

2 INTRODUCED BY \_\_\_\_\_  
(Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE COSMETOLOGY LICENSURE COMPACT;  
5 PROVIDING FOR A MULTISTATE LICENSE FOR COSMETOLOGISTS, PROVIDING FOR CRIMINAL  
6 BACKGROUND CHECKS FOR MULTISTATE LICENSURE; PROVIDING DEFINITIONS; AND PROVIDING  
7 RULEMAKING AUTHORITY."

8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10

11        **NEW SECTION.** **Section 1. Enactment -- provisions.** The cosmetology licensure compact is  
12    enacted into law and entered into with all other jurisdictions joining the compact in the form substantially as  
13    follows:

14 ARTICLE 1

15 PURPOSE

16 The purpose of this compact is to facilitate the interstate practice and regulation of cosmetology with  
17 the goal of improving public access to, and the safety of, cosmetology services and reducing unnecessary  
18 burdens related to cosmetology licensure. Through this compact, the member states seek to establish a  
19 regulatory framework that provides for a new multistate licensing program. Through this new licensing program,  
20 the member states seek to provide increased value and mobility to licensed cosmetologists in the member  
21 states, while ensuring the provision of safe, effective, and reliable services to the public. This compact is  
22 designed to achieve the following objectives, and the member states hereby ratify the same intentions by  
23 subscribing hereto:

24 (1) provide opportunities for interstate practice by cosmetologists who meet uniform requirements  
25 for multistate licensure;

26 (2) enhance the abilities of member states to protect public health and safety and to prevent fraud  
27 and unlicensed activity within the profession;

(3) ensure and encourage cooperation between member states in the licensure and regulation of

1 the practice of cosmetology;

2 (4) support relocating military members and their spouses;

3 (5) facilitate the exchange of information between member states related to the licensure,

4 investigation, and discipline of the practice of cosmetology; and

5 (6) provide for the licensure and mobility of the workforce in the profession while addressing the

6 shortage of workers and lessening the associated burdens on the member states.

7 **ARTICLE 2**

8 **DEFINITIONS**

9 As used in this compact, and except as otherwise provided, the following definitions govern the terms

10 herein:

11 (1) "Active military member" means any person with full-time duty status in the armed forces of the

12 United States, including members of the national guard and reserve.

13 (2) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a

14 member state's laws that is imposed by a state licensing authority or other regulatory body against a

15 cosmetologist, including actions against an individual's license or authorization to practice, such as revocation,

16 suspension, probation, monitoring of the licensee, limitation of the licensee's practice, or any other

17 encumbrance on a license affecting an individual's ability to participate in the cosmetology industry, including

18 the issuance of a cease and desist order.

19 (3) "Alternative program" means a nondisciplinary monitoring or prosecutorial diversion program

20 approved by a member state's state licensing authority.

21 (4) "Authorization to practice" means a legal authorization associated with a multistate license

22 permitting the practice of cosmetology in that remote state, which must be subject to the enforcement

23 jurisdiction of the state licensing authority in that remote state.

24

25 (5) "Background check" means the submission of information for an applicant for the purpose of

26 obtaining that applicant's criminal history record information, as further defined in 28 CFR 20.3(d), from the

27 federal bureau of investigation and the agency responsible for retaining state criminal or disciplinary history in

28 the applicant's home state.

(6) "Charter member state" means a member state that has enacted legislation to adopt this compact where that legislation predates the effective date of this compact as defined in article 13.

6 (8) "Cosmetologist" means an individual licensed in the individual's home state to practice  
7 cosmetology.

(9) "Cosmetology", "cosmetology services", or the "practice of cosmetology" means the care and services provided by a cosmetologist as set forth in the member state's statutes and regulations in the state where the services are being provided.

11 (10) "Current significant investigative information" means:

18 (11) "Data system" means a repository of information about licensees, including but not limited to  
19 license status, investigative information, and adverse actions.

20 (12) "Disqualifying event" means any event that must disqualify an individual from holding a  
21 multistate license under this compact, which the commission may by rule or order specify.

