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**HOUSE BILL 1437**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representatives Kloba, Ybarra, Leavitt, McEntire, Reeves, Jacobsen, Ryu, Caldier, Macri, and Reed

Read first time 01/18/23. Referred to Committee on Postsecondary Education & Workforce.

1 AN ACT Relating to the interstate massage compact; and adding a  
2 new chapter to Title 18 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The purpose of this compact is to reduce  
5 the burdens on state governments and to facilitate the interstate  
6 practice and regulation of massage therapy with the goal of improving  
7 public access to, and the safety of, massage therapy services.  
8 Through this compact, the member states seek to establish a  
9 regulatory framework which provides for a new multistate licensing  
10 program. Through this additional licensing pathway, the member states  
11 seek to provide increased value and mobility to licensed massage  
12 therapists in the member states, while ensuring the provision of  
13 safe, competent, and reliable services to the public.

14 This compact is designed to achieve the following objectives, and  
15 the member states hereby ratify the same intentions by subscribing  
16 hereto:

17 (1) Increase public access to massage therapy services by  
18 providing for a multistate licensing pathway;

19 (2) Enhance the member states' ability to protect the public's  
20 health and safety;

1 (3) Enhance the member states' ability to prevent human  
2 trafficking and licensure fraud;

3 (4) Encourage the cooperation of member states in regulating the  
4 multistate practice of massage therapy;

5 (5) Support relocating military members and their spouses;

6 (6) Facilitate and enhance the exchange of licensure,  
7 investigative, and disciplinary information between the member  
8 states;

9 (7) Create an interstate commission that will exist to implement  
10 and administer the compact;

11 (8) Allow a member state to hold a licensee accountable, even  
12 where that licensee holds a multistate license;

13 (9) Create a streamlined pathway for licensees to practice in  
14 member states, thus increasing the mobility of duly licensed massage  
15 therapists; and

16 (10) Serve the needs of licensed massage therapists and the  
17 public receiving their services; however,

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

20 NEW SECTION. **Sec. 2.** As used in this compact, except as  
21 otherwise provided and subject to clarification by the rules of the  
22 commission, the following definitions shall govern the terms herein:

23 (1) "Active duty military" means any individual in full-time duty  
24 status in the active uniformed service of the United States including  
25 members of the national guard and reserve.

26 (2) "Adverse action" means any administrative, civil, equitable,  
27 or criminal action permitted by a member state's laws which is  
28 imposed by a licensing authority or other regulatory body against a  
29 licensee, including actions against an individual's authorization to  
30 practice such as revocation, suspension, probation, surrender in lieu  
31 of discipline, monitoring of the licensee, limitation of the  
32 licensee's practice, or any other encumbrance on licensure affecting  
33 an individual's ability to practice massage therapy, including the  
34 issuance of a cease and desist order.

35 (3) "Alternative program" means a nondisciplinary monitoring or  
36 prosecutorial diversion program approved by a member state's  
37 licensing authority.

38 (4) "Authorization to practice" means a legal authorization by a  
39 remote state pursuant to a multistate license permitting the practice

1 of massage therapy in that remote state, which shall be subject to  
2 the enforcement jurisdiction of the licensing authority in that  
3 remote state.

4 (5) "Background check" means the submission of an applicant's  
5 criminal history record information, as further defined in 28 C.F.R.  
6 Sec. 20.3(d), as amended from the federal bureau of investigation and  
7 the agency responsible for retaining state criminal records in the  
8 applicant's home state.

9 (6) "Charter member states" means member states who have enacted  
10 legislation to adopt this compact where such legislation predates the  
11 effective date of this compact as defined in section 12 of this act.

12 (7) "Commission" means the government agency whose membership  
13 consists of all states that have enacted this compact, which is known  
14 as the interstate massage compact commission, as defined in section 8  
15 of this act, and which shall operate as an instrumentality of the  
16 member states.

17 (8) "Continuing competence" means a requirement, as a condition  
18 of license renewal, to provide evidence of participation in, and  
19 completion of, educational or professional activities that maintain,  
20 improve, or enhance massage therapy fitness to practice.

21 (9) "Current significant investigative information" means  
22 investigative information that a licensing authority, after an  
23 inquiry or investigation that complies with a member state's due  
24 process requirements, has reason to believe is not groundless and, if  
25 proved true, would indicate a violation of that state's laws  
26 regarding the practice of massage therapy.

27 (10) "Data system" means a repository of information about  
28 licensees who hold multistate licenses, which may include but is not  
29 limited to license status, investigative information, and adverse  
30 actions.

