

ASSEMBLY, No. 4630

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 25, 2024

Sponsored by:

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

Assemblyman WILLIAM B. SAMPSON, IV

District 31 (Hudson)

Co-Sponsored by:

Assemblywoman Morales

SYNOPSIS

Enters NJ in Cosmetology Licensure Compact.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/28/2024)

1 AN ACT concerning the Cosmetology Licensure Compact and
2 supplementing Title 45 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. The State of New Jersey enacts and enters into the
8 Cosmetology Licensure Compact with all other jurisdictions that
9 legally join in the compact in the form substantially as follows:

10

11 ARTICLE I: Purpose and Objectives

12

13 1. The purpose of this compact is to facilitate the interstate
14 practice and regulation of cosmetology with the goal of improving
15 public access to, and the safety of, cosmetology services and
16 reducing unnecessary burdens related to cosmetology licensure.
17 Through this compact, member states seek to establish a regulatory
18 framework which provides for a new multistate licensing program.
19 Through this new licensing program, the member states seek to
20 provide increased value and mobility to licensed cosmetologists in
21 the member states, while ensuring the provision of safe, effective,
22 and reliable services to the public.

23 2. This compact is designed to achieve the following
24 objectives, and the member states hereby ratify the same intentions
25 by subscribing hereto:

26 a. Provide opportunities for interstate practice by
27 cosmetologists who meet uniform requirements for multistate
28 licensure;

29 b. Enhance the abilities of member states to protect public
30 health and safety, and prevent fraud and unlicensed activity within
31 the profession;

32 c. Ensure and encourage cooperation between member states in
33 the licensure and regulation of the practice of cosmetology;

34 d. Support relocating military members and their spouses;

35 e. Facilitate the exchange of information between member
36 states related to the licensure, investigation, and discipline of the
37 practice of cosmetology; and

38 f. Provide for the licensure and mobility of the workforce in
39 the profession, while addressing the shortage of workers and
40 lessening the associated burdens on the member states.

41

42 ARTICLE II: Definitions

43

44 1. As used in this compact, and except as otherwise provided,
45 the following definitions shall govern the terms herein:

46 a. "Active military member" means any person with full-time
47 duty status in the armed forces of the United States, including
48 members of the National Guard and Reserve.

- 1 b. “Adverse action” means any administrative, civil, equitable,
2 or criminal action permitted by a member state’s laws which is
3 imposed by a state licensing authority or other regulatory body
4 against a cosmetologist, including actions against an individual’s
5 license or authorization to practice such as revocation, suspension,
6 probation, monitoring of the licensee, limitation of the licensee’s
7 practice, or any other encumbrance on a license affecting an
8 individual’s ability to participate in the cosmetology industry,
9 including the issuance of a cease and desist order.
- 10 c. “Authorization to practice” means a legal authorization
11 associated with a multistate license permitting the practice of
12 cosmetology in that remote state, which shall be subject to the
13 enforcement jurisdiction of the state licensing authority in that
14 remote state.
- 15 d. “Alternative program” means a non-disciplinary monitoring
16 or prosecutorial diversion program approved by a member state’s
17 state licensing authority.
- 18 e. “Background check” means the submission of information
19 for an applicant for the purpose of obtaining that applicant’s
20 criminal history record information, as further defined in 28 C.F.R.
21 20.3(d), and the Division of Consumer Affairs in the Department of
22 Law and Public Safety.
- 23 f. “Charter member state” means member states who have
24 enacted legislation to adopt this compact where the legislation
25 predates the effective date of this compact as defined in Article
26 XIII.
- 27 g. “Commission” means the government agency whose
28 membership consists of all states that have enacted this compact,
29 which is known as the Cosmetology Licensure Compact
30 Commission, as defined in Article IX, and which shall operate as an
31 instrumentality of the member states.
- 32 h. “Cosmetologist” means an individual licensed in their home
33 state to practice cosmetology. For purposes of this compact,
34 “cosmetologist” shall mean the same as “cosmetologist-hairstylist,”
35 as defined pursuant to section 3 of P.L.1984, c.205 (C.45:5B-3).
- 36 i. “Cosmetology,” “cosmetology services,” and the “practice
37 of cosmetology” mean the care and services provided by a
38 cosmetologist as set forth in the member state’s statutes and
39 regulations in the state where the services are being provided. For
40 the purposes of this compact, “cosmetology,” “cosmetology
41 services,” and the “practice of cosmetology” shall mean the same as
42 “cosmetology and hairstyling,” as defined pursuant to subsection 3
43 of P.L.1984, c.205 (C.45:5B-3).
- 44 j. “Current significant investigative information” means
45 investigative information that a state licensing authority, after an
46 inquiry or investigation that complies with a member state’s due
47 process requirements, has reason to believe is not groundless and, if
48 proved true, would indicate a violation of that state’s laws regarding