22 (13) "Encumbered license" means a license in which an adverse action restricts the practice of  
23 cosmetology by a licensee or the adverse action has been reported to the commission.

24 (14) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and  
25 unrestricted practice of cosmetology by a state licensing authority.

26 (15) "Executive committee" means a group of delegates elected or appointed to act on behalf of,  
27 and within the powers granted to them by, the commission.

(16) "Home state" means the member state that is a licensee's primary state of residence and

1 where that licensee holds an active and unencumbered license to practice cosmetology.

2 (17) "Investigative information" means information, records, or documents received or generated by  
3 a state licensing authority pursuant to an investigation or other inquiry.

4 (18) "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws  
5 and rules governing the practice of cosmetology in a state.

6 (19) "Licensee" means an individual who currently holds a license from a member state to practice  
7 as a cosmetologist.

8 (20) "Member state" means any state that has adopted this compact.

9 (21) "Multistate license" means a license issued by and subject to the enforcement jurisdiction of the  
10 state licensing authority in a licensee's home state, which authorizes the practice of cosmetology in member  
11 states and includes authorizations to practice cosmetology in all remote states pursuant to this compact.

12 (22) "Remote state" means any member state other than the licensee's home state.

13 (23) "Rule" means any rule or regulation promulgated by the commission under this compact that  
14 has the force of law.

15 (24) "Single-state license" means a cosmetology license issued by a member state that authorizes  
16 the practice of cosmetology only within the issuing state and does not include any authorization outside of the  
17 issuing state.

18 (25) "State" means a state, territory, or possession of the United States and the District of Columbia.

19 (26) "State licensing authority" means a member state's regulatory body responsible for issuing  
20 cosmetology licenses or otherwise overseeing the practice of cosmetology in that state.

## 21 ARTICLE 3

### 22 MEMBER STATE REQUIREMENTS

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

24 (a) license and regulate cosmetology;

25 (b) have a mechanism or entity in place to receive and investigate complaints about licensees  
26 practicing in that state;

27 (c) require that licensees within the state pass a cosmetology competency examination prior to  
28 being licensed to provide cosmetology services to the public in that state;

7 (f) participate in the data system, including through the use of unique identifying numbers;

8 (g) share information related to adverse actions with the commission and other member states,  
9 both through the data system and otherwise;

10 (h) notify the commission and other member states, in compliance with the terms of the compact  
11 and rules of the commission, of the existence of investigative information or current significant investigative  
12 information in the state's possession regarding a licensee practicing in that state;

13 (i) comply with the rules as may be enacted by the commission to administer the compact; and  
14 (j) accept licensees from other member states as established herein.

15 (2) Member states may charge a fee for granting a license to practice cosmetology.

16 (3) Individuals not residing in a member state may continue to be able to apply for a member

17 state's single-state license as provided under the laws of each member state. However, the single-state license  
18 granted to these individuals may not be recognized as granting a multistate license to provide services in any  
19 other member state.

20 (4) Nothing in this compact may affect the requirements established by a member state for the  
21 issuance of a single-state license.

22 (5) A multistate license issued to a licensee by a home state to a resident of that state must be  
23 recognized by each member state as authorizing a licensee to practice cosmetology in each member state.

24 (6) The commission may not at any point have the power to define the educational or professional  
25 requirements for a license to practice cosmetology. The member states must retain sole jurisdiction over the  
26 provision of these requirements.

## ARTICLE 4

## MULTISTATE LICENSURE

11 (4) A multistate license to practice cosmetology issued by a member state's state licensing  
12 authority must be recognized by each member state as authorizing the practice of cosmetology as though that  
13 licensee held a single-state license to do so in each member state, subject to the restrictions herein.

14 (5) A multistate license granted pursuant to this compact may be effective for a definite period of  
15 time, concurrent with the licensure renewal period in the home state.

16 (6) To maintain a multistate license under this compact, a licensee shall:

17 (a) agree to abide by the rules of the state licensing authority, and the state scope of practice laws  
18 governing the practice of cosmetology, of any member state in which the licensee provides services;

19 (b) pay all required fees related to the application and process, and any other fees that the  
20 commission may by rule require; and

21 (c) comply with any and all other requirements regarding multistate licenses that the commission  
22 may by rule provide.

