising independent regulatory authority over the



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practice of massage therapy according to the provisions of this compact.

§34-43-55. Adverse Actions.

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

(b) A home state may take adverse action on a multistate license based on the investigative information, current significant investigative information, or adverse action of a remote state.

(c) A home state shall retain authority to complete any pending investigations of a licensee practicing under a multistate license who changes their home state during the course of such an investigation. The licensing authority shall also be empowered to report the results of an investigation to the commission through the data system.

(d) Any member state may investigate actual or alleged violations of the scope of practice laws in any other member state for a massage therapist who holds a multistate license.

(e) A remote state shall have the authority to:

(1) Take adverse actions against a licensee's authorization to practice.

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

(3) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as the production of evidence. Subpoenas



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issued by a licensing authority in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings before it. The issuing licensing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

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

(5) Take adverse action against the licensee's authorization to practice in that state based on the factual findings of another member state.

(f) If an adverse action is taken by the home state against a licensee's multistate license or single-state license to practice in the home state, the licensee's authorization to practice in all other member states shall be deactivated until all encumbrances have been removed from such license. All home state disciplinary orders that impose an adverse action against a licensee shall include a statement that the massage therapist's authorization to practice is deactivated in all member states during the pendency of the order.

(g) If adverse action is taken by a remote state



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

(h) Nothing in this compact shall override a member state's authority to accept a licensee's participation in an alternative program in lieu of adverse action. A licensee's multistate license shall be suspended for the duration of the licensee's participation in any alternative program.

(i) Joint investigations.

(1) In addition to the authority granted to a member state by its respective scope of practice laws or other applicable state law, a member state may participate with other member states in joint investigations of licensees.

(2) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

§34-43-56. Active Military Members and Their Spouses. Active military members, or their spouses, shall designate a home state where the individual has a current license to practice massage therapy in good standing. The individual may retain his or her home state designation during any period of service when that individual or his or her spouse is on active duty assignment.



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393 §34-43-57. Establishment and Operation of Interstate
394 Massage Compact Commission.

395 (a) The compact member states hereby create and
396 establish a joint governmental agency whose membership
397 consists of all member states that have enacted the compact
398 known as the Interstate Massage Compact Commission. The
399 commission is an instrumentality of the compact states acting
400 jointly and not an instrumentality of any one state. The
401 commission shall come into existence on or after the effective
402 date of the compact as set forth in Section 34-43-61.

403 (b) Membership, voting, and meetings.

404 (1) Each member state shall have and be limited to one
405 delegate selected by that member state's licensing authority.

406 (2) The delegate shall be the primary administrative
407 officer of the state licensing authority or their designee.

408 (3) The commission shall by rule or bylaw establish a
409 term of office for delegates and may by rule or bylaw
410 establish term limits.

411 (4) The commission may recommend removal or suspension
412 of any delegate from office.

413 (5) A member state's licensing authority shall fill any
414 vacancy of its delegate occurring on the commission within 60
415 days of the vacancy.

416 (6) Each delegate shall be entitled to one vote on all
417 matters that are voted on by the commission.

418 (7) The commission shall meet at least once during each
419 calendar year. Additional meetings may be held as set forth in
420 the bylaws. The commission may meet by telecommunication,



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421 video conference, or other similar electronic means.

422 (c) The commission shall have the following powers:

423 (1) To establish the fiscal year of the commission.

424 (2) To establish code of conduct and conflict of
425 interest policies.

426 (3) To adopt rules and bylaws.

427 (4) To maintain its financial records in accordance
428 with the bylaws.

429 (5) To meet and take such actions as are consistent
430 with the provisions of this compact, the commission's rules,
431 and the bylaws.

432 (6) To initiate and conclude legal proceedings or
433 actions in the name of the commission, provided that the
434 standing of any state licensing authority to sue or be sued
435 under applicable law shall not be affected.

436 (7) To maintain and certify records and information
437 provided to a member state as the authenticated business
438 records of the commission, and designate an agent to do so on
439 the commission's behalf.

440 (8) To purchase and maintain insurance and bonds.

441 (9) To borrow, accept, or contract for services of
442 personnel, including, but not limited to, employees of a
443 member state.