31 (11) "Disqualifying event" means any event which shall disqualify  
32 an individual from holding a multistate license under this compact,  
33 which the commission may by rule specify.

34 (12) "Encumbrance" means a revocation or suspension of, or any  
35 limitation or condition on, the full and unrestricted practice of  
36 massage therapy by a licensing authority.

37 (13) "Executive committee" means a group of delegates elected or  
38 appointed to act on behalf of, and within the powers granted to them  
39 by, the commission.

1 (14) "Home state" means the member state which is a licensee's  
2 primary state of residence where the licensee holds an active single-  
3 state license.

4 (15) "Investigative information" means information, records, or  
5 documents received or generated by a licensing authority pursuant to  
6 an investigation or other inquiry.

7 (16) "Licensing authority" means a state's regulatory body  
8 responsible for issuing massage therapy licenses or otherwise  
9 overseeing the practice of massage therapy in that state.

10 (17) "Licensee" means an individual who currently holds a license  
11 from a member state to fully practice massage therapy, whose license  
12 is not a student, provisional, temporary, inactive, or other similar  
13 status.

14 (18) "Massage therapy," "massage therapy services," and the  
15 "practice of massage therapy" mean the care and services provided by  
16 a licensee as set forth in the member state's statutes and  
17 regulations in the state where the services are being provided.

18 (19) "Member state" means any state that has adopted this  
19 compact.

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

24 (21) "National licensing examination" means a national  
25 examination developed by a national association of massage therapy  
26 regulatory boards, as defined by commission rule, that is derived  
27 from a practice analysis and is consistent with generally accepted  
28 psychometric principles of fairness, validity and reliability, and is  
29 administered under secure and confidential examination protocols.

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

32 (23) "Rule" means any opinion or regulation promulgated by the  
33 commission under this compact, which shall have the force of law.

34 (24) "Single-state license" means a current, valid authorization  
35 issued by a member state's licensing authority allowing an individual  
36 to fully practice massage therapy, that is not a restricted, student,  
37 provisional, temporary, or inactive practice authorization and  
38 authorizes practice only within the issuing state.

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

1        NEW SECTION.    **Sec. 3.**    (1) To be eligible to join this compact,  
2 and to maintain eligibility as a member state, a state must:

3        (a) License and regulate the practice of massage therapy;

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

7        (c) Accept passage of a national licensing examination as a  
8 criterion for massage therapy licensure in that state;

9        (d) Require that licensees satisfy educational requirements prior  
10 to being licensed to provide massage therapy services to the public  
11 in that state;

12        (e) Implement procedures for requiring the background check of  
13 applicants for a multistate license, and for the reporting of any  
14 disqualifying events, including but not limited to obtaining and  
15 submitting, for each licensee holding a multistate license and each  
16 applicant for a multistate license, fingerprint or other biometric-  
17 based information to the federal bureau of investigation for  
18 background checks; receiving the results of the federal bureau of  
19 investigation record search on background checks and considering the  
20 results of such a background check in making licensure decisions;

21        (f) Have continuing competence requirements as a condition for  
22 license renewal;

23        (g) Participate in the data system, including through the use of  
24 unique identifying numbers as described herein;

25        (h) Notify the commission and other member states, in compliance  
26 with the terms of the compact and rules of the commission, of any  
27 disciplinary action taken by the state against a licensee practicing  
28 under a multistate license in that state, or of the existence of  
29 investigative information or current significant investigative  
30 information regarding a licensee practicing in that state pursuant to  
31 a multistate license;

32        (i) Comply with the rules of the commission; and

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

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

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

4 (4) A multistate license issued to a licensee shall be recognized  
5 by each remote state as an authorization to practice massage therapy  
6 in each remote state.

7 NEW SECTION. **Sec. 4.** (1) To qualify for a multistate license  
8 under this compact, and to maintain eligibility for such a license,  
9 an applicant must:

10 (a) Hold an active single-state license to practice massage  
11 therapy in the applicant's home state;

12 (b) Have completed at least 625 clock hours of massage therapy  
13 education or the substantial equivalent which the commission may  
14 approve by rule;

15 (c) Have passed a national licensing examination or the  
16 substantial equivalent which the commission may approve by rule;

17 (d) Submit to a background check;

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

24 (f) Have not been convicted or found guilty, or have entered into  
25 an agreed disposition, of a misdemeanor offense related to the  
26 practice of massage therapy under applicable state or federal  
27 criminal law, within two years prior to the date of their application  
28 where such a time period shall not include any time served for the  
29 offense, and provided that the applicant has completed any and all  
30 requirements arising as a result of any such offense;

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

35 (i) Kidnapping;

36 (ii) Human trafficking;

37 (iii) Human smuggling;

38 (iv) Sexual battery, sexual assault, or any related offenses; or

1 (v) Any other category of offense which the commission may by  
2 rule designate;

3 (h) Have not previously held a massage therapy license which was  
4 revoked by, or surrendered in lieu of discipline to, an applicable  
5 licensing authority;

6 (i) Have no history of any adverse action on any occupational or  
7 professional license within two years prior to the date of their  
8 application; and

9 (j) Pay all required fees.