23 (7) A licensee practicing in a member state is subject to all scope of practice laws governing  
24 cosmetology services in that state.

25 (8) The practice of cosmetology under a multistate license granted pursuant to this compact  
26 subjects the licensee to the jurisdiction of the state licensing authority, the courts, and the laws of the member  
27 state in which the cosmetology services are provided.

## ARTICLE 5

## 1 REISSUANCE OF A MULTISTATE LICENSE BY A NEW HOME STATE

2 (1) A licensee may hold a multistate license, issued by their home state, in only one member state  
3 at any given time.

4 (2) If a licensee changes their home state by moving between two member states:

5 (a) the licensee shall immediately apply for the reissuance of their multistate license in their new  
6 home state. The licensee shall pay all applicable fees and notify the prior home state in accordance with the  
7 rules of the commission.

8 (b) Upon receipt of an application to reissue a multistate license, the new home state shall verify  
9 that the multistate license is active, unencumbered, and eligible for reissuance under the terms of the compact  
10 and the rules of the commission. The multistate license issued by the prior home state will be deactivated and  
11 all member states notified in accordance with the applicable rules adopted by the commission.

12 (c) If required for initial licensure, the new home state may require a background check as  
13 specified in the laws of that state or the compliance with any jurisprudence requirements of the new home state.

14 (d) Notwithstanding any other provision of this compact, if a licensee does not meet the  
15 requirements set forth in this compact for the reissuance of a multistate license by the new home state, then the  
16 licensee must be subject to the new home state requirements for the issuance of a single-state license in that  
17 state.

18 (3) If a licensee changes their primary state of residence by moving from a member state to a  
19 nonmember state, or from a nonmember state to a member state, then the licensee must be subject to the state  
20 requirements for the issuance of a single-state license in the new home state.

21 (4) Nothing in this compact may interfere with a licensee's ability to hold a single-state license in  
22 multiple states. However, for the purposes of this compact, a licensee may have only one home state and only  
23 one multistate license.

24 (5) Nothing in this compact may interfere with the requirements established by a member state for  
25 the issuance of a single-state license.

## 26 ARTICLE 6

## 27 AUTHORITY OF THE COMPACT COMMISSION

## 28 AND MEMBER STATE LICENSING AUTHORITIES

## ARTICLE 7

## ADVERSE ACTIONS

15 (1) A licensee's home state has exclusive power to impose an adverse action against a licensee's  
16 multistate license issued by the home state.

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

19 (3) In addition to the powers conferred by state law, each remote state's state licensing authority  
20 has the power to:

21 (a) take adverse action against a licensee's authorization to practice cosmetology through the  
22 multistate license in that member state, provided that:

23 (i) only the licensee's home state may have the power to take adverse action against the  
24 multistate license issued by the home state; and

25 (ii) for the purposes of taking adverse action, the home state's state licensing authority shall give  
26 the same priority and effect to reported conduct received from a remote state as it would if the conduct had  
27 occurred within the home state. In so doing, the home state shall apply its own state laws to determine the  
28 appropriate action.

6 (d) issue subpoenas for both hearings and investigations that require the attendance and  
7 testimony of witnesses as well as the production of evidence. Subpoenas issued by a state licensing authority  
8 in a member state for the attendance and testimony of witnesses or the production of evidence from another  
9 member state must be enforced in the latter state by any court of competent jurisdiction, according to the  
10 practice and procedure of that court applicable to subpoenas issued in proceedings before it. The issuing state  
11 licensing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service  
12 statutes of the state in which the witnesses or evidence are located.

13 (e) if otherwise permitted by state law, recover from the affected licensee the costs of  
14 investigations and disposition of cases resulting from any adverse action taken against that licensee;

15 (f) take adverse action against the licensee's authorization to practice in that state based on the  
16 factual findings of another remote state.