444 (10) To conduct an annual financial review.

445 (11) To hire employees, elect or appoint officers, fix
446 compensation, define duties, grant such individuals
447 appropriate authority to carry out the purposes of the
448 compact, and establish the commission's personnel policies and



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programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.

(12) To assess and collect fees.

(13) To accept, receive, utilize, dispose of all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest.

(14) To lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest in property.

(15) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

(16) To establish a budget and make expenditures.

(17) To borrow money.

(18) To appoint committees, including standing committees, composed of members, state regulators, state legislators, or their representatives, and consumer representatives, and other interested persons as may be designated in this compact and the bylaws.

(19) To accept and transmit complaints from the public, regulatory or law enforcement agencies, or the commission, to the relevant member state or states regarding potential misconduct of licensees.

(20) To elect a chair, vice chair, secretary, treasurer, and other officers of the commission as provided in the commission's bylaws.



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(21) To establish and elect an executive committee, including a chair and a vice chair.

(22) To adopt and provide to the member states an annual report.

(23) To determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact.

(24) To perform other functions as may be necessary or appropriate to achieve the purposes of this compact.

(d) The executive committee.

(1) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact. The powers, duties, and responsibilities of the executive committee shall include:

a. Overseeing the day-to-day activities of the administration of the compact, including compliance with the provisions of the compact, the commission's rules and bylaws, and other duties as deemed necessary.

b. Recommending to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to compact member states, fees charged to licensees, and other fees.

c. Ensuring compact administration services are appropriately provided, including by contract.

d. Preparing and recommending the budget.

e. Maintaining financial records on behalf of the commission.

f. Monitoring compact compliance of member states and



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providing compliance reports to the commission.

g. Establishing additional committees as necessary.

h. Exercising the powers and duties of the commission during the interim between commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the commission by rule or bylaw.

i. Other duties as provided in the rules or bylaws of the commission.

(2) The executive committee shall be composed of seven voting members and up to two ex officio members as follows:

a. The chair and vice chair of the commission and any other members of the commission who serve on the executive committee shall be voting members of the executive committee.

b. Other than the chair, vice chair, secretary, and treasurer, the commission shall elect three voting members from the current membership of the commission.

c. The commission may elect ex officio, nonvoting members as necessary as follows:

1. One ex officio member who is a representative of the National Association of State Massage Therapy Regulatory Boards.

2. One ex officio member as specified in the commission's bylaws.

(3) The commission may remove any member of the executive committee as provided in the commission's bylaws.

(4) The executive committee shall meet at least annually.



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a. Executive committee meetings shall be open to the public, except that the executive committee may meet in a closed, nonpublic session of a public meeting when dealing with any of the matters covered under subdivision (f)(4).

b. The executive committee shall give five business days' advance notice of its public meetings, posted on its website and as determined to provide notice to persons with an interest in the public matters the executive committee intends to address at those meetings.

(5) The executive committee may hold an emergency meeting when acting for the commission to:

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

b. Prevent a loss of commission or participating state funds.

c. Protect public health and safety.

(e) The commission shall adopt and provide to the member states an annual report.

(f) Meetings of the commission.

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

(2) Notwithstanding subdivision (f)(1), the commission may convene an emergency public meeting by providing at least 24 hours' prior notice on the commission's website, and any other means as provided in the commission's rules, for any of the reasons it may dispense with notice of proposed rulemaking



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under Section 34-43-59(1). The commission's legal counsel shall certify that one of the reasons justifying an emergency public meeting has been met.

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

(4) The commission may convene in a closed, nonpublic meeting for the commission to discuss:

a. Noncompliance of a member state with its obligations under the compact.

b. The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees, or other matters related to the commission's internal personnel practices and procedures.

c. Current or threatened discipline of a licensee by the commission or by a member state's licensing authority.

d. Current, threatened, or reasonably anticipated litigation.

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

f. Accusing any person of a crime or formally censuring any person.

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

h. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal



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589 privacy.

590 i. Investigative records compiled for law enforcement
591 purposes.