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

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

16 (4) The practice of massage therapy under a multistate license  
17 granted pursuant to this compact will subject the licensee to the  
18 jurisdiction of the licensing authority, the courts, and the laws of  
19 the member state in which the massage therapy services are provided.

20 NEW SECTION. **Sec. 5.** (1) Nothing in this compact, nor any rule  
21 of the commission, shall be construed to limit, restrict, or in any  
22 way reduce the ability of a member state to enact and enforce laws,  
23 regulations, or other rules related to the practice of massage  
24 therapy in that state, where those laws, regulations, or other rules  
25 are not inconsistent with the provisions of this compact.

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

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

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

1 (5) Insofar as practical, a member state's licensing authority  
2 shall cooperate with the commission and with each entity exercising  
3 independent regulatory authority over the practice of massage therapy  
4 according to the provisions of this compact.

5 NEW SECTION. **Sec. 6.** (1) A licensee's home state shall have  
6 exclusive power to impose an adverse action against a licensee's  
7 multistate license issued by the home state.

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

11 (3) A home state shall retain authority to complete any pending  
12 investigations of a licensee practicing under a multistate license  
13 who changes their home state during the course of such an  
14 investigation. The licensing authority shall also be empowered to  
15 report the results of such an investigation to the commission through  
16 the data system as described herein.

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

20 (5) A remote state shall have the authority to:

21 (a) Take adverse actions against a licensee's authorization to  
22 practice;

23 (b) Issue cease and desist orders or impose an encumbrance on a  
24 licensee's authorization to practice in that state;

25 (c) Issue subpoenas for both hearings and investigations that  
26 require the attendance and testimony of witnesses, as well as the  
27 production of evidence. Subpoenas issued by a licensing authority in  
28 a member state for the attendance and testimony of witnesses or the  
29 production of evidence from another member state shall be enforced in  
30 the latter state by any court of competent jurisdiction, according to  
31 the practice and procedure of that court applicable to subpoenas  
32 issued in proceedings before it. The issuing licensing authority  
33 shall pay any witness fees, travel expenses, mileage, and other fees  
34 required by the service statutes of the state in which the witnesses  
35 or evidence are located;

36 (d) If otherwise permitted by state law, recover from the  
37 affected licensee the costs of investigations and disposition of  
38 cases resulting from any adverse action taken against that licensee;  
39 or



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

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

12 (7) If adverse action is taken by a remote state against a  
13 licensee's authorization to practice, that adverse action applies to  
14 all authorizations to practice in all remote states. A licensee whose  
15 authorization to practice in a remote state is removed for a  
16 specified period of time is not eligible to apply for a new  
17 multistate license in any other state until the specific time for  
18 removal of the authorization to practice has passed and all  
19 encumbrance requirements are satisfied.

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

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

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

32 NEW SECTION. **Sec. 7.** Active duty military personnel, or their  
33 spouses, shall designate a home state where the individual has a  
34 current license to practice massage therapy in good standing. The  
35 individual may retain their home state designation during any period  
36 of service when that individual or their spouse is on active duty  
37 assignment.

1        NEW SECTION.        **Sec. 8.**        (1) The compact member states hereby  
2 create and establish a joint government agency whose membership  
3 consists of all member states that have enacted the compact known as  
4 the interstate massage compact commission. The commission is an  
5 instrumentality of the compact states acting jointly and not an  
6 instrumentality of any one state. The commission shall come into  
7 existence on or after the effective date of the compact as set forth  
8 in section 12 of this act.

9        (2) (a) Each member state shall have and be limited to one  
10 delegate selected by that member state's state licensing authority.

11        (b) The delegate shall be the primary administrative officer of  
12 the state licensing authority or their designee.

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

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

17        (e) A member state's state licensing authority shall fill any  
18 vacancy of its delegate occurring on the commission within 60 days of  
19 the vacancy.

20        (f) Each delegate shall be entitled to one vote on all matters  
21 that are voted on by the commission.