- 1 fraud or the practice of cosmetology; or investigative information
2 that indicates that a licensee has engaged in fraud or represents an
3 immediate threat to public health and safety, regardless of whether
4 the licensee has been notified and had an opportunity to respond.
- 5 k. “Data system” means a repository of information about
6 licensees, including, but not limited to, license status, investigative
7 information, and adverse actions.
- 8 l. “Disqualifying event” means any event which shall
9 disqualify an individual from holding a multistate license under this
10 compact, which the Commission may by rule or order specify.
- 11 m. “Encumbered license” means a license in which an adverse
12 action restricts the practice of cosmetology by a licensee, or where
13 said adverse action has been reported to the Commission.
- 14 n. “Encumbrance” means a revocation or suspension of, or any
15 limitation on, the full and unrestricted practice of cosmetology by a
16 state licensing authority.
- 17 o. “Executive committee” means a group of delegates elected
18 or appointed to act on behalf of, and within the powers granted to
19 them by, the Commission.
- 20 p. “Home state” means the member state which is a licensee’s
21 primary state of residence, and where that licensee holds an active
22 and unencumbered license to practice cosmetology.
- 23 q. “Investigative information” means information, records, or
24 documents received or generated by a state licensing authority
25 pursuant to an investigation or other inquiry.
- 26 r. “Jurisprudence requirement” means the assessment of an
27 individual’s knowledge of the laws and rules governing the practice
28 of cosmetology in a state.
- 29 s. “Licensee” means an individual who currently holds a
30 license from a member state to practice as a cosmetologist.
- 31 t. “Member state” means any state that has adopted this
32 compact.
- 33 u. “Multistate license” means a license issued by and subject to
34 the enforcement jurisdiction of the state licensing authority in a
35 licensee’s home state, which authorizes the practice of cosmetology
36 in member states and includes authorizations to practice
37 cosmetology in all remote states pursuant to this compact.
- 38 v. “Remote state” means any member state, other than the
39 licensee’s home state.
- 40 w. “Rule” means any rule or regulation promulgated by the
41 Commission under this compact which has the force of law.
- 42 x. “Single-state license” means a cosmetology license issued
43 by a member state that authorizes practice of cosmetology only
44 within the issuing state and does not include any authorization
45 outside of the issuing state.
- 46 y. “State” means a state, territory, or possession of the United
47 States and the District of Columbia.

1 z. “State licensing authority” means a member state’s
2 regulatory body responsible for issuing cosmetology licenses or
3 otherwise overseeing the practice of cosmetology in that state.

4
5 ARTICLE III: Member State Requirements

6
7 1. To be eligible to join this compact, and to maintain
8 eligibility as a member state, a state shall:

9 a. License and regulate cosmetology;

10 b. Have a mechanism or entity in place to receive and
11 investigate complaints about licensees practicing in that state;

12 c. Require that licensees within the state pass a cosmetology
13 competency examination prior to being licensed to provide
14 cosmetology services to the public in that state;

15 d. Require that licensees satisfy educational or training
16 requirements in cosmetology prior to being licensed to provide
17 cosmetology services to the public in that state;

18 e. Implement procedures for considering one or more of the
19 following categories of information from applicants for licensure:
20 criminal history; disciplinary history; or background check. The
21 procedures may include the submission of information by applicants
22 for the purpose of obtaining an applicant’s background check as
23 defined herein;

24 f. Participate in the data system, including through the use of
25 unique identifying numbers;

26 g. Share information related to adverse actions with the
27 Commission and other member states, both through the data system
28 and otherwise;

29 h. Notify the Commission and other member states, in
30 compliance with the terms of the compact and rules of the
31 Commission, of the existence of investigative information or
32 current significant investigative information in the state’s
33 possession regarding a licensee practicing in that state;

34 i. Comply with the rules as may be enacted by the Commission
35 to administer the compact; and

36 j. Accept licensees from other member states as established
37 herein.

38 2. Member states may charge a fee for granting a license to
39 practice cosmetology. Individuals not residing in a member state
40 shall continue to be able to apply for a member state’s single-state
41 license as provided under the laws of each member state. However,
42 the single-state license granted to these individuals shall not be
43 recognized as granting a multistate license to provide services in
44 any other member state.

45 3. Nothing in this compact shall affect the requirements
46 established by a member state for the issuance of a single-state
47 license. A multistate license issued to a licensee by a home state to
48 a resident of that state shall be recognized by each member state as

1 authorizing a licensee to practice cosmetology in each member
2 state. At no point shall the Commission have the power to define
3 the educational or professional requirements for a license to
4 practice cosmetology. The member states shall retain sole
5 jurisdiction over the provision of these requirements.

6
7 ARTICLE IV: Multistate License

8
9 1. a. To be eligible to apply to their home state's state
10 licensing authority for an initial multistate license under this
11 compact, a licensee shall hold an active and unencumbered single-
12 state license to practice cosmetology in their home state.

13 b. Upon the receipt of an application for a multistate license,
14 according to the rules of the Commission, a member state's state
15 licensing authority shall ascertain whether the applicant meets the
16 requirements for a multistate license under this compact.

17 c. If an applicant meets the requirements for a multistate
18 license under this compact and any applicable rules of the
19 Commission, the state licensing authority in receipt of the
20 application shall, within a reasonable time, grant a multistate
21 license to that applicant, and inform all member states of the grant
22 of the multistate license.