17 (4) A licensee's home state shall complete any pending investigation of a cosmetologist who  
18 changes their primary state of residence during the course of the investigation. The home state also has the  
19 authority to take appropriate action and shall promptly report the conclusions of the investigations to the data  
20 system.

21 (5) If an adverse action is taken by the home state against a licensee's multistate license, the  
22 licensee's authorization to practice in all other member states must be deactivated until all encumbrances have  
23 been removed from the home state license. All home state disciplinary orders that impose an adverse action  
24 against a licensee's multistate license must include a statement that the cosmetologist's authorization to  
25 practice is deactivated in all member states during the pendency of the order.

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

1 (7) Joint investigations:

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

## ARTICLE 8

## ACTIVE MILITARY MEMBERS AND THEIR SPOUSES

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

## ARTICLE 9

## ESTABLISHMENT AND OPERATION OF THE

## COSMETOLOGY LICENSURE COMPACT COMMISSION

15 (1) The compact member states hereby create and establish a joint government agency whose  
16 membership consists of all member states that have enacted the compact known as the cosmetology licensure  
17 compact commission. The commission is an instrumentality of the compact member states acting jointly and  
18 not an instrumentality of any one state. The commission must come into existence on or after the effective date  
19 of the compact as set forth in article 13.

20 (2) Membership, voting, and meetings:

21 (a) Each member state must have and be limited to one delegate selected by that member state's  
22 state licensing authority.

23 (b) The delegate must be an administrator of the state licensing authority of the member state or  
24 their designee.

25 (c) The commission shall by rule or bylaw establish a term of office for delegates and may by rule  
26 or bylaw establish term limits.

27 (d) The commission may recommend removal or suspension of any delegate from office.

28 (e) A member state's state licensing authority shall fill any vacancy of its delegate occurring on the

1 commission within 60 days of the vacancy.

2 (f) Each delegate is entitled to one vote on all matters that are voted on by the commission.

3 (g) The commission shall meet at least once during each calendar year. Additional meetings may  
4 be held as set forth in the bylaws. The commission may meet by telecommunication, videoconference, or other  
5 similar electronic means.

6 (3) The commission has the following powers:

7 (a) establish the fiscal year of the commission;

8 (b) establish code of conduct and conflict of interest policies;

9 (c) adopt rules and bylaws;

10 (d) maintain its financial records in accordance with the bylaws;

11 (e) meet and take actions that are consistent with the provisions of this compact, the commission's  
12 rules, and the bylaws;

13 (f) initiate and conclude legal proceedings or actions in the name of the commission, provided that  
14 the standing of any state licensing authority to sue or be sued under applicable law may not be affected;

15 (g) maintain and certify records and information provided to a member state as the authenticated  
16 business records of the commission and designate an agent to do so on the commission's behalf;

17 (h) purchase and maintain insurance and bonds;

18 (i) borrow, accept, or contract for services of personnel, including but not limited to employees of a  
19 member state;

20 (j) conduct an annual financial review;

21 (k) hire employees, elect or appoint officers, fix compensation, define duties, grant the individuals  
22 appropriate authority to carry out the purposes of the compact, and establish the commission's personnel  
23 policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel  
24 matters;

25 (l) as set forth in the commission rules, charge a fee to a licensee for the grant of a multistate  
26 license and thereafter, as may be established by commission rule, charge the licensee a multistate license  
27 renewal fee for each renewal period. Nothing herein may be construed to prevent a home state from charging a  
28 licensee a fee for a multistate license or renewals of a multistate license, or a fee for the jurisprudence

1 requirement if the member state imposes that requirement for the grant of a multistate license.

2 (m) assess and collect fees;

3 (n) accept any and all appropriate gifts, donations, grants of money, other sources of revenue,

4 equipment, supplies, materials, and services, and receive, utilize, and dispose of the same, provided that at all

5 times the commission shall avoid any appearance of impropriety or conflict of interest;

6 (o) lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or

7 any undivided interest therein;

8 (p) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any

9 property, real, personal, or mixed;

10 (q) establish a budget and make expenditures;

11 (r) borrow money;

12 (s) appoint committees, including standing committees, composed of members, state regulators,

13 state legislators or their representatives, consumer representatives, and other interested persons as may be

14 designated in this compact and the bylaws;

15 (t) provide and receive information from, and cooperate with, law enforcement agencies;

16 (u) elect a chair, vice chair, secretary, and treasurer and other officers of the commission as

17 provided in the commission's bylaws;

18 (v) establish and elect an executive committee, including a chair and a vice chair;

19 (w) adopt and provide to the member states an annual report.