22        (g) The commission shall meet at least once during each calendar  
23 year. Additional meetings may be held as set forth in the bylaws. The  
24 commission may meet by telecommunication, video conference, or other  
25 similar electronic means.

26        (3) The commission shall have the following powers:

27        (a) Establish the fiscal year of the commission;

28        (b) Establish code of conduct and conflict of interest policies;

29        (c) Adopt rules and bylaws;

30        (d) Maintain its financial records in accordance with the bylaws;

31        (e) Meet and take such actions as are consistent with the  
32 provisions of this compact, the commission's rules, and the bylaws;

33        (f) Initiate and conclude legal proceedings or actions in the  
34 name of the commission, provided that the standing of any state  
35 licensing authority to sue or be sued under applicable law shall not  
36 be affected;

37        (g) Maintain and certify records and information provided to a  
38 member state as the authenticated business records of the commission,  
39 and designate an agent to do so on the commission's behalf;

40        (h) Purchase and maintain insurance and bonds;

- 1 (i) Borrow, accept, or contract for services of personnel  
2 including, but not limited to, employees of a member state;
- 3 (j) Conduct an annual financial review;
- 4 (k) Hire employees, elect or appoint officers, fix compensation,  
5 define duties, grant such individuals appropriate authority to carry  
6 out the purposes of the compact, and establish the commission's  
7 personnel policies and programs relating to conflicts of interest,  
8 qualifications of personnel, and other related personnel matters;
- 9 (l) Assess and collect fees;
- 10 (m) Accept any and all appropriate gifts, donations, grants of  
11 money, other sources of revenue, equipment, supplies, materials, and  
12 services, and receive, utilize, and dispose of the same; provided  
13 that at all times the commission shall avoid any appearance of  
14 impropriety or conflict of interest;
- 15 (n) Lease, purchase, retain, own, hold, improve, or use any  
16 property, real, personal, or mixed, or any undivided interest  
17 therein;
- 18 (o) Sell, convey, mortgage, pledge, lease, exchange, abandon, or  
19 otherwise dispose of any property real, personal, or mixed;
- 20 (p) Establish a budget and make expenditures;
- 21 (q) Borrow money;
- 22 (r) Appoint committees, including standing committees, composed  
23 of members, state regulators, state legislators or their  
24 representatives, and consumer representatives, and such other  
25 interested persons as may be designated in this compact and the  
26 bylaws;
- 27 (s) Accept and transmit complaints from the public, regulatory or  
28 law enforcement agencies, or the commission, to the relevant member  
29 state or states regarding potential misconduct of licensees;
- 30 (t) Elect a chair, vice chair, secretary, treasurer, and such  
31 other officers of the commission as provided in the commission's  
32 bylaws;
- 33 (u) Establish and elect an executive committee, including a chair  
34 and a vice chair;
- 35 (v) Adopt and provide to the member states an annual report;
- 36 (w) Determine whether a state's adopted language is materially  
37 different from the model compact language such that the state would  
38 not qualify for participation in the compact; and
- 39 (x) Perform such other functions as may be necessary or  
40 appropriate to achieve the purposes of this compact.

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

5 (i) Overseeing the day-to-day activities of the administration of  
6 the compact including compliance with the provisions of the compact,  
7 the commission's rules and bylaws, and other such duties as deemed  
8 necessary;

9 (ii) Recommending to the commission changes to the rules or  
10 bylaws, changes to this compact legislation, fees charged to compact  
11 member states, fees charged to licensees, and other fees;

12 (iii) Ensuring compact administration services are appropriately  
13 provided, including by contract;

14 (iv) Preparing and recommending the budget;

15 (v) Maintaining financial records on behalf of the commission;

16 (vi) Monitoring compact compliance of member states and providing  
17 compliance reports to the commission;

18 (vii) Establishing additional committees as necessary;

19 (viii) Exercising the powers and duties of the commission during  
20 the interim between commission meetings, except for adopting or  
21 amending rules, adopting or amending bylaws, and exercising any other  
22 powers and duties expressly reserved to the commission by rule or  
23 bylaw; and

24 (ix) Other duties as provided in the rules or bylaws of the  
25 commission.

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

28 (i) The chair and vice chair of the commission and any other  
29 members of the commission who serve on the executive committee shall  
30 be voting members of the executive committee;

31 (ii) Other than the chair, vice-chair, secretary and treasurer,  
32 the commission shall elect three voting members from the current  
33 membership of the commission; and

34 (iii) The commission may elect ex officio, nonvoting members as  
35 necessary as follows:

36 (A) One ex officio member who is a representative of the national  
37 association of state massage therapy regulatory boards; and

38 (B) One ex officio member as specified in the commission's  
39 bylaws.

