



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-5081/1
MED:klm&cjs

2023 SENATE BILL 805

December 12, 2023 - Introduced by Senators CABRAL-GUEVARA, BALLWEG, CARPENTER and SPREITZER, cosponsored by Representatives TITTL, BRANDTJEN, DITTRICH, JACOBSON, MELOTIK, MOSES, O'CONNOR, ROZAR, SCHMIDT, SPIROS and WICHGERS. Referred to Committee on Licensing, Constitution and Federalism.

1 **AN ACT** *to repeal* 460.09 (title); *to renumber and amend* 440.03 (13) (c), 460.05
2 (1), 460.05 (2), 460.07 (2) and 460.09; *to amend* 146.81 (1) (hp), 146.997 (1) (d)
3 13., 440.03 (13) (b) (intro.), 440.15, 446.01 (1v) (o), 460.01 (intro.), 460.01 (2m),
4 460.02, 460.03 (intro.), 460.03 (1), 460.04 (2) (b), 460.04 (2) (e), 460.04 (2) (f),
5 460.04 (2) (g), 460.05 (4), 460.06 (intro.), 460.07 (1), 460.07 (2) (c), 460.08,
6 460.095 (4) (intro.), 460.10 (1) (intro.), 460.10 (1) (a), 460.10 (2), 460.14 (1),
7 460.14 (2) (intro.), 460.14 (2) (j), 460.14 (2m) (intro.), 460.14 (3), 460.14 (4),
8 460.145, 460.15, 460.17 (1), 460.17 (2) (a) 1., 460.17 (2) (a) 2. and 895.48 (1m)
9 (a) (intro.); and *to create* 14.897, 111.335 (4) (jm), 440.03 (11m) (c) 2u., 440.03
10 (13) (c) 1. i., subchapter I (title) of chapter 460 [precedes 460.01], 460.01 (2),
11 460.01 (2k), 460.01 (5), 460.01 (8), 460.05 (3m), 460.07 (2) (bm), 460.11 (4) and

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- 1 subchapter II of chapter 460 [precedes 460.50] of the statutes; **relating to:**
2 ratification of the Interstate Massage Compact.
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Analysis by the Legislative Reference Bureau

This bill ratifies and enters Wisconsin into the Interstate Massage Compact, which provides for the ability of a massage therapist to become eligible to practice in other compact states. Significant provisions of the compact include the following:

1. The creation of an Interstate Massage Compact Commission, which includes the primary administrative officer of the licensure boards or licensing authorities of each member state, or their designees. The commission has various powers and duties granted in the compact, including establishing bylaws, promulgating binding rules for the compact, electing or appointing officers and hiring employees, and establishing and electing an executive committee. The commission may levy on and collect an annual assessment from each member state or impose fees on licensees of member states to whom it grants a multistate license to cover the cost of the operations and activities of the commission and its staff.

2. The ability for a massage therapist who is licensed in a home state and satisfies certain other criteria to obtain a multistate license, which allows a massage therapist to practice massage therapy in all other compact states (remote states). The compact specifies a number of requirements in order for a massage therapist to obtain a multistate license, including holding a massage therapist license in a home state, having completed at least 625 hours of massage therapy education or the substantial equivalent, not having certain disqualifying criminal convictions, not having any encumbrances or restrictions against an occupational or professional license in the previous two years, and paying any required fees. A massage therapist practicing in a remote state under a multistate license is subject to all scope-of-practice laws governing massage therapy services in that state. A remote state may take actions against a massage therapist's authorization to practice in the remote state, and if any adverse action is taken by a remote state against a licensee's authorization to practice, that adverse action applies to all authorizations to practice in all remote states. If a massage therapist's home state or multistate license is encumbered, the massage therapist loses the authorization to practice in all remote states until certain criteria are satisfied.

3. The ability of member states to issue subpoenas that are enforceable in other states.

4. The creation of a coordinated database and reporting system containing licensure and disciplinary action information on massage therapists. The compact requires all home state disciplinary orders that impose adverse actions to be reported to the commission. A member state must submit a uniform data set to the data system on all individuals to whom the compact is applicable as required by the rules of the commission.

5. Provisions regarding resolutions of disputes between member states and between member and nonmember states, including a process for termination of a

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state's membership in the compact if the state defaults on its obligations under the compact.

The compact becomes effective in this state upon enactment by seven states. The compact provides that it may be amended upon enactment of an amendment by all member states. A state may withdraw from the compact by repealing the statute authorizing the compact, but the compact provides that a withdrawal does not take effect until 180 days after the effective date of that repeal.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 14.897 of the statutes is created to read:

2 **14.897 Interstate massage compact.** There is created an interstate
3 massage compact commission as specified in s. 460.50. The delegate on the
4 commission representing this state shall be appointed by the massage therapy and
5 bodywork therapy affiliated credentialing board as provided in s. 460.50 (8) (b) 1. and
6 shall be an individual described in s. 460.50 (8) (b) 2. The commission has the powers
7 and duties granted and imposed under s. 460.50.

8 **SECTION 2.** 111.335 (4) (jm) of the statutes is created to read:

9 111.335 (4) (jm) Notwithstanding s. 111.322, it is not employment
10 discrimination because of conviction record for the massage therapy and bodywork
11 therapy affiliated credentialing board to do any of the following:

12 1. Refuse to license an individual in accordance with s. 460.05 (1m) (a) 8.

13 2. Refuse to grant to an individual a multistate license, as defined in s. 460.01
14 (5), in accordance with s. 460.50 (4) (a) 5. to 7.

15 **SECTION 3.** 146.81 (1) (hp) of the statutes is amended to read:

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1 146.81 (1) (hp) A massage therapist or bodywork therapist who is licensed
2 under subch. I of ch. 460 or who is exercising an authorization to practice, as defined
3 in s. 460.01 (2), in this state.

4 **SECTION 4.** 146.997 (1) (d) 13. of the statutes is amended to read:

5 146.997 (1) (d) 13. A massage therapist or bodywork therapist who is licensed
6 under ch. 460 or who is exercising an authorization to practice, as defined in s. 460.01
7 (2), in this state.

8 **SECTION 5.** 440.03 (11m) (c) 2u. of the statutes is created to read:

9 440.03 (11m) (c) 2u. The coordinated database and reporting system under s.
10 460.50 (9), if such disclosure is required under the interstate massage compact under
11 s. 460.50.