20 (x) determine whether a state's adopted language is materially different from the model compact

21 language in a way that the state would not qualify for participation in the compact; and

22 (y) perform such other functions as may be necessary or appropriate to achieve the purposes of

23 this compact.

24 (4) The executive committee:

25 (a) The executive committee has the power to act on behalf of the commission according to the

26 terms of this compact. The powers, duties, and responsibilities of the executive committee include:

27 (i) overseeing the day-to-day activities of the administration of the compact, including compliance

28 with the provisions of the compact, the commission's rules and bylaws, and other duties deemed necessary;



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

5 (i) meet an imminent threat to public health, safety, or welfare;

6 (ii) prevent a loss of commission or member state funds; or

7 (iii) protect public health and safety.

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

9 (6) Meetings of the commission:

10 (a) All meetings of the commission that are not closed pursuant to article 9(6)(d) must be open to  
11 the public. Notice of public meetings must be posted on the commission's website at least 30 days prior to the  
12 public meeting.

13 (b) Notwithstanding article 9(6)(a), the commission may convene an emergency public meeting by  
14 providing at least 24 hours' prior notice on the commission's website, and any other means as provided in the  
15 commission's rules, for any of the reasons it may dispense with notice of proposed rulemaking under article  
16 11(12). The commission's legal counsel shall certify that one of the reasons justifying an emergency public  
17 meeting has been met.

18 (c) Notice of all commission meetings must provide the time, date, and location of the meeting,  
19 and if the meeting is to be held or accessible via telecommunication, videoconference, or other electronic  
20 means, the notice must include the mechanism for access to the meeting.

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

22 (i) noncompliance of a member state with its obligations under the compact;

23 (ii) the employment, compensation, discipline, or other matters, practices, or procedures related to

24 specific employees or other matters related to the commission's internal personnel practices and procedures;

25 (iii) current or threatened discipline of a licensee by the commission or by a member state's

26 licensing authority;

27 (iv) current, threatened, or reasonably anticipated litigation;

28 (v) negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;



1 annual assessment amount for member states must be allocated based on a formula that the commission shall  
2 promulgate by rule.

3 (d) The commission may not incur obligations of any kind prior to securing the funds adequate to  
4 meet the same. The commission may not pledge the credit of any member states, except by and with the  
5 authority of the member state.

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

11 (8) Qualified immunity, defense, and indemnification:

12 (a) The members, officers, executive director, employees, and representatives of the commission  
13 must be immune from suit and liability, both personally and in their official capacity, for any claim for damage to  
14 or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act,  
15 error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for  
16 believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing  
17 in this subsection may be construed to protect the person from suit or liability for any damage, loss, injury, or  
18 liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance  
19 of any type by the commission may not in any way compromise or limit the immunity granted hereunder.

20 (b) The commission shall defend any member, officer, executive director, employee, or  
21 representative of the commission in any civil action seeking to impose liability arising out of any actual or  
22 alleged act, error, or omission that occurred within the scope of commission employment, duties, or  
23 responsibilities, or as determined by the commission that the person against whom the claim is made had a  
24 reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities,  
25 provided that nothing herein may be construed to prohibit that person from retaining their own counsel at their  
26 own expense, and provided further that the actual or alleged act, error, or omission did not result from that  
27 person's intentional or willful or wanton misconduct.

28 (c) The commission shall indemnify and hold harmless any member, officer, executive director,

1 employee, or representative of the commission for the amount of any settlement or judgment obtained against  
2 that person arising out of any actual or alleged act, error, or omission that occurred within the scope of  
3 commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing  
4 occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or  
5 alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

6 (d) Nothing herein may be construed as a limitation on the liability of any licensee for professional  
7 malpractice or misconduct, which must be governed solely by any other applicable state laws.