23 d. A multistate license to practice cosmetology issued by a
24 member state's state licensing authority shall be recognized by each
25 member state as authorizing the practice thereof as though the
26 licensee held a single-state license to do so in each member state,
27 subject to the restrictions herein.

28 e. A multistate license granted pursuant to this compact may be
29 effective for a definite period of time, concurrent with the licensure
30 renewal period in the home state.

31 f. To maintain a multistate license under this compact, a
32 licensee must:

33 (1) Agree to abide by the rules of the state licensing authority,
34 and the state scope of practice laws governing the practice of
35 cosmetology, of any member state in which the licensee provides
36 services;

37 (2) Pay all required fees related to the application and process,
38 and any other fees which the Commission may by rule require; and

39 (3) Comply with any and all other requirements regarding
40 multistate licenses which the Commission may by rule provide.

41 g. A licensee practicing in a member state is subject to all
42 scope of practice laws governing cosmetology services in that state.

43 h. The practice of cosmetology under a multistate license
44 granted pursuant to this compact shall subject the licensee to the
45 jurisdiction of the state licensing authority, the courts, and the laws
46 of the member state in which the cosmetology services are
47 provided.

1 that state, where those laws, regulations, or other rules are not
2 inconsistent with the provisions of this compact.

3 b. Insofar as practical, a member state's state licensing
4 authority shall cooperate with the Commission and with each entity
5 exercising independent regulatory authority over the practice of
6 cosmetology according to the provisions of this compact.

7 c. Discipline shall be the sole responsibility of the state in
8 which cosmetology services are provided. Accordingly, each
9 member state's state licensing authority shall be responsible for
10 receiving complaints about individuals practicing cosmetology in
11 that state, and for communicating all relevant investigative
12 information about any adverse action to the other member states
13 through the data system in addition to any other methods the
14 Commission may by rule require.

15

16

ARTICLE VII: Adverse Actions

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18 1. a. A licensee's home state shall have exclusive power to
19 impose an adverse action against a licensee's multistate license
20 issued by the home state.

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

24 c. In addition to the powers conferred by state law, each remote
25 state's state licensing authority shall have the power to:

26 (1) Take adverse action against a licensee's authorization to
27 practice cosmetology through the multistate license in that member
28 state, provided that:

29 (a) Only the licensee's home state shall have the power to take
30 adverse action against the multistate license issued by the home
31 state; and

32 (b) For the purposes of taking adverse action, the home state's
33 state licensing authority shall give the same priority and effect to
34 reported conduct received from a remote state as it would if the
35 conduct had occurred within the home state. In so doing, the home
36 state shall apply its own state laws to determine the appropriate
37 action;

38 (2) Issue cease and desist orders or impose an encumbrance on a
39 licensee's authorization to practice within that member state;

40 (3) Complete any pending investigations of a licensee who
41 changes their primary state of residence during the course of an
42 investigation. The state licensing authority shall also be
43 empowered to report the results of the investigation to the
44 Commission through the data system as described herein;

45 (4) Issue subpoenas for both hearings and investigations that
46 require the attendance and testimony of witnesses, as well as the
47 production of evidence. Subpoenas issued by a state licensing
48 authority in a member state for the attendance and testimony of

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

8 (5) If otherwise permitted by state law, recover from the
9 affected licensee the costs of investigations and disposition of cases
10 resulting from any adverse action taken against that licensee; and

11 (6) Take adverse action against the licensee's authorization to
12 practice in that state based on the factual findings of another remote
13 state.

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

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

28 f. Nothing in this compact shall override a member state's
29 authority to accept a licensee's participation in an alternative
30 program in lieu of adverse action. A licensee's multistate license
31 shall be suspended for the duration of the licensee's participation in
32 any alternative program.

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

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

40

41 **ARTICLE VIII: Active Military Members and Their Spouses**

42

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

1 ARTICLE IX: Establishment and Operation of the Cosmetology
2 Licensure Compact Commission
3

4 1. a. The compact member states hereby create and establish a
5 joint government agency whose membership consists of all member
6 states that have enacted the compact known as the Cosmetology
7 Licensure Compact Commission. The Commission is an
8 instrumentality of the compact member states acting jointly and not
9 an instrumentality of any one state. The Commission shall come
10 into existence on or after the effective date of the compact as set
11 forth in Article XIII.

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

14 (2) The delegate shall be an administrator of the state licensing
15 authority of the member state or their designee.

16 (3) The Commission shall by rule or bylaw establish a term of
17 office for delegates and may by rule or bylaw establish term limits.

18 (4) The Commission may recommend removal or suspension of
19 any delegate from office.

20 (5) A member state's state licensing authority shall fill any
21 vacancy of its delegate occurring on the Commission within 60 days
22 of the vacancy.

23 (6) Each delegate shall be entitled to one vote on all matters that
24 are voted on by the Commission.

25 (7) The Commission shall meet at least once during each
26 calendar year. Additional meetings may be held as set forth in the
27 bylaws. The Commission may meet by telecommunication, video
28 conference or other similar electronic means.