12 **SECTION 6.** 440.03 (13) (b) (intro.) of the statutes is amended to read:

13 440.03 (13) (b) (intro.) The department may investigate whether an applicant
14 for or holder of any of the following credentials has been charged with or convicted
15 of a crime only pursuant to rules promulgated by the department under this
16 paragraph, including rules that establish the criteria that the department will use
17 to determine whether an investigation under this paragraph is necessary, except as
18 provided in par. (c) and ss. 441.51 (5) (a) 5., 448.980 (5) (b) 3., 448.985 (3) (a) 4.,
19 448.987 (3) (a) 5. a. and (5) (b) 2. a., ~~and~~ 455.50 (3) (e) 4. and (f) 4., and 460.50 (3) (a)
20 5.:

21 **SECTION 7.** 440.03 (13) (c) of the statutes is renumbered 440.03 (13) (c) 1. (intro.)
22 and amended to read:

23 440.03 (13) (c) 1. (intro.) The department shall require an all of the following
24 to be photographed and fingerprinted on 2 fingerprint cards, each bearing a complete
25 set of the person's fingerprints:

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1 a. An applicant for a private detective license or a private security permit under
2 s. 440.26, ~~an.~~

3 b. An applicant for a juvenile martial arts instructor permit under sub. (17),
4 ~~an.~~

5 c. An applicant for a real estate appraiser certification under s. 458.06 or
6 license under s. 458.08, ~~an.~~

7 d. An applicant for a multistate license under s. 441.06 (1c) or 441.10 (1c), ~~an.~~

8 e. An applicant for a compact license under s. 448.05 (2) (f), ~~an.~~

9 f. An applicant for a physical therapist license under s. 448.53 or physical
10 therapist assistant license under s. 448.535, ~~an.~~

11 g. An applicant for an occupational therapist or occupational therapy assistant
12 compact privilege under s. 448.987 (4), and an applicant for an occupational
13 therapist or occupational therapy assistant license described in s. 448.987 (5) (b) 2.
14 ~~a., an.~~

15 h. An applicant for a psychologist license under s. 455.04, ~~and a.~~

16 z. A person for whom the department conducts an investigation under par. (b),
17 ~~to be photographed and fingerprinted on 2 fingerprint cards, each bearing a complete~~
18 ~~set of the person's fingerprints.~~

19 2. The department of justice may submit the fingerprint cards, and the
20 department of justice shall submit the fingerprint cards of all applicants ~~for a real~~
21 ~~estate appraiser certification under s. 458.06 or license under s. 458.08, of all~~
22 ~~applicants for a multistate license under s. 441.06 (1c) or 441.10 (1c), of all applicants~~
23 ~~for a compact license under s. 448.05 (2) (f), of all applicants for a physical therapist~~
24 ~~license under s. 448.53 or a physical therapist assistant license under s. 448.535, and~~
25 ~~of all applicants for a psychologist license under s. 455.04~~ identified in subd. 1. c. to

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1 i., to the federal bureau of investigation for the purpose of verifying the identity of
2 the persons fingerprinted and obtaining records of their criminal arrests and
3 convictions.

4 3. Information obtained from the federal bureau of investigation may be shared
5 with the department or the appropriate credentialing board, but shall otherwise be
6 kept confidential and is not subject to disclosure under s. 19.35.

7 **SECTION 8.** 440.03 (13) (c) 1. i. of the statutes is created to read:

8 440.03 (13) (c) 1. i. An applicant for a multistate license under s. 460.05 (3m).

9 **SECTION 9.** 440.15 of the statutes is amended to read:

10 **440.15 No fingerprinting.** Except as provided under ss. 440.03 (13) (c),
11 441.51 (5) (a) 5., 448.980 (5) (b) 3., 448.985 (3) (a) 4., 448.987 (3) (a) 5. a. and (5) (b)
12 2. a., 450.071 (3) (c) 9., 450.075 (3) (c) 9., and 455.50 (3) (e) 4. and (f) 4., and 460.50
13 (3) (a) 5., the department or a credentialing board may not require that an applicant
14 for a credential or a credential holder be fingerprinted or submit fingerprints in
15 connection with the department's or the credentialing board's credentialing.

16 **SECTION 10.** 446.01 (1v) (o) of the statutes is amended to read:

17 446.01 (1v) (o) The massage therapy and bodywork therapy affiliated
18 credentialing board under ch. 460. "Health care professional" also includes an
19 individual who is exercising an authorization to practice, as defined in s. 460.01 (2),
20 in this state.

21 **SECTION 11.** Subchapter I (title) of chapter 460 [precedes 460.01] of the statutes
22 is created to read:

23 **CHAPTER 460**

24 **SUBCHAPTER I**

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REGULATION OF MASSAGE THERAPY

AND BODYWORK THERAPY

SECTION 12. 460.01 (intro.) of the statutes is amended to read:

460.01 Definitions. (intro.) In this ~~chapter~~ subchapter:

SECTION 13. 460.01 (2) of the statutes is created to read:

460.01 (2) "Authorization to practice" means the authorization to practice, as defined in s. 460.50 (2) (d), of an individual to practice in this state under a multistate license granted by another state that is a party to the compact.

SECTION 14. 460.01 (2k) of the statutes is created to read:

460.01 (2k) "Compact" means the interstate massage compact under s. 460.50.

SECTION 15. 460.01 (2m) of the statutes is amended to read:

460.01 (2m) "License holder" means a person granted who holds a single-state license granted under this chapter or who is exercising an authorization to practice under a multistate license granted in another state that is a party to the compact.

SECTION 16. 460.01 (5) of the statutes is created to read:

460.01 (5) "Multistate license" has the meaning given in s. 460.50 (2) (t).

SECTION 17. 460.01 (8) of the statutes is created to read:

460.01 (8) "Single-state license" means a single-state license, as defined in s. 460.50 (2) (x), granted by the affiliated credentialing board under s. 460.05 (1m) or (2m).

SECTION 18. 460.02 of the statutes is amended to read:

460.02 License required. Except as provided in s. 460.03, no person may provide massage therapy or bodywork therapy, designate himself or herself as a massage therapist or bodywork therapist or masseur or masseuse, or use or assume the title "massage therapist and bodywork therapist" or "massage therapist" or

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1 “bodywork therapist” or “masseur” or “masseuse” or any title that includes “massage
2 therapist,” “bodywork therapist,” or “bodyworker,” or append to the person’s name
3 the letters “M.T.,” “R.M.T.,” “L.M.T.,” “C.M.T.,” “B.T.,” “B.W.,” “L.B.W.,” “R.B.W.,” or
4 “C.B.W.,” or use any other title or designation that represents or may tend to
5 represent that he or she is licensed under this chapter, unless the person is licensed
6 under this ~~chapter~~ subchapter or holds a multistate license granted in another state
7 that is a party to the compact.