8 (e) Nothing in this compact may be interpreted to waive or otherwise abrogate a member state's  
9 state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act,  
10 Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.

11 (f) Nothing in this compact may be construed to be a waiver of sovereign immunity by the member  
12 states or by the commission.

## ARTICLE 10

### DATA SYSTEM

15 (1) The commission shall provide for the development, maintenance, operation, and utilization of a  
16 coordinated database and reporting system.

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

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

22 (a) identifying information;

23 (b) licensure data;

24 (c) adverse actions against a license and information related to those;

25 (d) nonconfidential information related to alternative program participation, the beginning and  
26 ending dates of the participation, and other information related to the participation;

27 (e) any denial of application for licensure and the reason or reasons for the denial, excluding the  
28 reporting of any criminal history record information when prohibited by law;

5 (4) The records and information provided to a member state pursuant to this compact or through  
6 the data system, when certified by the commission or an agent of the commission, constitute the authenticated  
7 business records of the commission and are entitled to any associated hearsay exception in any relevant  
8 judicial, quasi-judicial or administrative proceedings in a member state.

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

11 (6) It is the responsibility of the member states to monitor the database to determine whether  
12 adverse action has been taken against a licensee or license applicant. Adverse action information pertaining to  
13 a licensee or license applicant in any member state will be available to any other member state.

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

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

## ARTICLE 11

## RULEMAKING

20 (1) The commission shall promulgate reasonable rules in order to effectively and efficiently  
21 implement and administer the purposes and provisions of the compact. A rule must be invalid and have no  
22 force or effect only if a court of competent jurisdiction holds that the rule is invalid because the commission  
23 exercised its rulemaking authority in a manner that is beyond the scope and purposes of the compact, or the  
24 powers granted hereunder, or based on another applicable standard of review.

25 (2) The rules of the commission have the force of law in each member state, provided however  
26 that where the rules of the commission conflict with the laws of the member state that establish the member  
27 state's scope of practice laws governing the practice of cosmetology as held by a court of competent  
28 jurisdiction, the rules of the commission are ineffective in that state to the extent of the conflict.

4 (4) If a majority of the legislatures of the member states rejects a rule or portion of a rule, by  
5 enactment of a statute or resolution in the same manner used to adopt the compact within 4 years of the date of  
6 adoption of the rule, then the rule has no further force and effect in any member state or to any state applying to  
7 participate in the compact.

8 (5) Rules must be adopted at a regular or special meeting of the commission.

9 (6) Prior to adoption of a proposed rule, the commission shall hold a public hearing and allow  
10 persons to provide oral and written comments, data, facts, opinions, and arguments.

14 (a) on the website of the commission or other publicly accessible platform;

15 (b) to persons who have requested notice of the commission's notices of proposed rulemaking;

16 and

17 (c) in other ways as the commission may by rule specify.

18 (8) The notice of proposed rulemaking must include:

19 (a) the time, date, and location of the public hearing at which the commission will hear public  
20 comments on the proposed rule and, if different, the time, date, and location of the meeting where the  
21 commission will consider and vote on the proposed rule;

22 (b) if the hearing is held via telecommunication, videoconference, or other electronic means, the  
23 commission shall include the mechanism for access to the hearing in the notice of proposed rulemaking;

24 (c) the text of the proposed rule and the reason for the rule;

25 (d) a request for comments on the proposed rule from any interested person; and

26 (e) the manner in which interested persons may submit written comments.

27 (9) All hearings will be recorded. A copy of the recording and all written comments and documents  
28 received by the commission in response to the proposed rule must be available to the public.

(10) Nothing in this article may be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this article.

(11) The commission shall, by majority vote of all members, take final action on the proposed rule based on the rulemaking record and the full text of the rule.

(a) The commission may adopt changes to the proposed rule, provided the changes do not enlarge the original purpose of the proposed rule.