592 j. Information related to any investigative reports
593 prepared by, or on behalf of, or for use of the commission or
594 other committee charged with responsibility of investigation
595 or determination of compliance issues pursuant to the compact.

596 k. Legal advice.

597 l. Matters specifically exempted from disclosure to the
598 public by federal or member state law.

599 m. Other matters as adopted by rule by the commission.

600 (5) If a meeting, or portion of a meeting, is closed,
601 the presiding officer shall state that the meeting will be
602 closed and reference each relevant exempting provision, and
603 each reference shall be recorded in the minutes.

604 (6) The commission shall keep minutes that fully and
605 clearly describe all matters discussed in a meeting and shall
606 provide a full and accurate summary of actions taken, and the
607 reasons for those actions, including a description of the
608 views expressed. All documents considered in connection with
609 an action shall be identified in the minutes. All minutes and
610 documents of a closed meeting shall remain under seal, subject
611 to release only by a majority vote of the commission or order
612 of a court of competent jurisdiction.

613 (g) Financing of the commission.

614 (1) The commission shall pay, or provide for the
615 payment of, the reasonable expenses of its establishment,
616 organization, and ongoing activities.



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(2) The commission may accept any and all appropriate sources of revenue, donations, and grants of money, equipment, supplies, materials, and services.

(3) The commission may levy on and collect an annual assessment from each member state and impose fees on licensees of member states to whom it grants a multistate license to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for member states shall be allocated based upon a formula that the commission shall adopt by rule.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet them, nor shall the commission pledge the credit of any member states, except by and with the authority of the member state.

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

(h) Qualified immunity, defense, and indemnification.

(1) The members, officers, executive director,



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employees, and representatives of the commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the individual against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that nothing in this subdivision shall be construed to protect any individual from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that individual. The procurement of insurance of any type by the commission shall not in any way compromise or limit the immunity granted hereunder.

(2) The commission shall defend any member, officer, executive director, employee, and representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or as determined by the commission that the individual against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that nothing herein shall be construed to prohibit that individual from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that individual's



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673 intentional, willful, or wanton misconduct.

674 (3) The commission shall indemnify and hold harmless
675 any member, officer, executive director, employee, or
676 representative of the commission for the amount of any
677 settlement or judgment obtained against that individual
678 arising out of any actual or alleged act, error, or omission
679 that occurred within the scope of commission employment,
680 duties, or responsibilities, or that such individual had a
681 reasonable basis for believing occurred within the scope of
682 commission employment, duties, or responsibilities; provided,
683 that the actual or alleged act, error, or omission did not
684 result from the intentional, willful, or wanton misconduct of
685 that individual.

686 (4) Nothing herein shall be construed as a limitation
687 on the liability of any licensee for professional malpractice
688 or misconduct, which shall be governed solely by any other
689 applicable state laws.

690 (5) Nothing in this compact shall be interpreted to
691 waive or otherwise abrogate a member state's immunity or
692 affirmative defense with respect to antitrust claims under the
693 Sherman Act, Clayton Act, or any other state or federal
694 antitrust or anticompetitive law or rule.

695 (6) Nothing in this compact shall be construed to be a
696 waiver of sovereign immunity by the member states or by the
697 commission.

698 §34-43-58. Data System.

699 (a) The commission shall provide for the development,
700 maintenance, operation, and utilization of a coordinated



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701 database and reporting system.

(b) The commission shall assign each applicant for a multistate license a unique identifier, as determined by the rules of the commission.

(c) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

710 (1) Identifying information.

711 (2) Licensure data.

712 (3) Adverse actions against a license and information
713 related those actions.

(4) Nonconfidential information related to alternative program participation, the beginning and ending dates of participation, and other information related to participation.

717 (5) Any denial of application for licensure, and the
718 reasons for denial, excluding the reporting of any criminal
719 history record information where prohibited by law.

720 (6) The existence of investigative information.

721 (7) The existence or presence of current significant
722 investigative information.

723 (8) Other information that may facilitate the
724 administration of this compact, or the protection of the
725 public, as determined by the rules of the commission.

(d) The records and information provided to a member state pursuant to this compact or through the data system, when certified by the commission or its agent, shall



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constitute the authenticated business records of the commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a member state.