29 c. The Commission shall have the following powers:

30 (1) Establish the fiscal year of the Commission;

31 (2) Establish code of conduct and conflict of interest policies;

32 (3) Adopt rules and bylaws;

33 (4) Maintain its financial records in accordance with the bylaws;

34 (5) Meet and take actions consistent with the provisions of this
35 compact, the Commission's rules, and the bylaws;

36 (6) Initiate and conclude legal proceedings or actions in the
37 name of the Commission, provided that the standing of any state
38 licensing authority to sue or be sued under applicable law shall not
39 be affected;

40 (7) Maintain and certify records and information provided to a
41 member state as the authenticated business records of the
42 Commission, and designate an agent to do so on the Commission's
43 behalf;

44 (8) Purchase and maintain insurance and bonds;

45 (9) Borrow, accept, or contract for services of personnel,
46 including, but not limited to, employees of a member state;

47 (10) Conduct an annual financial review;

- 1 (11) Hire employees, elect or appoint officers, fix compensation,
2 define duties, grant the individuals appropriate authority to carry
3 out the purposes of the compact, and establish the Commission's
4 personnel policies and programs relating to conflicts of interest,
5 qualifications of personnel, and other related personnel matters;
- 6 (12) As set forth in the Commission rules, charge a fee to a
7 licensee for the grant of a multistate license and thereafter, as may
8 be established by Commission rule, charge the licensee a multistate
9 license renewal fee for each renewal period. Nothing herein shall
10 be construed to prevent a home state from charging a licensee a fee
11 for a multistate license or renewals of a multistate license, or a fee
12 for the jurisprudence requirement if the member state imposes such
13 a requirement for the grant of a multistate license;
- 14 (13) Assess and collect fees;
- 15 (14) Accept any and all appropriate gifts, donations, grants of
16 money, other sources of revenue, equipment, supplies, materials,
17 and services, and receive, utilize, and dispose of the same; provided
18 that at all times the Commission shall avoid any appearance of
19 impropriety or conflict of interest;
- 20 (15) Lease, purchase, retain, own, hold, improve, or use any
21 property, real, personal, or mixed, or any undivided interest therein;
- 22 (16) Sell, convey, mortgage, pledge, lease, exchange, abandon,
23 or otherwise dispose of any property real, personal, or mixed;
- 24 (17) Establish a budget and make expenditures;
- 25 (18) Borrow money;
- 26 (19) Appoint committees, including standing committees,
27 composed of members, state regulators, state legislators or their
28 representatives, and consumer representatives, and other interested
29 persons as may be designated in this compact and the bylaws;
- 30 (20) Provide and receive information from, and cooperate with,
31 law enforcement agencies;
- 32 (21) Elect a chair, vice chair, secretary and treasurer and other
33 officers of the Commission as provided in the Commission's
34 bylaws;
- 35 (22) Establish and elect an executive committee, including a
36 chair and a vice chair;
- 37 (23) Adopt and provide to the member states an annual report.
- 38 (24) Determine whether a state's adopted language is materially
39 different from the model compact language such that the state
40 would not qualify for participation in the compact; and
- 41 (25) Perform other functions as may be necessary or appropriate
42 to achieve the purposes of this compact.
- 43 d. (1) The executive committee shall have the power to act on
44 behalf of the Commission according to the terms of this compact.
45 The powers, duties, and responsibilities of the executive committee
46 shall include:
 - 47 (a) Overseeing the day-to-day activities of the administration of
48 the compact including compliance with the provisions of the

- 1 compact, the Commission's rules and bylaws, and other duties as
2 deemed necessary;
- 3 (b) Recommending to the Commission changes to the rules or
4 bylaws, changes to this compact legislation, fees charged to
5 compact member states, fees charged to licensees, and other fees;
- 6 (c) Ensuring compact administration services are appropriately
7 provided, including by contract;
- 8 (d) Preparing and recommending the budget;
- 9 (e) Maintaining financial records on behalf of the Commission;
- 10 (f) Monitoring compact compliance of member states and
11 providing compliance reports to the Commission;
- 12 (g) Establishing additional committees as necessary;
- 13 (h) Exercising the powers and duties of the Commission during
14 the interim between Commission meetings, except for adopting or
15 amending rules, adopting or amending bylaws, and exercising any
16 other powers and duties expressly reserved to the Commission by
17 rule or bylaw; and
- 18 (i) Other duties as provided in the rules or bylaws of the
19 Commission.
- 20 (2) The executive committee shall be composed of up to seven
21 voting members:
- 22 (a) The chair and vice chair of the Commission and any other
23 members of the Commission who serve on the executive committee
24 shall be voting members of the executive committee; and
- 25 (b) Other than the chair, vice-chair, secretary and treasurer, the
26 Commission shall elect three voting members from the current
27 membership of the Commission.
- 28 (c) The Commission may elect *ex-officio*, nonvoting members
29 from a recognized national cosmetology professional association as
30 approved by the Commission. The Commission's bylaws shall
31 identify qualifying organizations and the manner of appointment if
32 the number of organizations seeking to appoint an *ex officio*
33 member exceeds the number of members specified in this Article
34 IX.
- 35 (3) The Commission may remove any member of the executive
36 committee as provided in the Commission's bylaws.
- 37 (4) The executive committee shall meet at least annually.
- 38 (a) Annual executive committee meetings, as well as any
39 executive committee meeting at which it does not take or intend to
40 take formal action on a matter for which a Commission vote would
41 otherwise be required, shall be open to the public, except that the
42 executive committee may meet in a closed, non-public session of a
43 public meeting when dealing with any of the matters covered under
44 paragraph 4 of subsection f. of Article IX.
- 45 (b) The executive committee shall give five business days
46 advance notice of its public meetings, posted on its website and as
47 determined to provide notice to persons with an interest in the

1 public matters the executive committee intends to address at those
2 meetings.