8 **SECTION 19.** 460.03 (intro.) of the statutes is amended to read:

9 **460.03 Applicability.** (intro.) A license under this ~~chapter~~ subchapter is not
10 required for any of the following:

11 **SECTION 20.** 460.03 (1) of the statutes is amended to read:

12 460.03 (1) A person holding a license, permit, registration, or certification
13 granted by this state or the federal government who engages in a practice of massage
14 therapy or bodywork therapy within the scope of his or her license, permit,
15 registration, or certification and who does not imply that he or she is ~~licensed under~~
16 ~~this chapter~~ a license holder. A person who is exempt from licensure under this
17 subsection may use the terms “bodywork,” “bodyworker,” and “bodywork therapy” to
18 identify his or her practice.

19 **SECTION 21.** 460.04 (2) (b) of the statutes is amended to read:

20 460.04 (2) (b) Criteria for approving a training program for purposes of s.
21 460.05 (1)(e) 1. (1m) (a) 5. a. Rules promulgated under this paragraph shall require
22 the training program to meet the requirements under s. 460.095 and to consist of at
23 least 600 classroom hours.

24 **SECTION 22.** 460.04 (2) (e) of the statutes is amended to read:

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1 460.04 (2) (e) A requirement that an applicant for a single-state license under
2 ~~this chapter~~ submit evidence satisfactory to the affiliated credentialing board that
3 the applicant has current proficiency in the use of an automated external
4 defibrillator achieved through instruction provided by an individual, organization,
5 or institution of higher education approved under s. 46.03 (38) to provide such
6 instruction.

7 **SECTION 23.** 460.04 (2) (f) of the statutes is amended to read:

8 460.04 (2) (f) Requirements to be satisfied by a person seeking a temporary
9 license permit under s. 460.08. The rules promulgated under this subsection shall
10 require the person to be a graduate of a massage therapy or bodywork therapy school
11 or program and may require the holder of a temporary license to make disclosures
12 to clients and to practice under the supervision of a ~~massage therapist or bodywork~~
13 ~~therapist licensed under this chapter~~ license holder.

14 **SECTION 24.** 460.04 (2) (g) of the statutes is amended to read:

15 460.04 (2) (g) A requirement, for purposes of s. 460.05 (1m) (a) 5., that an
16 applicant for a license under ~~this chapter~~ s. 460.05 (1m) pass an examination on state
17 laws and administrative rules governing massage therapy and bodywork therapy.

18 **SECTION 25.** 460.05 (1) of the statutes is renumbered 460.05 (1m) (a), and
19 460.05 (1m) (a) 5. (intro.), 7. and 8. b., as renumbered, are amended to read:

20 460.05 (1m) (a) 5. (intro.) Except as provided in ~~sub. (2) par. (b)~~, the person
21 submits evidence satisfactory to the affiliated credentialing board that he or she has
22 done all of the following:

23 7. The person submits evidence satisfactory to the affiliated credentialing
24 board that he or she has in effect malpractice liability insurance coverage in an

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1 amount that is not less than \$1,000,000 per occurrence and \$1,000,000 for all
2 occurrences in one year the amounts required under s. 460.11 (4).

3 8. b. An offense under federal law or a law of any other state that is comparable
4 to an offense under subd. ~~1.~~ 8. a.

5 **SECTION 26.** 460.05 (2) of the statutes is renumbered 460.05 (1m) (b) and
6 amended to read:

7 460.05 (1m) (b) The affiliated credentialing board may waive a requirement
8 specified in sub. (1) (e) par (a) 5. if a person establishes, to the satisfaction of the
9 affiliated credentialing board, that he or she has education, training, or other
10 experience that is substantially equivalent to the requirement.

11 **SECTION 27.** 460.05 (3m) of the statutes is created to read:

12 460.05 (3m) The affiliated credentialing board shall grant a multistate license
13 to a person who holds a single-state license, satisfies the requirements under s.
14 460.50 (4) (a), and pays the fee specified in s. 440.05 (1).

15 **SECTION 28.** 460.05 (4) of the statutes is amended to read:

16 460.05 (4) The affiliated credentialing board may assign a unique license
17 number to each person licensed under this ~~chapter~~ subchapter.

18 **SECTION 29.** 460.06 (intro.) of the statutes is amended to read:

19 **460.06 Examinations.** (intro.) The affiliated credentialing board may not
20 grant a license under ~~this chapter~~ s. 460.05 (1m) unless the applicant achieves a
21 passing grade on the following examinations:

22 **SECTION 30.** 460.07 (1) of the statutes is amended to read:

23 460.07 (1) Each person who is licensed under this chapter license holder shall
24 conspicuously display the license in the place of business where he or she practices
25 massage therapy or bodywork therapy so that the license can easily be seen and read.

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1 **SECTION 31.** 460.07 (2) of the statutes is renumbered 460.07 (2) (a), and 460.07
2 (2) (a) (intro.) and 2., as renumbered, are amended to read:

3 460.07 (2) (a) (intro.) ~~Renewal applications~~ An application for the renewal of
4 a single-state license shall be submitted to the department on a form provided by the
5 department on or before the applicable renewal date specified under s. 440.08 (2) (a)
6 and shall include all of the following:

7 2. ~~If applicable, proof~~ Proof of completion of continuing education under s.
8 460.10.

9 **SECTION 32.** 460.07 (2) (bm) of the statutes is created to read:

10 460.07 (2) (bm) Renewal of a multistate license granted under s. 460.05 (3m)
11 shall be governed by s. 460.50 (4).

12 **SECTION 33.** 460.07 (2) (c) of the statutes is amended to read:

13 460.07 (2) (c) Evidence satisfactory to the affiliated credentialing board that
14 the applicant has in effect malpractice liability insurance coverage in an amount that
15 is not less than \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one
16 year the amounts required under s. 460.11 (4).

17 **SECTION 34.** 460.08 of the statutes is amended to read:

18 **460.08 Temporary license permit.** The affiliated credentialing board may
19 grant a temporary license permit for a period not to exceed 6 months to an applicant
20 who satisfies the requirements established in the rules under s. 460.04 (2) (f). A
21 temporary license permit may not be renewed.

22 **SECTION 35.** 460.09 (title) of the statutes is repealed.

23 **SECTION 36.** 460.09 of the statutes is renumbered 460.05 (2m) and amended
24 to read:

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1 460.05 (2m) Upon application and payment of the fee specified in s. 440.05 (2),
2 the affiliated credentialing board shall grant a massage therapist or bodywork
3 therapist license to a person who holds a similar license in another state or territory
4 of the United States or another country if the affiliated credentialing board
5 determines that the requirements for receiving the license in the other state,
6 territory, or country are substantially equivalent to the requirements under s. 460.05
7 sub. (1m).