(e) The existence of current significant investigative information and the existence of investigative information pertaining to a licensee in any member state will only be available to other member states.

(f) It is the responsibility of the member states to report any adverse action against a licensee who holds a multistate license and to monitor the database to determine whether adverse action has been taken against such a licensee or license applicant. Adverse action information pertaining to a licensee or license applicant in any member state will be available to any other member state.

(g) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(h) Any information submitted to the data system that is subsequently expunged pursuant to federal law or the laws of the member state contributing the information shall be removed from the data system.

§34-43-59. Rulemaking.

(a) The commission shall adopt reasonable rules in order to effectively and efficiently implement and administer the purposes and provisions of the compact. A rule shall be invalid and have no force or effect only if a court of



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competent jurisdiction holds that the rule is invalid because the commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the compact, or the powers granted hereunder, or based upon another applicable standard of review.

(b) The rules of the commission shall have the force of law in each member state; provided, however, that where the rules of the commission conflict with the laws of the member state that establish the member state's scope of practice as held by a court of competent jurisdiction, the rules of the commission shall be ineffective in that state to the extent of the conflict.

(c) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules shall become binding as of the date specified by the commission for each rule.

(d) If a majority of the legislatures of the member states rejects a rule, or portion of a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then that rule shall have no further force and effect in any member state or in any state applying to participate in the compact.

(e) Rules shall be adopted at a regular or special meeting of the commission.

(f) Prior to adoption of a proposed rule, the commission shall hold a public hearing and allow individuals to provide oral and written comments, data, facts, opinions,



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785 and arguments.

786 (g) Prior to adoption of a proposed rule by the
787 commission, and at least 30 days in advance of the meeting at
788 which the commission will hold a public hearing on the
789 proposed rule, the commission shall provide a notice of
790 proposed rulemaking:

791 (1) On the website of the commission or other publicly
792 accessible platform.

793 (2) To persons who have requested notice of the
794 commission's notices of proposed rulemaking.

795 (3) In such other ways as the commission may specify by
796 rule.

797 (h) The notice of proposed rulemaking shall include:

798 (1) The time, date, and location of the public hearing
799 at which the commission will hear public comments on the
800 proposed rule and, if different, the time, date, and location
801 of the meeting where the commission will consider and vote on
802 the proposed rule.

803 (2) If the hearing is held via telecommunication, video
804 conference, or other electronic means, the commission shall
805 include the mechanism for access to the hearing in the notice
806 of proposed rulemaking.

807 (3) The text of the proposed rule and the reason
808 therefor.

809 (4) A request for comments on the proposed rule from
810 any interested person.

811 (5) The manner in which interested persons may submit
812 written comments.



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813 (i) All hearings will be recorded. A copy of the
814 recording and all written comments and documents received by
815 the commission in response to the proposed rule shall be
816 available to the public.

817 (j) Nothing in this section shall be construed as
818 requiring a separate hearing on each rule. Rules may be
819 grouped for the convenience of the commission at hearings
820 required by this section.

821 (k) The commission, by majority vote of all
822 commissioners, shall take final action on the proposed rule
823 based on the rulemaking record.

824 (1) The commission may adopt changes to the proposed
825 rule provided the changes do not enlarge the original purpose
826 of the proposed rule.

827 (2) The commission shall provide an explanation of the
828 reasons for substantive changes made to the proposed rule as
829 well as reasons for substantive changes not made that were
830 recommended by commenters.

831 (3) The commission shall determine a reasonable
832 effective date for the rule. Except for an emergency as
833 provided in subsection (1), the effective date of the rule
834 shall be no sooner than 30 days after the commission issuing
835 the notice that it adopted or amended the rule.

836 (1) Upon determination that an emergency exists, the
837 commission may consider and adopt an emergency rule with
838 24-hours' notice, provided that the usual rulemaking
839 procedures provided in the compact and in this section shall
840 be retroactively applied to the rule as soon as reasonably



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possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately to:

(1) Meet an imminent threat to public health, safety, or welfare.

(2) Prevent a loss of commission or member state funds.