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

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

6 (b) Prevent a loss of Commission or member state funds; or

7 (c) Protect public health and safety.

8 e. The Commission shall adopt and provide to the member
9 states an annual report.

10 f. (1) All meetings of the Commission that are not closed
11 pursuant to paragraph 4 of subsection f. of Article IX shall be open
12 to the public. Notice of public meetings shall be posted on the
13 Commission's website at least 30 days prior to the public meeting.

14 (2) Notwithstanding paragraph 1 of subsection f. of Article IX,
15 the Commission may convene an emergency public meeting by
16 providing at least 24 hours prior notice on the Commission's
17 website, and any other means as provided in the Commission's
18 rules, for any of the reasons it may dispense with notice of proposed
19 rulemaking under subsection 1 of Article XI. The Commission's
20 legal counsel shall certify that one of the reasons justifying an
21 emergency public meeting has been met.

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

27 (4) The Commission may convene in a closed, non-public
28 meeting for the Commission to discuss:

29 (a) Non-compliance of a member state with its obligations under
30 the compact;

31 (b) The employment, compensation, discipline or other matters,
32 practices or procedures related to specific employees or other
33 matters related to the Commission's internal personnel practices and
34 procedures;

35 (c) Current or threatened discipline of a licensee by the
36 Commission or by a member state's licensing authority;

37 (d) Current, threatened, or reasonably anticipated litigation;

38 (e) Negotiation of contracts for the purchase, lease, or sale of
39 goods, services, or real estate;

40 (f) Accusing any person of a crime or formally censuring any
41 person;

42 (g) Trade secrets or commercial or financial information that is
43 privileged or confidential;

44 (h) Information of a personal nature where disclosure would
45 constitute a clearly unwarranted invasion of personal privacy;

46 (i) Investigative records compiled for law enforcement
47 purposes;

1 (j) Information related to any investigative reports prepared by
2 or on behalf of or for use of the Commission or other committee
3 charged with responsibility of investigation or determination of
4 compliance issues pursuant to the compact;

5 (k) Legal advice;

6 (l) Matters specifically exempted from disclosure to the public
7 by federal or member state law; or

8 (m) Other matters as promulgated by the Commission by rule.

9 (5) If a meeting, or portion of a meeting, is closed, the presiding
10 officer shall state that the meeting shall be closed and reference
11 each relevant exempting provision, and the reference shall be
12 recorded in the minutes.

13 (6) The Commission shall keep minutes that fully and clearly
14 describe all matters discussed in a meeting and shall provide a full
15 and accurate summary of actions taken, and the reasons therefore,
16 including a description of the views expressed. All documents
17 considered in connection with an action shall be identified in the
18 minutes. All minutes and documents of a closed meeting shall
19 remain under seal, subject to release only by a majority vote of the
20 Commission or order of a court of competent jurisdiction.

21 g. (1) The Commission shall pay, or provide for the payment
22 of, the reasonable expenses of its establishment, organization, and
23 ongoing activities.

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

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

36 (4) The Commission shall not incur obligations of any kind
37 prior to securing the funds adequate to meet the same; nor shall the
38 Commission pledge the credit of any member states, except by and
39 with the authority of the member state.

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

1 h. (1) The members, officers, executive director, employees
2 and representatives of the Commission shall be immune from suit
3 and liability, both personally and in their official capacity, for any
4 claim for damage to or loss of property or personal injury or other
5 civil liability caused by or arising out of any actual or alleged act,
6 error, or omission that occurred, or that the person against whom
7 the claim is made had a reasonable basis for believing occurred
8 within the scope of Commission employment, duties or
9 responsibilities; provided that nothing in this paragraph shall be
10 construed to protect a person from suit or liability for any damage,
11 loss, injury, or liability caused by the intentional or willful or
12 wanton misconduct of that person. The procurement of insurance
13 of any type by the Commission shall not in any way compromise or
14 limit the immunity granted hereunder.

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

28 (3) The Commission shall indemnify and hold harmless any
29 member, officer, executive director, employee, and representative
30 of the Commission for the amount of any settlement or judgment
31 obtained against that person arising out of any actual or alleged act,
32 error, or omission that occurred within the scope of Commission
33 employment, duties, or responsibilities, or that the person had a
34 reasonable basis for believing occurred within the scope of
35 Commission employment, duties, or responsibilities, provided that
36 the actual or alleged act, error, or omission did not result from the
37 intentional or willful or wanton misconduct of that person.