8 **SECTION 37.** 460.095 (4) (intro.) of the statutes is amended to read:

9 460.095 (4) (intro.) Ensure that each instructor hired by the school or training
10 program on or after December 1, 2010, to teach courses in theory and the practice of
11 massage therapy or bodywork therapy is licensed under this ~~chapter~~ subchapter and
12 has at least one of the following:

13 **SECTION 38.** 460.10 (1) (intro.) of the statutes is amended to read:

14 460.10 (1) (intro.) The affiliated credentialing board ~~may~~ shall promulgate
15 rules establishing all of the following:

16 **SECTION 39.** 460.10 (1) (a) of the statutes is amended to read:

17 460.10 (1) (a) Requirements and procedures for ~~a license holder~~ the holder of
18 a single-state license to complete continuing education programs or courses of study
19 to qualify for renewal of his or her license. The rules promulgated under this
20 paragraph may not require ~~a license holder~~ the holder of a single-state license to
21 complete more than 24 hours of continuing education programs or courses of study
22 in order to qualify for renewal of his or her license.

23 **SECTION 40.** 460.10 (2) of the statutes is amended to read:

24 460.10 (2) The affiliated credentialing board may waive all or part of any
25 requirement established in rules promulgated under sub. (1) (a) if it determines that

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1 prolonged illness, disability, or other exceptional circumstances have prevented ~~a~~
2 ~~license holder~~ an individual from completing the requirement.

3 **SECTION 41.** 460.11 (4) of the statutes is created to read:

4 460.11 (4) A license holder may not practice massage therapy or bodywork
5 therapy on a client unless the license holder has in effect malpractice liability
6 insurance coverage in an amount that is not less than \$1,000,000 per occurrence and
7 \$1,000,000 for all occurrences in one year.

8 **SECTION 42.** 460.14 (1) of the statutes is amended to read:

9 460.14 (1) Subject to the rules promulgated under s. 440.03 (1), the affiliated
10 credentialing board may make investigations and conduct hearings to determine
11 whether a violation of this ~~chapter~~ subchapter or any rule promulgated under this
12 ~~chapter~~ subchapter has occurred.

13 **SECTION 43.** 460.14 (2) (intro.) of the statutes is amended to read:

14 460.14 (2) (intro.) Subject to the rules promulgated under s. 440.03 (1), the
15 affiliated credentialing board may reprimand ~~a license holder~~ an individual who
16 holds a single-state license or who is exercising an authorization to practice or may
17 deny, limit, suspend, or revoke a single-state license under this chapter or
18 authorization to practice if it finds that the ~~applicant or license holder~~ individual has
19 done any of the following:

20 **SECTION 44.** 460.14 (2) (j) of the statutes is amended to read:

21 460.14 (2) (j) Violated this ~~chapter~~ subchapter or any rule promulgated under
22 this ~~chapter~~ subchapter.

23 **SECTION 45.** 460.14 (2m) (intro.) of the statutes is amended to read:

24 460.14 (2m) (intro.) Subject to the rules promulgated under s. 440.03 (1), the
25 affiliated credentialing board shall revoke ~~a license under this chapter~~ an

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1 individual's single-state license or authorization to practice if the ~~license holder~~
2 individual is convicted of any of the following:

3 **SECTION 46.** 460.14 (3) of the statutes is amended to read:

4 460.14 (3) The affiliated credentialing board may, subject to the terms of the
5 compact under s. 460.50, restore a single-state license or authorization to practice
6 that has been suspended or revoked on such terms and conditions as the affiliated
7 credentialing board may deem appropriate.

8 **SECTION 47.** 460.14 (4) of the statutes is amended to read:

9 460.14 (4) The affiliated credentialing board may, in addition to or in lieu of a
10 reprimand or revocation, limitation, suspension, or denial of a license or
11 authorization to practice, assess against a person who has done anything specified
12 under sub. (2) (a) to (j) a forfeiture of not more than \$1,000 for each separate offense.
13 Each day of continued violation constitutes a separate offense.

14 **SECTION 48.** 460.145 of the statutes is amended to read:

15 **460.145 Employment of unlicensed persons.** No person may employ or
16 contract for the services of an individual to provide massage therapy or bodywork
17 therapy who is required to be licensed under s. 460.02 unless the individual is
18 ~~licensed under this chapter~~ a license holder.

19 **SECTION 49.** 460.15 of the statutes is amended to read:

20 **460.15 Penalty.** Any person who violates this ~~chapter~~ subchapter or any rule
21 promulgated under this ~~chapter~~ subchapter may be fined not more than \$1,000 for
22 each violation or imprisoned for not more than 90 days, or both.

23 **SECTION 50.** 460.17 (1) of the statutes is amended to read:

24 460.17 (1) A city, village, town, or county may not enact an ordinance that
25 regulates the practice of massage therapy or bodywork therapy by a ~~person who is~~

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1 ~~licensed by the affiliated credentialing board under this chapter~~ license holder. No
2 provision of any ordinance enacted by a city, village, town, or county that is in effect
3 before February 1, 1999, and that relates to the practice of massage therapy or
4 bodywork therapy, may be enforced against a ~~person who is licensed by the affiliated~~
5 ~~credentialing board under this chapter~~ license holder.

6 **SECTION 51.** 460.17 (2) (a) 1. of the statutes is amended to read:

7 460.17 (2) (a) 1. A city, village, or town may enact and enforce an ordinance that
8 prohibits an individual from violating the prohibitions under s. 460.02 unless the
9 individual is ~~licensed under this chapter as required~~ in compliance with the
10 requirement under s. 460.02.

11 **SECTION 52.** 460.17 (2) (a) 2. of the statutes is amended to read:

12 460.17 (2) (a) 2. A city, village, or town may enact and enforce an ordinance that
13 prohibits a person from employing or contracting for the services of an individual to
14 provide massage therapy or bodywork therapy who is ~~required to be licensed in~~
15 compliance with the requirement under s. 460.02 unless the individual is licensed
16 ~~under this chapter~~ a license holder.

17 **SECTION 53.** Subchapter II of chapter 460 [precedes 460.50] of the statutes is
18 created to read:

19 SUBCHAPTER II

20 INTERSTATE MASSAGE COMPACT

21 **460.50 Interstate massage compact. (1) ARTICLE 1 - PURPOSE.** The purpose
22 of this compact is to reduce the burdens on state governments and to facilitate the
23 interstate practice and regulation of massage therapy with the goal of improving
24 public access to, and the safety of, massage therapy services. Through this compact,
25 the member states seek to establish a regulatory framework which provides for a new

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1 multistate licensing program. Through this additional licensing pathway, the
2 member states seek to provide increased value and mobility to licensed massage
3 therapists in the member states, while ensuring the provision of safe, competent, and
4 reliable services to the public. This compact is designed to achieve the following
5 objectives, and the member states hereby ratify the same intentions by subscribing
6 hereto:

7 (a) Increase public access to massage therapy services by providing for a
8 multistate licensing pathway;

9 (b) Enhance the member states' ability to protect the public's health and safety;

10 (c) Enhance the member states' ability to prevent human trafficking and
11 licensure fraud;

12 (d) Encourage the cooperation of member states in regulating the multistate
13 practice of massage therapy;

14 (e) Support relocating military members and their spouses;

15 (f) Facilitate and enhance the exchange of licensure, investigative, and
16 disciplinary information between the member states;

17 (g) Create an interstate commission that will exist to implement and
18 administer the compact;

19 (h) Allow a member state to hold a licensee accountable, even where that
20 licensee holds a multistate license;

21 (i) Create a streamlined pathway for licensees to practice in member states,
22 thus increasing the mobility of duly licensed massage therapists; and

23 (j) Serve the needs of licensed massage therapists and the public receiving their
24 services; however,

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

3 (2) ARTICLE 2 - DEFINITIONS. As used in this compact, except as otherwise
4 provided and subject to clarification by the rules of the commission, the following
5 definitions shall govern the terms herein:

6 (a) "Active military member" - any person with full-time duty status in the
7 armed forces of the United States, including members of the National Guard and
8 Reserve.