(3) Meet a deadline for the adoption of a rule that is established by federal law or rule.

(4) Protect public health and safety.

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

(n) No member state's rulemaking requirements shall apply under this compact.

§34-43-60. Oversight, Dispute Resolution, and Enforcement.

(a) Oversight.



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(1) The executive and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to implement the compact.

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

(3) The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact, or adopted rules.

(b) Default, technical assistance, and termination.

(1) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the adopted rules, the commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default, and any other action



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897 that the commission may take, and shall offer training and
898 specific technical assistance regarding the default.

899 (2) The commission shall provide a copy of the notice
900 of default to the other member states.

901 (c) If a state in default fails to cure the default,
902 the defaulting state may be terminated from the compact upon
903 an affirmative vote of a majority of the delegates of the
904 member states, and all rights, privileges, and benefits
905 conferred on that state by this compact may be terminated on
906 the effective date of termination. A cure of the default does
907 not relieve the offending state of obligations or liabilities
908 incurred during the period of default.

909 (d) Termination of membership in the compact shall be
910 imposed only after all other means of securing compliance have
911 been exhausted. Notice of intent to suspend or terminate shall
912 be given by the commission to the governor, the majority and
913 minority leaders of the defaulting state's legislature, the
914 defaulting state's licensing authority and each of the member
915 states' licensing authority.

916 (e) A state that has been terminated is responsible for
917 all assessments, obligations, and liabilities incurred through
918 the effective date of termination, including obligations that
919 extend beyond the effective date of termination.

920 (f) Upon the termination of a state's membership from
921 this compact, that state shall immediately provide notice to
922 all licensees who hold a multistate license within that state
923 of such termination. The terminated state shall continue to
924 recognize all licenses granted pursuant to this compact for a



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925 minimum of 180 days after the date of the notice of
926 termination.

927 (g) The commission shall not bear any costs related to
928 a state that is found to be in default or that has been
929 terminated from the compact, unless agreed upon in writing
930 between the commission and the defaulting state.

931 (h) The defaulting state may appeal the action of the
932 commission by petitioning the United States District Court for
933 the District of Columbia or the federal district where the
934 commission has its principal offices. The prevailing party
935 shall be awarded all costs of such litigation, including
936 reasonable attorney fees.

937 (i) Dispute resolution.

938 (1) Upon request by a member state, the commission
939 shall attempt to resolve disputes related to the compact that
940 arise among member states and between member and non-member
941 states.

942 (2) The commission shall adopt a rule providing for
943 both mediation and binding dispute resolution for disputes as
944 appropriate.

945 (j) Enforcement.

946 (1) The commission, in the reasonable exercise of its
947 discretion, shall enforce the provisions of this compact and
948 the commission's rules.

949 (2) By majority vote as provided by commission rule,
950 the commission may initiate legal action against a member
951 state in default in the United States District Court for the
952 District of Columbia or the federal district where the



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commission has its principal offices to enforce compliance with the provisions of the compact and its adopted rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of litigation, including reasonable attorney fees. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or the defaulting member state's law.

(3) A member state may initiate legal action against the commission in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its adopted rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of litigation, including reasonable attorney fees.

(4) No individual or entity other than a member state may enforce this compact against the commission.

§34-43-61. Effective Date, Withdrawal, and Amendment.

(a) The compact shall come into effect on the date on which the compact statute is enacted into law in the seventh member state.

(1) On or after the effective date of the compact, the commission shall convene and review the enactment of each of the charter member states to determine if the statute enacted by each such charter member state is materially different than



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981 the model compact statute.

982 a. A charter member state whose enactment is found to
983 be materially different from the model compact statute shall
984 be entitled to the default process set forth in Section
985 34-43-60.

986 b. If any member state is later found to be in default,
987 or is terminated or withdraws from the compact, the commission
988 shall remain in existence and the compact shall remain in
989 effect even if the number of member states should be less than
990 seven.

991 (2) Member states enacting the compact subsequent to
992 the charter member states shall be subject to the process set
993 forth in Section 34-43-57(c)(3) to determine if their
994 enactments are materially different from the model compact
995 statute and whether they qualify for participation in the
996 compact.