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

41 (5) Nothing in this compact shall be interpreted to waive or
42 otherwise abrogate a member state's state action immunity or state
43 action affirmative defense with respect to antitrust claims under the
44 Sherman Antitrust Act of 1890 (15 U.S.C. s.1 et seq.), the Clayton
45 Antitrust Act of 1914 (15 U.S.C. s.12 et al.), or any other state or
46 federal antitrust or anticompetitive law or regulation.

47 (6) Nothing in this compact shall be construed to be a waiver of
48 sovereign immunity by the member states or by the Commission.

1 ARTICLE X: Data System

2

3 1. a. The Commission shall provide for the development,
4 maintenance, operation, and utilization of a coordinated database
5 and reporting system.

6 b. The Commission shall assign each applicant for a multistate
7 license a unique identifier, as determined by the rules of the
8 Commission.

9 c. Notwithstanding any other provision of state law to the
10 contrary, a member state shall submit a uniform data set to the data
11 system on all individuals to whom this compact is applicable as
12 required by the rules of the Commission, including:

13 (1) Identifying information;

14 (2) Licensure data;

15 (3) Adverse actions against a license and information related
16 thereto;

17 (4) Non-confidential information related to alternative program
18 participation, the beginning and ending dates of participation, and
19 other information related to the participation;

20 (5) Any denial of application for licensure, and the reason for
21 the denial, excluding the reporting of any criminal history record
22 information where prohibited by law;

23 (6) The existence of investigative information;

24 (7) The existence of current significant investigative
25 information; and

26 (8) Other information that may facilitate the administration of
27 this compact or the protection of the public, as determined by the
28 rules of the Commission.

29 d. The records and information provided to a member state
30 pursuant to this compact or through the data system, when certified
31 by the Commission or an agent thereof, shall constitute the
32 authenticated business records of the Commission, and shall be
33 entitled to any associated hearsay exception in any relevant judicial,
34 quasi-judicial or administrative proceedings in a member state.

35 e. The existence of current significant investigative
36 information and the existence of investigative information
37 pertaining to a licensee in any member state shall only be available
38 to other member states.

39 f. It is the responsibility of the member states to monitor the
40 database to determine whether adverse action has been taken
41 against a licensee or license applicant. Adverse action information
42 pertaining to a licensee or license applicant in any member state
43 shall be available to any other member state.

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

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

5
6 ARTICLE XI: Rulemaking
7

8 1. a. The Commission shall promulgate reasonable rules in
9 order to effectively and efficiently implement and administer the
10 purposes and provisions of the compact. A rule shall be invalid and
11 have no force or effect only if a court of competent jurisdiction
12 holds that the rule is invalid because the Commission exercised its
13 rulemaking authority in a manner that is beyond the scope and
14 purposes of the compact, or the powers granted hereunder, or based
15 upon another applicable standard of review.

16 b. The rules of the Commission shall have the force of law in
17 each member state, provided however that where the rules of the
18 Commission conflict with the laws of the member state that
19 establish the member state's scope of practice laws governing the
20 practice of cosmetology as held by a court of competent
21 jurisdiction, the rules of the Commission shall be ineffective in that
22 state to the extent of the conflict.

23 c. The Commission shall exercise its rulemaking powers
24 pursuant to the criteria set forth in this article and the rules adopted
25 thereunder. Rules shall become binding as of the date specified by
26 the Commission for each rule.

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

33 e. Rules shall be adopted at a regular or special meeting of the
34 Commission.

35 f. Prior to adoption of a proposed rule, the Commission shall
36 hold a public hearing and allow persons to provide oral and written
37 comments, data, facts, opinions, and arguments.

38 g. Prior to adoption of a proposed rule by the Commission, and
39 at least thirty days in advance of the meeting at which the
40 Commission shall hold a public hearing on the proposed rule, the
41 Commission shall provide a notice of proposed rulemaking:

42 (1) On the website of the Commission or other publicly
43 accessible platform;

44 (2) To persons who have requested notice of the Commission's
45 notices of proposed rulemaking; and

46 (3) In other ways as the Commission may by rule specify.

47 h. The notice of proposed rulemaking shall include:

1 (1) The time, date, and location of the public hearing at which
2 the Commission shall hear public comments on the proposed rule
3 and, if different, the time, date, and location of the meeting where
4 the Commission shall consider and vote on the proposed rule;

5 (2) If the hearing is held via telecommunication, video
6 conference, or other electronic means, the Commission shall include
7 the mechanism for access to the hearing in the notice of proposed
8 rulemaking;

9 (3) The text of the proposed rule and the reason therefor;

10 (4) A request for comments on the proposed rule from any
11 interested person; and

12 (5) The manner in which interested persons may submit written
13 comments.

14 i. All hearings shall be recorded. A copy of the recording and
15 all written comments and documents received by the Commission in
16 response to the proposed rule shall be available to the public.

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

20 k. The Commission shall, by majority vote of all members,
21 take final action on the proposed rule based on the rulemaking
22 record and the full text of the rule.

23 (1) The Commission may adopt changes to the proposed rule
24 provided the changes do not enlarge the original purpose of the
25 proposed rule.