9 (b) "Adverse action" - any administrative, civil, equitable, or criminal action
10 permitted by a member state's laws which is imposed by a licensing authority or
11 other regulatory body against a licensee, including actions against an individual's
12 authorization to practice such as revocation, suspension, probation, surrender in lieu
13 of discipline, monitoring of the licensee, limitation of the licensee's practice, or any
14 other encumbrance on licensure affecting an individual's ability to practice massage
15 therapy, including the issuance of a cease and desist order.

16 (c) "Alternative program" - a non-disciplinary monitoring or prosecutorial
17 diversion program approved by a member state's licensing authority.

18 (d) "Authorization to practice" - a legal authorization by a remote state
19 pursuant to a multistate license permitting the practice of massage therapy in that
20 remote state, which shall be subject to the enforcement jurisdiction of the licensing
21 authority in that remote state.

22 (e) "Background check" - the submission of an applicant's criminal history
23 record information, as further defined in 28 CFR 20.3 (d), as amended from the
24 federal bureau of investigation and the agency responsible for retaining state
25 criminal records in the applicant's home state.

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1 (f) "Charter member states" - member states who have enacted legislation to
2 adopt this compact where such legislation predates the effective date of this compact
3 as defined in sub. (12).

4 (g) "Commission" - the government agency whose membership consists of all
5 states that have enacted this compact, which is known as the Interstate Massage
6 Compact Commission, as defined in sub. (8), and which shall operate as an
7 instrumentality of the member states.

8 (h) "Continuing competence" - a requirement, as a condition of license renewal,
9 to provide evidence of participation in, and completion of, educational or professional
10 activities that maintain, improve, or enhance massage therapy fitness to practice.

11 (i) "Current significant investigative information" - investigative information
12 that a licensing authority, after an inquiry or investigation that complies with a
13 member state's due process requirements, has reason to believe is not groundless
14 and, if proved true, would indicate a violation of that state's laws regarding the
15 practice of massage therapy.

16 (j) "Data system" - a repository of information about licensees who hold
17 multistate licenses, which may include but is not limited to license status,
18 investigative information, and adverse actions.

19 (k) "Disqualifying event" - any event which shall disqualify an individual from
20 holding a multistate license under this compact, which the commission may by rule
21 specify.

22 (L) "Encumbrance" - a revocation or suspension of, or any limitation or
23 condition on, the full and unrestricted practice of massage therapy by a licensing
24 authority.

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1 (m) “Executive Committee” - a group of delegates elected or appointed to act
2 on behalf of, and within the powers granted to them by, the commission.

3 (n) “Home state” - means the member state which is a licensee’s primary state
4 of residence where the licensee holds an active single-state license.

5 (o) “Investigative information” - information, records, or documents received
6 or generated by a licensing authority pursuant to an investigation or other inquiry.

7 (p) “Licensing authority” - a state’s regulatory body responsible for issuing
8 massage therapy licenses or otherwise overseeing the practice of massage therapy
9 in that state.

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

13 (r) “Massage therapy”, “massage therapy services”, and the “practice of
14 massage therapy” - the care and services provided by a licensee as set forth in the
15 member state’s statutes and regulations in the state where the services are being
16 provided.

17 (s) “Member State” - any state that has adopted this compact.

18 (t) “Multistate License” - a license that consists of authorizations to practice
19 massage therapy in all remote states pursuant to this compact, which shall be
20 subject to the enforcement jurisdiction of the licensing authority in a licensee’s home
21 state.

22 (u) “National licensing examination” - a national examination developed by a
23 national association of massage therapy regulatory boards, as defined by
24 commission rule, that is derived from a practice analysis and is consistent with

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1 generally accepted psychometric principles of fairness, validity and reliability, and
2 is administered under secure and confidential examination protocols.

3 (v) "Remote state" - any member state, other than the licensee's home state.

4 (w) "Rule" - any opinion or regulation promulgated by the commission under
5 this compact, which shall have the force of law.

6 (x) "Single-state license" - a current, valid authorization issued by a member
7 state's licensing authority allowing an individual to fully practice massage therapy,
8 that is not a restricted, student, provisional, temporary, or inactive practice
9 authorization and authorizes practice only within the issuing state.

10 (y) "State" - a state, territory, possession of the United States, or the District
11 of Columbia.

12 **(3) ARTICLE 3 - MEMBER STATE REQUIREMENTS.** (a) To be eligible to join this
13 compact, and to maintain eligibility as a member state, a state must:

14 1. License and regulate the practice of massage therapy;

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

18 3. Accept passage of a national licensing examination as a criterion for massage
19 therapy licensure in that state;

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

22 5. Implement procedures for requiring the background check of applicants for
23 a multistate license, and for the reporting of any disqualifying events, including but
24 not limited to obtaining and submitting, for each licensee holding a multistate
25 license and each applicant for a multistate license, fingerprint or other

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1 biometric-based information to the federal bureau of investigation for background
2 checks; receiving the results of the federal bureau of investigation record search on
3 background checks and considering the results of such a background check in
4 making licensure decisions;

5 6. Have continuing competence requirements as a condition for license
6 renewal;

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

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

15 9. Comply with the rules of the commission;

16 10. Accept licensees with valid multistate licenses from other member states
17 as established herein;

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

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

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

3 (4) ARTICLE 4 - MULTISTATE LICENSE REQUIREMENTS. (a) To qualify for a multistate
4 license under this compact, and to maintain eligibility for such a license, an applicant
5 must:

6 1. Hold an active single-state license to practice massage therapy in the
7 applicant's home state;

8 2. Have completed at least six hundred and twenty-five (625) clock hours of
9 massage therapy education or the substantial equivalent which the commission may
10 approve by rule.