997 (3) All actions taken for the benefit of the commission
998 or in furtherance of the purposes of the administration of the
999 compact prior to the effective date of the compact or the
1000 commission coming into existence shall be considered to be
1001 actions of the commission unless specifically repudiated by
1002 the commission.

1003 (4) Any state that joins the compact shall be subject
1004 to the commission's rules and bylaws as they exist on the date
1005 on which the compact becomes law in that state. Any rule that
1006 has been previously adopted by the commission shall have the
1007 full force and effect of law on the day the compact becomes
1008 law in that state.



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1009 (b) Any member state may withdraw from this compact by
1010 enacting a statute repealing that state's enactment of the
1011 compact.

1012 (1) A member state's withdrawal shall not take effect
1013 until 180 days after enactment of the repealing statute.

1014 (2) Withdrawal shall not affect the continuing
1015 requirement of the withdrawing state's licensing authority to
1016 comply with the investigative and adverse action reporting
1017 requirements of this compact prior to the effective date of
1018 withdrawal.

1019 (3) Upon the enactment of a statute in withdrawing from
1020 this compact, a state shall immediately provide notice of such
1021 withdrawal to all licensees within that state. Notwithstanding
1022 any subsequent statutory enactment to the contrary, such
1023 withdrawing state shall continue to recognize all licenses
1024 granted pursuant to this compact for a minimum of 180 days
1025 after the date of such notice of withdrawal.

1026 (c) Nothing contained in this compact shall be
1027 construed to invalidate or prevent any licensure agreement or
1028 other cooperative arrangement between a member state and a
1029 non-member state that does not conflict with the provisions of
1030 this compact.

1031 (d) This compact may be amended by the member states.
1032 No amendment to this compact shall become effective and
1033 binding upon any member state until it is enacted into the
1034 laws of all member states.

1035 §34-43-62. Construction and Severability.

1036 (a) This compact and the commission's rulemaking



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1037 authority shall be liberally construed so as to effectuate the
1038 purposes, the implementation, and the administration of the
1039 compact. Provisions of the compact expressly authorizing or
1040 requiring the adoption of rules shall not be construed to
1041 limit the commission's rulemaking authority solely for those
1042 purposes.

1043 (b) This compact shall be severable and if any phrase,
1044 clause, sentence, or provision of this compact is held by a
1045 court of competent jurisdiction to be contrary to the
1046 constitution of any member state, a state seeking
1047 participation in the compact, or of the United States, or the
1048 applicability thereof to any government, agency, individual,
1049 or circumstance is held to be unconstitutional by a court of
1050 competent jurisdiction, the validity of the remainder of this
1051 compact and its applicability to any other government, agency,
1052 person, or circumstance shall not be affected thereby.

1053 (c) Notwithstanding subsection (b), the commission may
1054 deny a state's participation in the compact or, in accordance
1055 with the requirements of Section 34-43-60(b), terminate a
1056 member state's participation in the compact, if it determines
1057 that a constitutional requirement of a member state is a
1058 material departure from the compact. Otherwise, if this
1059 compact shall be held to be contrary to the constitution of
1060 any member state, the compact shall remain in full force and
1061 effect as to the remaining member states and in full force and
1062 effect as to the member state affected as to all severable
1063 matters.

1064 §34-43-63. Consistent Effect and Conflict With Other



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1065 State Laws.

1066 (a) Nothing herein shall prevent or inhibit the
1067 enforcement of any other law of a member state that is not
1068 inconsistent with the compact.

1069 (b) Any laws, statutes, rules, or other legal
1070 requirements in a member state in conflict with the compact
1071 are superseded to the extent of the conflict.

1072 (c) All permissible agreements between the commission
1073 and the member states are binding in accordance with their
1074 terms.

1075 §34-43-64. Judicial Proceedings by Individuals.

1076 Except as to judicial proceedings for the enforcement
1077 of this compact among member states, individuals may pursue
1078 judicial proceedings related to this compact in any Alabama
1079 state or federal court that would otherwise have competent
1080 jurisdiction.

1081 Section 3. This act shall become effective on October
1082 1, 2024.