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

3 (d) The executive committee shall meet at least annually.

4 (i) Executive committee meetings shall be open to the public,  
5 except that the executive committee may meet in a closed, nonpublic  
6 session of a public meeting when dealing with any of the matters  
7 covered under subsection (6)(d) of this section.

8 (ii) The executive committee shall give five business days  
9 advance notice of its public meetings, posted on its website and as  
10 determined to provide notice to persons with an interest in the  
11 public matters the executive committee intends to address at those  
12 meetings.

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

15 (i) Meet an imminent threat to public health, safety, or welfare;

16 (ii) Prevent a loss of commission or participating state funds;

17 or

18 (iii) Protect public health and safety.

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

21 (6)(a) All meetings of the commission that are not closed  
22 pursuant to this subsection shall be open to the public. Notice of  
23 public meetings shall be posted on the commission's website at least  
24 30 days prior to the public meeting.

25 (b) Notwithstanding (a) of this subsection, the commission may  
26 convene an emergency public meeting by providing at least 24 hours  
27 prior notice on the commission's website, and any other means as  
28 provided in the commission's rules, for any of the reasons it may  
29 dispense with notice of proposed rule making under section 10(12) of  
30 this act. The commission's legal counsel shall certify that one of  
31 the reasons justifying an emergency public meeting has been met.

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

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

39 (i) Noncompliance of a member state with its obligations under  
40 the compact;

1 (ii) The employment, compensation, discipline, or other matters,  
2 practices or procedures related to specific employees or other  
3 matters related to the commission's internal personnel practices and  
4 procedures;

5 (iii) Current or threatened discipline of a licensee by the  
6 commission or by a member state's licensing authority;

7 (iv) Current, threatened, or reasonably anticipated litigation;

8 (v) Negotiation of contracts for the purchase, lease, or sale of  
9 goods, services, or real estate;

10 (vi) Accusing any person of a crime or formally censuring any  
11 person;

12 (vii) Trade secrets or commercial or financial information that  
13 is privileged or confidential;

14 (viii) Information of a personal nature where disclosure would  
15 constitute a clearly unwarranted invasion of personal privacy;

16 (ix) Investigative records compiled for law enforcement purposes;

17 (x) Information related to any investigative reports prepared by  
18 or on behalf of or for use of the commission or other committee  
19 charged with responsibility of investigation or determination of  
20 compliance issues pursuant to the compact;

21 (xi) Legal advice;

22 (xii) Matters specifically exempted from disclosure to the public  
23 by federal or member state law; or

24 (xiii) Other matters as promulgated by the commission by rule.

25 (e) If a meeting, or portion of a meeting, is closed, the  
26 presiding officer shall state that the meeting will be closed and  
27 reference each relevant exempting provision, and such reference shall  
28 be recorded in the minutes.

29 (f) The commission shall keep minutes that fully and clearly  
30 describe all matters discussed in a meeting and shall provide a full  
31 and accurate summary of actions taken, and the reasons therefore,  
32 including a description of the views expressed. All documents  
33 considered in connection with an action shall be identified in such  
34 minutes. All minutes and documents of a closed meeting shall remain  
35 under seal, subject to release only by a majority vote of the  
36 commission or order of a court of competent jurisdiction.

37 (7) (a) The commission shall pay, or provide for the payment of,  
38 the reasonable expenses of its establishment, organization, and  
39 ongoing activities.

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

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

13 (d) The commission shall not incur obligations of any kind prior  
14 to securing the funds adequate to meet the same; nor shall the  
15 commission pledge the credit of any member states, except by and with  
16 the authority of the member state.

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

25 (8)(a) The members, officers, executive director, employees, and  
26 representatives of the commission shall be immune from suit and  
27 liability, both personally and in their official capacity, for any  
28 claim for damage to or loss of property or personal injury or other  
29 civil liability caused by or arising out of any actual or alleged  
30 act, error, or omission that occurred, or that the person against  
31 whom the claim is made had a reasonable basis for believing occurred  
32 within the scope of commission employment, duties, or  
33 responsibilities; provided that nothing in this subsection shall be  
34 construed to protect any such person from suit or liability for any  
35 damage, loss, injury, or liability caused by the intentional or  
36 willful or wanton misconduct of that person. The procurement of  
37 insurance of any type by the commission shall not in any way  
38 compromise or limit the immunity granted hereunder.