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

(c) The commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in article 11(12), the effective date of the rule must be no sooner than 45 days after the commission issues the notice that it adopted or amended the rule.

(12) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with 5 days' notice, with opportunity to comment, provided that the usual rulemaking procedures provided in the compact and in this article are retroactively applied to the rule as soon as reasonably possible, and 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:

(a) meet an imminent threat to public health, safety, or welfare;

(b) prevent a loss of commission or member state funds;

(c) meet a deadline for the promulgation of a rule that is established by federal law or rule; or

(d) protect public health and safety.

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

1 without the approval of the commission.

2 (14) A member state's rulemaking requirements do not apply under this compact.

## 3 ARTICLE 12

### 4 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

5 (1) Oversight:

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

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

13 (c) The commission is entitled to receive service of process in any proceeding regarding the  
14 enforcement or interpretation of the compact and has standing to intervene in such a proceeding for all  
15 purposes. Failure to provide the commission service of process renders a judgment or order void as to the  
16 commission, this compact, or promulgated rules.

17 (2) Default, technical assistance, and termination:

18 (a) If the commission determines that a member state has defaulted in the performance of its  
19 obligations or responsibilities under this compact or the promulgated rules, the commission shall provide written  
20 notice to the defaulting state. The notice of default must describe the default, the proposed means of curing the  
21 default, and any other action that the commission may take, and it must offer training and specific technical  
22 assistance regarding the default.

23 (b) The commission shall provide a copy of the notice of default to the other member states.

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

8 (f) Upon the termination of a state's membership from this compact, that state shall immediately  
9 provide notice to all licensees who hold a multistate license within that state of such termination. The terminated  
10 state shall continue to recognize all licenses granted pursuant to this compact for a minimum of 180 days after  
11 the date of the notice of termination.

12 (g) The commission may not bear any costs related to a state that is found to be in default or that  
13 has been terminated from the compact, unless agreed on in writing between the commission and the defaulting  
14 state.

15 (h) The defaulting state may appeal the action of the commission by petitioning the United States  
16 district court for the District of Columbia or the federal district where the commission has its principal offices.  
17 The prevailing party must be awarded all costs of the litigation, including reasonable attorney fees.

### 18 (3) Dispute resolution:

19 (a) Upon request by a member state, the commission shall attempt to resolve disputes related to  
20 the compact that arise among member states and between member and nonmember states.

21 (b) The commission shall promulgate a rule providing for both mediation and binding dispute  
22 resolution for disputes as appropriate.

23 (4) Enforcement:

24 (a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions of this  
25 compact and the commission's rules.

26 (b) By majority vote as provided by commission rule, the commission may initiate legal action  
27 against a member state in default in the United States district court for the District of Columbia or the federal  
28 district where the commission has its principal offices to enforce compliance with the provisions of the compact

1 and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event  
2 judicial enforcement is necessary, the prevailing party must be awarded all costs of the litigation, including  
3 reasonable attorney fees. The remedies herein may not be the exclusive remedies of the commission. The  
4 commission may pursue any other remedies available under federal law or the defaulting member state's law.

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

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

## 12 ARTICLE 13

### 13 EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

14 (1) The compact must come into effect on the date on which the compact statute is enacted into  
15 law in the seventh member state.

16 (a) On or after the effective date of the compact, the commission shall convene and review the  
17 enactment of each of the charter member states to determine if the statute enacted by each charter member  
18 state is materially different from the model compact statute.

19 (i) A charter member state whose enactment is found to be materially different from the model  
20 compact statute must be entitled to the default process set forth in article 12.

21 (ii) If any member state is later found to be in default, or is terminated or withdraws from the  
22 compact, the commission must remain in existence and the compact must remain in effect even if the number  
23 of member states should be less than seven.

24 (b) Member states enacting the compact subsequent to the charter member states must be subject  
25 to the process set forth in article 9(3)(x) to determine if their enactments are materially different from the model  
26 compact statute and whether they qualify for participation in the compact.

27 (c) All actions taken for the benefit of the commission or in furtherance of the purposes of the  
28 administration of the compact prior to the effective date of the compact or the commission coming into

1 existence are considered to be actions of the commission unless specifically repudiated by the commission.