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

13 4. Submit to a background check;

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

19 6. Have not been convicted or found guilty, or have entered into an agreed
20 disposition, of a misdemeanor offense related to the practice of massage therapy
21 under applicable state or federal criminal law, within two (2) years prior to the date
22 of their application where such a time period shall not include any time served for
23 the offense, and provided that the applicant has completed any and all requirements
24 arising as a result of any such offense;

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

4 a. Kidnapping;

5 b. Human trafficking;

6 c. Human smuggling;

7 d. Sexual battery, sexual assault, or any related offenses; or

8 e. Any other category of offense which the commission may by rule designate.

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

11 9. Have no history of any adverse action on any occupational or professional
12 license within two (2) years prior to the date of their application; and

13 10. Pay all required fees.

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

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

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

22 **(5) ARTICLE 5 - AUTHORITY OF INTERSTATE MASSAGE COMPACT COMMISSION AND**
23 **MEMBER STATE LICENSING AUTHORITIES.** (a) Nothing in this compact, nor any rule of the
24 commission, shall be construed to limit, restrict, or in any way reduce the ability of
25 a member state to enact and enforce laws, regulations, or other rules related to the

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

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

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

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

14 (e) Insofar as practical, a member state's licensing authority shall cooperate
15 with the commission and with each entity exercising independent regulatory
16 authority over the practice of massage therapy according to the provisions of this
17 compact.

18 **(6) ARTICLE 6 - ADVERSE ACTIONS.** (a) A licensee's home state shall have exclusive
19 power to impose an adverse action against a licensee's multistate license issued by
20 the home state.

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

24 (c) A home state shall retain authority to complete any pending investigations
25 of a licensee practicing under a multistate license who changes their home state

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1 during the course of such an investigation. The licensing authority shall also be
2 empowered to report the results of such an investigation to the commission through
3 the data system as described herein.

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

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

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

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

11 3. Issue subpoenas for both hearings and investigations that require the
12 attendance and testimony of witnesses, as well as the production of evidence.
13 Subpoenas issued by a licensing authority in a member state for the attendance and
14 testimony of witnesses or the production of evidence from another member state
15 shall be enforced in the latter state by any court of competent jurisdiction, according
16 to the practice and procedure of that court applicable to subpoenas issued in
17 proceedings before it. The issuing licensing authority shall pay any witness fees,
18 travel expenses, mileage, and other fees required by the service statutes of the state
19 in which the witnesses or evidence are located.

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

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

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

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

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

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

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

24 **(7) ARTICLE 7 - ACTIVE MILITARY MEMBER AND THEIR SPOUSES.** Active military
25 member, or their spouses, shall designate a home state where the individual has a

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1 current license to practice massage therapy in good standing. The individual may
2 retain their home state designation during any period of service when that
3 individual or their spouse is on active duty assignment.

4 (8) ARTICLE 8 - ESTABLISHMENT AND OPERATION OF INTERSTATE MASSAGE COMPACT
5 COMMISSION. (a) The compact member states hereby create and establish a joint
6 government agency whose membership consists of all member states that have
7 enacted the compact known as the Interstate Massage Compact Commission. The
8 commission is an instrumentality of the compact states acting jointly and not an
9 instrumentality of any one State. The commission shall come into existence on or
10 after the effective date of the compact as set forth in sub. (12).

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

14 2. The delegate shall be the primary administrative officer of the state licensing
15 authority or their designee.

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

18 4. The commission may recommend removal or suspension of any delegate from
19 office.

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

22 6. Each delegate shall be entitled to one vote on all matters that are voted on
23 by the commission.

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

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

5 1. Establish the fiscal year of the commission;

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

7 3. Adopt rules and bylaws;

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

9 5. Meet and take such actions as are consistent with the provisions of this
10 compact, the commission's rules, and the bylaws;

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

14 7. Maintain and certify records and information provided to a member state as
15 the authenticated business records of the commission, and designate an agent to do
16 so on the commission's behalf;

17 8. Purchase and maintain insurance and bonds;

18 9. Borrow, accept, or contract for services of personnel, including, but not
19 limited to, employees of a member state;

20 10. Conduct an annual financial review;

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

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- 1 12. Assess and collect fees;
- 2 13. Accept any and all appropriate gifts, donations, grants of money, other
3 sources of revenue, equipment, supplies, materials, and services, and receive, utilize,
4 and dispose of the same; provided that at all times the commission shall avoid any
5 appearance of impropriety or conflict of interest;
- 6 14. Lease, purchase, retain, own, hold, improve, or use any property, real,
7 personal, or mixed, or any undivided interest therein;
- 8 15. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
9 dispose of any property real, personal, or mixed;
- 10 16. Establish a budget and make expenditures;
- 11 17. Borrow money;
- 12 18. Appoint committees, including standing committees, composed of
13 members, state regulators, state legislators or their representatives, and consumer
14 representatives, and such other interested persons as may be designated in this
15 compact and the bylaws;
- 16 19. Accept and transmit complaints from the public, regulatory or law
17 enforcement agencies, or the commission, to the relevant member state(s) regarding
18 potential misconduct of licensees;
- 19 20. Elect a chair, vice chair, secretary and treasurer and such other officers of
20 the commission as provided in the commission's bylaws;
- 21 21. Establish and elect an executive committee, including a chair and a vice
22 chair;
- 23 22. Adopt and provide to the member states an annual report.

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1 23. Determine whether a state's adopted language is materially different from
2 the model compact language such that the state would not qualify for participation
3 in the compact; and

4 24. Perform such other functions as may be necessary or appropriate to achieve
5 the purposes of this compact.

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

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

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

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

17 d. Preparing and recommending the budget;

18 e. Maintaining financial records on behalf of the commission;

19 f. Monitoring compact compliance of member states and providing compliance
20 reports to the commission;

21 g. Establishing additional committees as necessary;

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

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- 1 i. Other duties as provided in the Rules or bylaws of the Commission.
- 2 2. The executive committee shall be composed of seven voting members and up
3 to two ex-officio members as follows:
- 4 a. The chair and vice chair of the commission and any other members of the
5 commission who serve on the executive committee shall be voting members of the
6 executive committee; and
- 7 b. Other than the chair, vice-chair, secretary and treasurer, the commission
8 shall elect three voting members from the current membership of the commission.
- 9 c. The commission may elect ex-officio, nonvoting members as necessary as
10 follows: one ex-officio member who is a representative of the national association of
11 state massage therapy regulatory boards and one ex-officio member as specified in
12 the Commission's bylaws.
- 13 3. The commission may remove any member of the executive committee as
14 provided in the commission's bylaws.
- 15 4. The Executive Committee shall meet at least annually.
- 16 a. Executive committee meetings shall be open to the public, except that the
17 executive committee may meet in a closed, non-public session of a public meeting
18 when dealing with any of the matters covered under par. (f) 4.
- 19 b. The executive committee shall give five business days advance notice of its
20 public meetings, posted on its website and as determined to provide notice to persons
21 with an interest in the public matters the executive committee intends to address at
22 those meetings.
- 23 5. The executive committee may hold an emergency meeting when acting for
24 the commission to:
- 25 a. Meet an imminent threat to public health, safety, or welfare;

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

2 c. Protect public health and safety.