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

30 (3) The Commission shall determine a reasonable effective date
31 for the rule. Except for an emergency as provided in subsection 1.
32 of Article XI, the effective date of the rule shall be no sooner than
33 45 days after the Commission issuing the notice that it adopted or
34 amended the rule.

35 1. Upon determination that an emergency exists, the
36 Commission may consider and adopt an emergency rule with five
37 days' notice, with opportunity to comment, provided that the usual
38 rulemaking procedures provided in the compact and in this article
39 shall be retroactively applied to the rule as soon as reasonably
40 possible, in no event later than 90 days after the effective date of
41 the rule. For the purposes of this provision, an emergency rule is
42 one that shall be adopted immediately to:

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

44 (2) Prevent a loss of Commission or member state funds;

45 (3) Meet a deadline for the promulgation of a rule that is
46 established by federal law or rule; or

47 (4) Protect public health and safety.

1 m. The Commission or an authorized committee of the
2 Commission may direct revisions to a previously adopted rule for
3 purposes of correcting typographical errors, errors in format, errors
4 in consistency, or grammatical errors. Public notice of any
5 revisions shall be posted on the website of the Commission. The
6 revision shall be subject to challenge by any person for a period of
7 30 days after posting. The revision may be challenged only on
8 grounds that the revision results in a material change to a rule. A
9 challenge shall be made in writing and delivered to the Commission
10 prior to the end of the notice period. If no challenge is made, the
11 revision shall take effect without further action. If the revision is
12 challenged, the revision may not take effect without the approval of
13 the Commission.

14 n. No member state's rulemaking requirements shall apply
15 under this compact.

16

17 ARTICLE XII: Oversight, Dispute Resolution, and Enforcement

18

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

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

32 (3) The Commission shall be entitled to receive service of
33 process in any proceeding regarding the enforcement or
34 interpretation of the compact and shall have standing to intervene in
35 the proceeding for all purposes. Failure to provide the Commission
36 service of process shall render a judgment or order void as to the
37 Commission, this compact, or promulgated rules.

38 b. (1) If the Commission determines that a member state has
39 defaulted in the performance of its obligations or responsibilities
40 under this compact or the promulgated rules, the Commission shall
41 provide written notice to the defaulting state. The notice of default
42 shall describe the default, the proposed means of curing the default,
43 and any other action that the Commission may take, and shall offer
44 training and specific technical assistance regarding the default.

45 (2) The Commission shall provide a copy of the notice of
46 default to the other member states.

47 (3) If a state in default fails to cure the default, the defaulting
48 state may be terminated from the compact upon an affirmative vote

1 of a majority of the delegates of the member states, and all rights,
2 privileges and benefits conferred on that state by this compact may
3 be terminated on the effective date of termination. A cure of the
4 default does not relieve the offending state of obligations or
5 liabilities incurred during the period of default.

6 (4) Termination of membership in the compact shall be imposed
7 only after all other means of securing compliance have been
8 exhausted. Notice of intent to suspend or terminate shall be given
9 by the Commission to the governor, the majority and minority
10 leaders of the defaulting state's legislature, the defaulting state's
11 state licensing authority and each of the member states' state
12 licensing authority.

13 (5) A state that has been terminated is responsible for all
14 assessments, obligations, and liabilities incurred through the
15 effective date of termination, including obligations that extend
16 beyond the effective date of termination.

17 (6) Upon the termination of a state's membership from this
18 compact, that state shall immediately provide notice to all licensees
19 who hold a multistate license within that state of termination. The
20 terminated state shall continue to recognize all licenses granted
21 pursuant to this compact for a minimum of 180 days after the date
22 of said notice of termination.

23 (7) The Commission shall not bear any costs related to a state
24 that is found to be in default or that has been terminated from the
25 compact, unless agreed upon in writing between the Commission
26 and the defaulting state.

27 (8) The defaulting state may appeal the action of the
28 Commission by petitioning the U.S. District Court for the District
29 of Columbia or the federal district where the Commission has its
30 principal offices. The prevailing party shall be awarded all costs of
31 litigation, including reasonable attorney's fees.

32 c. (1) Upon request by a member state, the Commission shall
33 attempt to resolve disputes related to the compact that arise among
34 member states and between member and non-member states.

35 (2) The Commission shall promulgate a rule providing for both
36 mediation and binding dispute resolution for disputes as
37 appropriate.

38 d. (1) The Commission, in the reasonable exercise of its
39 discretion, shall enforce the provisions of this compact and the
40 Commission's rules.

41 (2) By majority vote as provided by Commission rule, the
42 Commission may initiate legal action against a member state in
43 default in the U.S. District Court for the District of Columbia or the
44 federal district where the Commission has its principal offices to
45 enforce compliance with the provisions of the compact and its
46 promulgated rules. The relief sought may include both injunctive
47 relief and damages. In the event judicial enforcement is necessary,
48 the prevailing party shall be awarded all costs of litigation,

1 including reasonable attorney's fees. The remedies herein shall not
2 be the exclusive remedies of the Commission. The Commission
3 may pursue any other remedies available under federal or the
4 defaulting member state's law.