2 (d) Any state that joins the compact is subject to the commission's rules and bylaws as they exist  
3 on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the  
4 commission has the full force and effect of law on the day the compact becomes law in that state.

7 (a) A member state's withdrawal may not take effect until 180 days after enactment of the  
8 repealing statute.

9 (b) Withdrawal may not affect the continuing requirement of the withdrawing state's state licensing  
10 authority to comply with the investigative and adverse action reporting requirements of this compact prior to the  
11 effective date of withdrawal.

12 (c) Upon the enactment of a statute withdrawing from this compact, a state shall immediately  
13 provide notice of the withdrawal to all licensees within that state. Notwithstanding any subsequent statutory  
14 enactment to the contrary, the withdrawing state shall continue to recognize all licenses granted pursuant to this  
15 compact for a minimum of 180 days after the date of the notice of withdrawal.

16 (3) Nothing contained in this compact may be construed to invalidate or prevent any licensure  
17 agreement or other cooperative arrangement between a member state and a nonmember state that does not  
18 conflict with the provisions of this compact.

19 (4) This compact may be amended by the member states. No amendment to this compact may  
20 become effective and binding on any member state until it is enacted into the laws of all member states.

## ARTICLE 14

## CONSTRUCTION AND SEVERABILITY

23 (1) This compact and the commission's rulemaking authority must be liberally construed so as to  
24 effectuate the purposes, and the implementation and administration, of the compact. Provisions of the compact  
25 expressly authorizing or requiring the promulgation of rules may not be construed to limit the commission's  
26 rulemaking authority solely for those purposes

27 (2) The provisions of this compact are severable, and if any phrase, clause, sentence, or provision  
28 of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any member

1 state, of a state seeking participation in the compact, or of the United States, or the applicability thereof to any  
2 government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction,  
3 the validity of the remainder of this compact and the applicability thereof to any other government, agency,  
4 person, or circumstance may not be affected.

5 (3) Notwithstanding article 14(2), the commission may deny a state's participation in the compact  
6 or, in accordance with the requirements of article 12, terminate a member state's participation in the compact, if  
7 it determines that a constitutional requirement of a member state is a material departure from the compact.  
8 Otherwise, if this compact must be held to be contrary to the constitution of any member state, the compact  
9 must remain in full force and effect as to the remaining member states and in full force and effect as to the  
10 member state affected as to all severable matters.

11 **ARTICLE 15**

12 **CONSISTENT EFFECT AND CONFLICT WITH OTHER LAWS**

13 (1) Nothing herein may prevent or inhibit the enforcement of any other law of a member state that  
14 is not inconsistent with the compact.

15 (2) Any laws, statutes, regulations, or other legal requirements in a member state in conflict with  
16 the compact are superseded to the extent of the conflict.

17 (3) All permissible agreements between the commission and the member states are binding in  
18 accordance with their terms.

19  
20 **NEW SECTION. Section 2. Criminal background check for multistate licensure.** (1) Each  
21 applicant for multistate licensure to practice cosmetology shall submit a full set of the applicant's fingerprints to  
22 the board for the purpose of obtaining a state and federal criminal history background check.

23 (2) Each license applicant is responsible for paying all fees charged in relation to obtaining the  
24 state and federal criminal history background check.

25 (3) The board may require a licensee renewing a license to submit a full set of the licensee's  
26 fingerprints to the board for the purpose of obtaining a state and federal criminal history background check.

27 (4) The department of justice may share the fingerprint data obtained under subsection (1) or (3)  
28 with the federal bureau of investigation.

1

2           **NEW SECTION. Section 3. Codification instruction.** (1) [Section 1] is intended to be codified as a  
3 new part of Title 37, chapter 31, and the provisions of Title 37, chapter 31, apply to [section 1].

4           (2) [Section 2] is intended to be codified as an integral part of Title 37, chapter 31, part 3, and the  
5 provisions of Title 37, chapter 31, part 3, apply to [section 2].

6

- END -