39 (b) The commission shall defend any member, officer, executive  
40 director, employee, and representative of the commission in any civil

1 action seeking to impose liability arising out of any actual or  
2 alleged act, error, or omission that occurred within the scope of  
3 commission employment, duties, or responsibilities, or as determined  
4 by the commission that the person against whom the claim is made had  
5 a reasonable basis for believing occurred within the scope of  
6 commission employment, duties, or responsibilities; provided that  
7 nothing herein shall be construed to prohibit that person from  
8 retaining their own counsel at their own expense; and provided  
9 further, that the actual or alleged act, error, or omission did not  
10 result from that person's intentional or willful or wanton  
11 misconduct.

12 (c) The commission shall indemnify and hold harmless any member,  
13 officer, executive director, employee, and representative of the  
14 commission for the amount of any settlement or judgment obtained  
15 against that person arising out of any actual or alleged act, error,  
16 or omission that occurred within the scope of commission employment,  
17 duties, or responsibilities, or that such person had a reasonable  
18 basis for believing occurred within the scope of commission  
19 employment, duties, or responsibilities; provided that the actual or  
20 alleged act, error, or omission did not result from the intentional  
21 or willful or wanton misconduct of that person.

22 (d) Nothing herein shall be construed as a limitation on the  
23 liability of any licensee for professional malpractice or misconduct,  
24 which shall be governed solely by any other applicable state laws.

25 (e) Nothing in this compact shall be interpreted to waive or  
26 otherwise abrogate a member state's state action immunity or state  
27 action affirmative defense with respect to antitrust claims under the  
28 Sherman act, Clayton act, or any other state or federal antitrust or  
29 anticompetitive law or regulation.

30 (f) Nothing in this compact shall be construed to be a waiver of  
31 sovereign immunity by the member states or by the commission.

32 NEW SECTION. **Sec. 9.** (1) The commission shall provide for the  
33 development, maintenance, operation, and utilization of a coordinated  
34 database and reporting system.

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

38 (3) Notwithstanding any other provision of state law to the  
39 contrary, a member state shall submit a uniform data set to the data



1 system on all individuals to whom this compact is applicable as  
2 required by the rules of the commission, including:

3 (a) Identifying information;

4 (b) Licensure data;

5 (c) Adverse actions against a license and information related  
6 thereto;

7 (d) Nonconfidential information related to alternative program  
8 participation, the beginning and ending dates of such participation,  
9 and other information related to such participation;

10 (e) Any denial of application for licensure, and the reason or  
11 reasons for such denial (excluding the reporting of any criminal  
12 history record information where prohibited by law);

13 (f) The existence of investigative information;

14 (g) The existence and presence of current significant  
15 investigative information; and

16 (h) Other information that may facilitate the administration of  
17 this compact or the protection of the public, as determined by the  
18 rules of the commission.

19 (4) The records and information provided to a member state  
20 pursuant to this compact or through the data system, when certified  
21 by the commission or an agent thereof, shall constitute the  
22 authenticated business records of the commission, and shall be  
23 entitled to any associated hearsay exception in any relevant  
24 judicial, quasi-judicial or administrative proceedings in a member  
25 state.

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

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

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

39 (8) Any information submitted to the data system that is  
40 subsequently expunged pursuant to federal law or the laws of the

1 member state contributing the information shall be removed from the  
2 data system.

3 NEW SECTION. **Sec. 10.** (1) The commission shall promulgate  
4 reasonable rules in order to effectively and efficiently implement  
5 and administer the purposes and provisions of the compact. A rule  
6 shall be invalid and have no force or effect only if a court of  
7 competent jurisdiction holds that the rule is invalid because the  
8 commission exercised its rule-making authority in a manner that is  
9 beyond the scope and purposes of the compact, or the powers granted  
10 hereunder, or based upon another applicable standard of review.

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

17 (3) The commission shall exercise its rule-making powers pursuant  
18 to the criteria set forth in this section and the rules adopted  
19 thereunder. Rules shall become binding as of the date specified by  
20 the commission for each rule.

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

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

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

32 (7) Prior to adoption of a proposed rule by the commission, and  
33 at least 30 days in advance of the meeting at which the commission  
34 will hold a public hearing on the proposed rule, the commission shall  
35 provide a notice of proposed rule making:

36 (a) On the website of the commission or other publicly accessible  
37 platform;

38 (b) To persons who have requested notice of the commission's  
39 notices of proposed rule making; and

1 (c) In such other ways as the commission may by rule specify.