5 (3) A member state may initiate legal action against the
6 Commission in the U.S. District Court for the District of Columbia
7 or the federal district where the Commission has its principal
8 offices to enforce compliance with the provisions of the compact
9 and its promulgated rules. The relief sought may include both
10 injunctive relief and damages. In the event judicial enforcement is
11 necessary, the prevailing party shall be awarded all costs of
12 litigation, including reasonable attorney's fees.

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

15

16 ARTICLE XIII: Effective Date, Withdrawal, and Amendment

17

18 1, a. The compact shall come into effect on the date on which
19 the Compact statute is enacted into law in the seventh member state.

20 (1) On or after the effective date of the compact, the
21 Commission shall convene and review the enactment of each of the
22 charter member states to determine if the statute enacted by each
23 charter member state is materially different than the model compact
24 statute.

25 (a) A charter member state whose enactment is found to be
26 materially different from the model compact statute shall be entitled
27 to the default process set forth in Article XII.

28 (b) If any member state is later found to be in default, or is
29 terminated or withdraws from the compact, the Commission shall
30 remain in existence and the compact shall remain in effect even if
31 the number of member states should be less than seven.

32 (2) Member states enacting the compact subsequent to the
33 charter member states shall be subject to the process set forth in
34 paragraph 24 of subsection c. of Article IX to determine if
35 enactments are materially different from the model compact statute
36 and if the state qualifies for participation in the compact.

37 (3) All actions taken for the benefit of the Commission or in
38 furtherance of the purposes of the administration of the compact
39 prior to the effective date of the compact or the Commission
40 coming into existence shall be considered to be actions of the
41 Commission unless specifically repudiated by the Commission.

42 (4) Any state that joins the compact shall be subject to the
43 Commission's rules and bylaws as they exist on the date on which
44 the Compact becomes law in that state. Any rule that has been
45 previously adopted by the Commission shall have the full force and
46 effect of law on the day the compact becomes law in that state.

47 b. Any member state may withdraw from this compact by
48 enacting a statute repealing that state's enactment of the compact.

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

3 (2) Withdrawal shall not affect the continuing requirement of
4 the withdrawing state's state licensing authority to comply with the
5 investigative and adverse action reporting requirements of this
6 compact prior to the effective date of withdrawal.

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

13 c. Nothing contained in this compact shall be construed to
14 invalidate or prevent any licensure agreement or other cooperative
15 arrangement between a member state and a non-member state that
16 does not conflict with the provisions of this compact.

17 d. This compact may be amended by the member states. No
18 amendment to this compact shall become effective and binding
19 upon any member state until it is enacted into the laws of all
20 member states.

21

22 ARTICLE XIV: Construction and Severability

23

24 1. a. This compact and the Commission's rulemaking authority
25 shall be liberally construed so as to effectuate the purposes, and the
26 implementation and administration of the compact. Provisions of
27 the compact expressly authorizing or requiring the promulgation of
28 rules shall not be construed to limit the Commission's rulemaking
29 authority solely for those purposes.

30 b. The provisions of this compact shall be severable and if any
31 phrase, clause, sentence or provision of this compact is held by a
32 court of competent jurisdiction to be contrary to the constitution of
33 any member state, a state seeking participation in the compact, or of
34 the United States, or the applicability thereof to any government,
35 agency, person or circumstance is held to be unconstitutional by a
36 court of competent jurisdiction, the validity of the remainder of this
37 compact and the applicability thereof to any other government,
38 agency, person or circumstance shall not be affected thereby.

39 c. Notwithstanding subsection b. of Article XIV, the
40 Commission may deny a state's participation in the compact or, in
41 accordance with the requirements of Article XII, terminate a
42 member state's participation in the compact, if it determines that a
43 constitutional requirement of a member state is a material departure
44 from the compact. Otherwise, if this compact shall be held to be
45 contrary to the constitution of any member state, the compact shall
46 remain in full force and effect as to the remaining member states
47 and in full force and effect as to the member state affected as to all
48 severable matters.

1 ARTICLE XV: Consistent Effect and Conflict with Other State
2 Laws

3
4 1. a. Nothing herein shall prevent or inhibit the enforcement of
5 any other law of a member state that is not inconsistent with the
6 compact.

7 b. Any laws, statutes, regulations, or other legal requirements
8 in a member state in conflict with the compact are superseded to the
9 extent of the conflict.

10 c. All permissible agreements between the Commission and the
11 member states are binding in accordance with their terms.

12

13 2. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 This bill will enter New Jersey into the Cosmetology Licensure
19 Compact. The compact establishes a multistate license system in
20 which an individual licensed as a cosmetologist needs only to
21 obtain licensure in one state that is a party to the compact in order
22 to practice as a cosmetologist in another member state to the
23 compact, so long as certain requirements established under the
24 compact are met by the individual. Under the bill, provisions are
25 established regarding, among other items, the authority of a member
26 state's licensing authority; how an adverse action against a
27 multistate licensee is managed; the set-up of the Cosmetology
28 Licensure Compact Commission and its Executive Committee; the
29 collection of data on member states; and how to withdraw from the
30 compact, if sought by a member state.