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

5 (f) *Meetings of the Commission.* 1. All meetings of the commission that are not
6 closed pursuant to this subsection shall be open to the public. Notice of public
7 meetings shall be posted on the commission's website at least thirty (30) days prior
8 to the public meeting.

9 2. Notwithstanding subd. 1., the commission may convene an emergency public
10 meeting by providing at least twenty-four (24) hours prior notice on the commission's
11 website, and any other means as provided in the commission's rules, for any of the
12 reasons it may dispense with notice of proposed rulemaking under sub. (10) (L). The
13 commission's legal counsel shall certify the that one of the reasons justifying an
14 emergency public meeting has been met.

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

19 4. The commission may convene in a closed, non-public meeting for the
20 commission to discuss:

21 a. Non-compliance of a member state with its obligations under the compact;

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

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- 1 c. Current or threatened discipline of a licensee by the commission or by a
2 member state's licensing authority;
- 3 d. Current, threatened, or reasonably anticipated litigation;
- 4 e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or
5 real estate;
- 6 f. Accusing any person of a crime or formally censuring any person;
- 7 g. Trade secrets or commercial or financial information that is privileged or
8 confidential;
- 9 h. Information of a personal nature where disclosure would constitute a clearly
10 unwarranted invasion of personal privacy;
- 11 i. Investigative records compiled for law enforcement purposes;
- 12 j. Information related to any investigative reports prepared by or on behalf of
13 or for use of the commission or other committee charged with responsibility of
14 investigation or determination of compliance issues pursuant to the compact;
- 15 k. Legal advice;
- 16 L. Matters specifically exempted from disclosure to the public by federal or
17 member state law; or
- 18 m. Other matters as promulgated by the commission by rule.
- 19 5. If a meeting, or portion of a meeting, is closed, the presiding officer shall state
20 that the meeting will be closed and reference each relevant exempting provision, and
21 such reference shall be recorded in the minutes.
- 22 6. The commission shall keep minutes that fully and clearly describe all
23 matters discussed in a meeting and shall provide a full and accurate summary of
24 actions taken, and the reasons therefore, including a description of the views
25 expressed. All documents considered in connection with an action shall be identified

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1 in such minutes. All minutes and documents of a closed meeting shall remain under
2 seal, subject to release only by a majority vote of the commission or order of a court
3 of competent jurisdiction.

4 (g) *Financing of the commission.* 1. The commission shall pay, or provide for
5 the payment of, the reasonable expenses of its establishment, organization, and
6 ongoing activities.

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

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

16 4. The commission shall not incur obligations of any kind prior to securing the
17 funds adequate to meet the same; nor shall the commission pledge the credit of any
18 member states, except by and with the authority of the member state.

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

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

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

23 3. The commission shall indemnify and hold harmless any member, officer,
24 executive director, employee, and representative of the commission for the amount
25 of any settlement or judgment obtained against that person arising out of any actual

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1 or alleged act, error, or omission that occurred within the scope of commission
2 employment, duties, or responsibilities, or that such person had a reasonable basis
3 for believing occurred within the scope of commission employment, duties, or
4 responsibilities, provided that the actual or alleged act, error, or omission did not
5 result from the intentional or willful or wanton misconduct of that person.

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

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

13 6. Nothing in this compact shall be construed to be a waiver of sovereign
14 immunity by the member states or by the commission.

15 **(9) ARTICLE 9 - DATA SYSTEM.** (a) The commission shall provide for the
16 development, maintenance, operation, and utilization of a coordinated database and
17 reporting system.

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

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

- 23 1. Identifying information;
- 24 2. Licensure data;
- 25 3. Adverse actions against a license and information related thereto;

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

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

7 6. The existence of investigative information;

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

9 8. Other information that may facilitate the administration of this compact or
10 the protection of the public, as determined by the rules of the commission.

11 (d) The records and information provided to a member state pursuant to this
12 compact or through the data system, when certified by the commission or an agent
13 thereof, shall constitute the authenticated business records of the commission, and
14 shall be entitled to any associated hearsay exception in any relevant judicial,
15 quasi-judicial or administrative proceedings in a member state.

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

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

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

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

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

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

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

22 (d) If a majority of the legislatures of the member states rejects a rule or portion
23 of a rule, by enactment of a statute or resolution in the same manner used to adopt
24 the compact within four (4) years of the date of adoption of the rule, then such rule

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1 shall have no further force and effect in any member state or to any state applying
2 to participate in the compact.

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

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

7 (g) Prior to adoption of a proposed rule by the commission, and at least thirty
8 (30) days in advance of the meeting at which the commission will hold a public
9 hearing on the proposed rule, the commission shall provide a notice of proposed
10 rulemaking:

- 11 1. On the website of the commission or other publicly accessible platform;
- 12 2. To persons who have requested notice of the commission's notices of proposed
13 rulemaking, and
- 14 3. In such other way(s) as the commission may by rule specify.

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

- 16 1. The time, date, and location of the public hearing at which the commission
17 will hear public comments on the proposed rule and, if different, the time, date, and
18 location of the meeting where the commission will consider and vote on the proposed
19 rule;
- 20 2. If the hearing is held via telecommunication, video conference, or other
21 electronic means, the commission shall include the mechanism for access to the
22 hearing in the notice of proposed rulemaking;
- 23 3. The text of the proposed rule and the reason therefor;
- 24 4. A request for comments on the proposed rule from any interested person; and
- 25 5. The manner in which interested persons may submit written comments.

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

4 (j) Nothing in this subsection shall be construed as requiring a separate
5 hearing on each rule. Rules may be grouped for the convenience of the commission
6 at hearings required by this subsection.

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

9 1. The commission may adopt changes to the proposed rule provided the
10 changes do not enlarge the original purpose of the proposed rule.

11 2. The commission shall provide an explanation of the reasons for substantive
12 changes made to the proposed rule as well as reasons for substantive changes not
13 made that were recommended by commenters.

14 3. The commission shall determine a reasonable effective date for the rule.
15 Except for an emergency as provided in par. (L), the effective date of the rule shall
16 be no sooner than thirty (30) days after the commission issuing the notice that it
17 adopted or amended the rule.

18 (L) Upon determination that an emergency exists, the commission may
19 consider and adopt an emergency rule with 24 hours notice, provided that the usual
20 rulemaking procedures provided in the compact and in this subsection shall be
21 retroactively applied to the rule as soon as reasonably possible, in no event later than
22 ninety (90) days after the effective date of the rule. For the purposes of this provision,
23 an emergency rule is one that must be adopted immediately to:

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

25 2. Prevent a loss of commission or member state funds;

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

3 4. Protect public health and safety.