2 (8) The notice of proposed rule making shall include:

3 (a) The time, date, and location of the public hearing at which  
4 the commission will hear public comments on the proposed rule and, if  
5 different, the time, date, and location of the meeting where the  
6 commission will consider and vote on the proposed rule;

7 (b) If the hearing is held via telecommunication, video  
8 conference, or other electronic means, the commission shall include  
9 the mechanism for access to the hearing in the notice of proposed  
10 rule making;

11 (c) The text of the proposed rule and the reason therefor;

12 (d) A request for comments on the proposed rule from any  
13 interested person; and

14 (e) The manner in which interested persons may submit written  
15 comments.

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

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

22 (11) The commission shall, by majority vote of all commissioners,  
23 take final action on the proposed rule based on the rule-making  
24 record.

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

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

31 (c) The commission shall determine a reasonable effective date  
32 for the rule. Except for an emergency as provided in subsection (12)  
33 of this section, the effective date of the rule shall be no sooner  
34 than 30 days after the commission issuing the notice that it adopted  
35 or amended the rule.

36 (12) Upon determination that an emergency exists, the commission  
37 may consider and adopt an emergency rule with 24-hours notice,  
38 provided that the usual rule-making procedures provided in the  
39 compact and in this section shall be retroactively applied to the  
40 rule as soon as reasonably possible, in no event later than 90 days

1 after the effective date of the rule. For the purposes of this  
2 provision, an emergency rule is one that must be adopted immediately  
3 to:

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

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

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

8 (d) Protect public health and safety.

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

21 (14) No member state's rule-making requirements shall apply under  
22 this compact.

23 NEW SECTION. **Sec. 11.** (1)(a) The executive and judicial  
24 branches of state government in each member state shall enforce this  
25 compact and take all actions necessary and appropriate to implement  
26 the compact.

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

36 (c) The commission shall be entitled to receive service of  
37 process in any proceeding regarding the enforcement or interpretation  
38 of the compact and shall have standing to intervene in such a  
39 proceeding for all purposes. Failure to provide the commission

1 service of process shall render a judgment or order void as to the  
2 commission, this compact, or promulgated rules.

3 (2) (a) If the commission determines that a member state has  
4 defaulted in the performance of its obligations or responsibilities  
5 under this compact or the promulgated rules, the commission shall  
6 provide written notice to the defaulting state. The notice of default  
7 shall describe the default, the proposed means of curing the default,  
8 and any other action that the commission may take, and shall offer  
9 training and specific technical assistance regarding the default.

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

12 (3) If a state in default fails to cure the default, the  
13 defaulting state may be terminated from the compact upon an  
14 affirmative vote of a majority of the delegates of the member states,  
15 and all rights, privileges, and benefits conferred on that state by  
16 this compact may be terminated on the effective date of termination.  
17 A cure of the default does not relieve the offending state of  
18 obligations or liabilities incurred during the period of default.

19 (4) Termination of membership in the compact shall be imposed  
20 only after all other means of securing compliance have been  
21 exhausted. Notice of intent to suspend or terminate shall be given by  
22 the commission to the governor, the majority and minority leaders of  
23 the defaulting state's legislature, the defaulting state's state  
24 licensing authority, and each of the member states' state licensing  
25 authority.

26 (5) A state that has been terminated is responsible for all  
27 assessments, obligations, and liabilities incurred through the  
28 effective date of termination, including obligations that extend  
29 beyond the effective date of termination.

30 (6) Upon the termination of a state's membership from this  
31 compact, that state shall immediately provide notice to all licensees  
32 who hold a multistate license within that state of such termination.  
33 The terminated state shall continue to recognize all licenses granted  
34 pursuant to this compact for a minimum of 180 days after the date of  
35 said notice of termination.

36 (7) The commission shall not bear any costs related to a state  
37 that is found to be in default or that has been terminated from the  
38 compact, unless agreed upon in writing between the commission and the  
39 defaulting state.

1 (8) The defaulting state may appeal the action of the commission  
2 by petitioning the United States district court for the District of  
3 Columbia or the federal district where the commission has its  
4 principal offices. The prevailing party shall be awarded all costs of  
5 such litigation, including reasonable attorneys' fees.

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

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

11 (10) (a) The commission, in the reasonable exercise of its  
12 discretion, shall enforce the provisions of this compact and the  
13 commission's rules.

14 (b) By majority vote as provided by commission rule, the  
15 commission may initiate legal action against a member state in  
16 default in the United States district court for the District of  
17 Columbia or the federal district where the commission has its  
18 principal offices to enforce compliance with the provisions of the  
19 compact and its promulgated rules. The relief sought may include both  
20 injunctive relief and damages. In the event judicial enforcement is  
21 necessary, the prevailing party shall be awarded all costs of such  
22 litigation, including reasonable attorneys' fees. The remedies herein  
23 shall not be the exclusive remedies of the commission. The commission  
24 may pursue any other remedies available under federal or the  
25 defaulting member state's law.

26 (c) A member state may initiate legal action against the  
27 commission in the United States district court for the District of  
28 Columbia or the federal district where the commission has its  
29 principal offices to enforce compliance with the provisions of the  
30 compact and its promulgated rules. The relief sought may include both  
31 injunctive relief and damages. In the event judicial enforcement is  
32 necessary, the prevailing party shall be awarded all costs of such  
33 litigation, including reasonable attorneys' fees.

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

36 NEW SECTION. **Sec. 12.** (1) The compact shall come into effect on  
37 the date on which the compact statute is enacted into law in the  
38 seventh member state.

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

5 (i) A charter member state whose enactment is found to be  
6 materially different from the model compact statute shall be entitled  
7 to the default process set forth in section 11 of this act.

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

12 (b) Member states enacting the compact subsequent to the charter  
13 member states shall be subject to the process set forth in section  
14 8(3)(w) of this act to determine if their enactments are materially  
15 different from the model compact statute and whether they qualify for  
16 participation in the compact.

17 (c) All actions taken for the benefit of the commission or in  
18 furtherance of the purposes of the administration of the compact  
19 prior to the effective date of the compact or the commission coming  
20 into existence shall be considered to be actions of the commission  
21 unless specifically repudiated by the commission.

22 (d) Any state that joins the compact shall be subject to the  
23 commission's rules and bylaws as they exist on the date on which the  
24 compact becomes law in that state. Any rule that has been previously  
25 adopted by the commission shall have the full force and effect of law  
26 on the day the compact becomes law in that state.

27 (2) Any member state may withdraw from this compact by enacting a  
28 statute repealing that state's enactment of the compact.

29 (a) A member state's withdrawal shall not take effect until 180  
30 days after enactment of the repealing statute.

31 (b) Withdrawal shall not affect the continuing requirement of the  
32 withdrawing state's licensing authority to comply with the  
33 investigative and adverse action reporting requirements of this  
34 compact prior to the effective date of withdrawal.

35 (c) Upon the enactment of a statute withdrawing from this  
36 compact, a state shall immediately provide notice of such withdrawal  
37 to all licensees within that state. Notwithstanding any subsequent  
38 statutory enactment to the contrary, such withdrawing state shall  
39 continue to recognize all licenses granted pursuant to this compact

1 for a minimum of 180 days after the date of such notice of  
2 withdrawal.

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

7 (4) This compact may be amended by the member states. No  
8 amendment to this compact shall become effective and binding upon any  
9 member state until it is enacted into the laws of all member states.

10 NEW SECTION. **Sec. 13.** (1) This compact and the commission's  
11 rule-making authority shall be liberally construed so as to  
12 effectuate the purposes, and the implementation and administration of  
13 the compact. Provisions of the compact expressly authorizing or  
14 requiring the promulgation of rules shall not be construed to limit  
15 the commission's rule-making authority solely for those purposes.

16 (2) The provisions of this compact shall be severable and if any  
17 phrase, clause, sentence, or provision of this compact is held by a  
18 court of competent jurisdiction to be contrary to the Constitution of  
19 any member state, a state seeking participation in the compact, or of  
20 the United States, or the applicability thereof to any government,  
21 agency, person, or circumstance is held to be unconstitutional by a  
22 court of competent jurisdiction, the validity of the remainder of  
23 this compact and the applicability thereof to any other government,  
24 agency, person, or circumstance shall not be affected thereby.

25 (3) Notwithstanding subsection (2) of this section, the  
26 commission may deny a state's participation in the compact or, in  
27 accordance with the requirements of section 11(2) of this act,  
28 terminate a member state's participation in the compact, if it  
29 determines that a constitutional requirement of a member state is a  
30 material departure from the compact. Otherwise, if this compact shall  
31 be held to be contrary to the Constitution of any member state, the  
32 compact shall remain in full force and effect as to the remaining  
33 member states and in full force and effect as to the member state  
34 affected as to all severable matters.

35 NEW SECTION. **Sec. 14.** Nothing herein shall prevent or inhibit  
36 the enforcement of any other law of a member state that is not  
37 inconsistent with the compact.



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

4 All permissible agreements between the commission and the member  
5 states are binding in accordance with their terms.

6 NEW SECTION. **Sec. 15.** Sections 1 through 14 of this act  
7 constitute a new chapter in Title 18 RCW.

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