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

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

16 **(11) ARTICLE 11 - OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT.** (a)
17 *Oversight.* 1. The executive and judicial branches of state government in each
18 member state shall enforce this compact and take all actions necessary and
19 appropriate to implement the compact.

20 2. Venue is proper and judicial proceedings by or against the commission shall
21 be brought solely and exclusively in a court of competent jurisdiction where the
22 principal office of the commission is located. The commission may waive venue and
23 jurisdictional defenses to the extent it adopts or consents to participate in alternative
24 dispute resolution proceedings. Nothing herein shall affect or limit the selection or

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1 propriety of venue in any action against a licensee for professional malpractice,
2 misconduct or any such similar matter.

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

8 (b) *Default, technical assistance, and termination.* 1. If the commission
9 determines that a member state has defaulted in the performance of its obligations
10 or responsibilities under this compact or the promulgated rules, the commission
11 shall provide written notice to the defaulting state. The notice of default shall
12 describe the default, the proposed means of curing the default, and any other action
13 that the commission may take, and shall offer training and specific technical
14 assistance regarding the default.

15 2. The commission shall provide a copy of the notice of default to the other
16 member states.

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

23 (d) Termination of membership in the compact shall be imposed only after all
24 other means of securing compliance have been exhausted. Notice of intent to
25 suspend or terminate shall be given by the commission to the governor, the majority

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1 and minority leaders of the defaulting state's legislature, the defaulting state's state
2 licensing authority and each of the member states' state licensing authority.

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

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

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

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

18 (i) *Dispute resolution.* 1. Upon request by a member state, the commission
19 shall attempt to resolve disputes related to the compact that arise among member
20 states and between member and non-member states.

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

23 (j) *Enforcement.* 1. The commission, in the reasonable exercise of its discretion,
24 shall enforce the provisions of this compact and the commission's rules.

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1 2. By majority vote as provided by commission rule, the commission may
2 initiate legal action against a member state in default in the United States district
3 court for the District of Columbia or the federal district where the commission has
4 its principal offices to enforce compliance with the provisions of the compact and its
5 promulgated rules. The relief sought may include both injunctive relief and
6 damages. In the event judicial enforcement is necessary, the prevailing party shall
7 be awarded all costs of such litigation, including reasonable attorney's fees. The
8 remedies herein shall not be the exclusive remedies of the commission. The
9 commission may pursue any other remedies available under federal or the defaulting
10 member state's law.

11 3. A member state may initiate legal action against the commission in the U.S.
12 district court for the District of Columbia or the federal district where the
13 commission has its principal offices to enforce compliance with the provisions of the
14 compact and its promulgated rules. The relief sought may include both injunctive
15 relief and damages. In the event judicial enforcement is necessary, the prevailing
16 party shall be awarded all costs of such litigation, including reasonable attorney's
17 fees.

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

20 **(12)** ARTICLE 12 - EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT. (a) The compact
21 shall come into effect on the date on which the compact statute is enacted into law
22 in the seventh member state.

23 1. On or after the effective date of the compact, the commission shall convene
24 and review the enactment of each of the charter member states to determine if the

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1 statute enacted by each such charter member state is materially different than the
2 model compact statute.

3 a. A charter member state whose enactment is found to be materially different
4 from the model compact statute shall be entitled to the default process set forth in
5 sub. (11).

6 b. If any member state is later found to be in default, or is terminated or
7 withdraws from the compact, the commission shall remain in existence and the
8 compact shall remain in effect even if the number of member states should be less
9 than seven (7).

10 2. Member states enacting the compact subsequent to the charter member
11 states shall be subject to the process set forth in sub. (8) (c) 23. to determine if their
12 enactments are materially different from the model compact statute and whether
13 they qualify for participation in the compact.

14 3. All actions taken for the benefit of the commission or in furtherance of the
15 purposes of the administration of the compact prior to the effective date of the
16 compact or the commission coming into existence shall be considered to be actions
17 of the commission unless specifically repudiated by the commission.

18 4. Any state that joins the compact shall be subject to the commission's rules
19 and bylaws as they exist on the date on which the compact becomes law in that State.
20 Any rule that has been previously adopted by the commission shall have the full force
21 and effect of law on the day the compact becomes law in that state.

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

24 1. A member state's withdrawal shall not take effect until one hundred eighty
25 (180) days after enactment of the repealing statute.

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

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

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

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

16 **(13) ARTICLE 13 - CONSTRUCTION AND SEVERABILITY.** (a) This compact and the
17 commission's rulemaking authority shall be liberally construed so as to effectuate
18 the purposes, and the implementation and administration of the compact.
19 Provisions of the compact expressly authorizing or requiring the promulgation of
20 rules shall not be construed to limit the commission's rulemaking authority solely for
21 those purposes.

22 (b) The provisions of this compact shall be severable and if any phrase, clause,
23 sentence or provision of this compact is held by a court of competent jurisdiction to
24 be contrary to the constitution of any member state, a state seeking participation in
25 the compact, or of the United States, or the applicability thereof to any government,

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1 agency, person or circumstance is held to be unconstitutional by a court of competent
2 jurisdiction, the validity of the remainder of this compact and the applicability
3 thereof to any other government, agency, person or circumstance shall not be affected
4 thereby.

5 (c) Notwithstanding par. (b), the commission may deny a state's participation
6 in the compact or, in accordance with the requirements of sub. (11) (b), terminate a
7 member state's participation in the compact, if it determines that a constitutional
8 requirement of a member state is a material departure from the compact. Otherwise,
9 if this compact shall be held to be contrary to the constitution of any member state,
10 the compact shall remain in full force and effect as to the remaining member states
11 and in full force and effect as to the member state affected as to all severable matters.

12 **(14) ARTICLE 14 - CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS.**

13 Nothing herein shall prevent or inhibit the enforcement of any other law of a member
14 state that is not inconsistent with the compact. Any laws, statutes, regulations, or
15 other legal requirements in a member state in conflict with the compact are
16 superseded to the extent of the conflict. All permissible agreements between the
17 commission and the member states are binding in accordance with their terms.

18 **460.51 Implementation of the interstate massage compact.** (1) In this
19 section, "authorization to practice" has the meaning given in s. 460.01 (2).

20 (2) (a) An individual who is exercising an authorization to practice shall comply
21 with s. 440.03 (13) (am).

22 (b) Subject to s. 460.50 and any rules promulgated thereunder, ss. 440.20 to
23 440.22 and the rules promulgated under s. 440.03 (1) shall apply to an individual who
24 is exercising an authorization to practice in this state in the same manner that they
25 apply to holders of licenses issued under s. 460.05 (1m) and (2m).

