

**CALIFORNIA  
BOARD OF BARBERING AND COSMETOLOGY**



**MAY 8, 2023**

**LEGISLATIVE AND BUDGET COMMITTEE**

**PUBLIC  
TELECONFERENCE**



**CALIFORNIA BOARD  
OF  
BARBERING AND COSMETOLOGY**



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**MEMBERS OF THE  
COMMITTEE**

Reese Isbell, Chair  
Megan Ellis  
Colette Kavanaugh  
Calimay Pham

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**LEGISLATIVE AND BUDGET  
COMMITTEE MEETING**

**PUBLIC TELECONFERENCE  
MEETING**

**May 8, 2023**

**9:00 AM - Until Completion of  
Business**

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*Action may be taken on  
any item listed on the  
agenda.*

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**The Board may take action on any  
agenda item.**

**NOTE: Pursuant to Government Code section 11133, neither a public location nor teleconference locations are provided. Public participation may be through teleconferencing as provided below.**

**Important Notices to the Public: The Board of Barbering and Cosmetology will hold a public meeting via a WebEx Events. To participate in the WebEx Events meeting, please log on to this website the day of the meeting:**

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=mf7277d4572a9fc326eee2252bc17b649>

Webinar number: 2483 348 0664

Webinar password: BBC05082023

**Instructions to connect to the meeting can be found at:**

[https://www.barbercosmo.ca.gov/about\\_us/meetings/how\\_to\\_join\\_webex\\_event.pdf](https://www.barbercosmo.ca.gov/about_us/meetings/how_to_join_webex_event.pdf)

Members of the public may but are not obligated to provide their names or personal information as a condition of observing or participating in the meeting. When signing into the WebEx platform, participants may be asked for their name and email address. Participants who choose not to provide their names will be required to provide a unique identifier such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make public comment; participants who choose not to provide their email address may utilize a fictitious email address in the following sample format:

XXXXX@mailinator.com.

In order to ensure all public members have an opportunity to speak and in the interest of time, public comments will be limited to two minutes unless, in the discretion of the committee, circumstances require a shorter period or longer period; members of the public will not be permitted to "yield" their allotted time to other members of the public to make comments.

As an alternative, members of the public who wish to observe the meeting without making public comment can do so (provided no unforeseen technical difficulties) at

<https://thedcapage.wordpress.com/webcasts/>.

## AGENDA

1. Call to Order/Roll Call/Establishment of Quorum
2. Discussion and Possible Approval of the April 10, 2023, Committee Meeting Minutes
3. Discussion, Update, and Possible Recommendations Regarding Proposed Bills:
  - a. AB 1328 (Gipson) Cosmetology Licensure Compact
  - b. SB 247 (Wilk) Alcoholic beverages: licensing exemptions: barbering and cosmetology services
  - c. SB 384 (Bradford) Barbering and Cosmetology
  - d. SB 451 (Nguyen) Worker classification: employees and independent contractors: licensed manicurists
  - e. SB 544 (Laird) Bagley-Keene Open Meeting Act: teleconferencing
  - f. SB 817 (Roth) Barbering and cosmetology: application, examination, and licensing fees
4. Public Comment on Items Not on the Agenda  
*Note: The Committee may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 1125.7(a))*
5. Suggestions for Future Agenda Items
6. Adjournment

The time and order of agenda items are subject to change at the discretion of the Committee Chair and may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Committee are open to the public.

\*Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Committee prior to the Committee taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Committee, but the Committee Chair may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Committee to discuss items not on the agenda; however, the Committee can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).

The meeting is being held via Webex Events. The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting may make a request by contacting: Natalie Mitchell at (916) 244-6644, email: [natalie.mitchell@dca.ca.gov](mailto:natalie.mitchell@dca.ca.gov) or send a written request to the Board of Barbering and Cosmetology, PO Box 944226, Sacramento, CA 94244. Providing your request is a least five (5) business days before the meeting will help to ensure availability of the requested accommodations. TDD Line: (916) 322-1700.

*Agenda Item*  
*No. 1*  
*No Attachments*

**DRAFT**  
**CALIFORNIA STATE BOARD**  
**OF**  
**BARBERING AND COSMETOLOGY**

**LEGISLATIVE AND BUDGET COMMITTEE MEETING**

**MINUTES OF APRIL 10, 2023**

**BOARD MEMBERS PRESENT**

Reese Isbell, Chair  
Megan Ellis  
Colette Kavanaugh  
Calimay Pham

**STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Officer  
Carrie Harris, Deputy Executive Officer  
Alex Torkelson, Licensing and Admin Chief  
Sabina Knight, Board Attorney  
Allison Lee, Board Project Manager  
Natalie Mitchell, Board Analyst  
Shelby Edmiston, HR Liaison/Presenter

**1. AGENDA ITEM #1, CALL TO ORDER/ROLL CALL/ESTABLISHMENT OF QUORUM**

Reese Isbell, Committee Chair, called the meeting to order at approximately 9:00 a.m. and confirmed the presence of a quorum.

**2. AGENDA ITEM #2, DISCUSSION AND POSSIBLE APPROVAL OF THE MARCH 13, 2023, COMMITTEE MEETING MINUTES**

**Motion:** Ms. Pham moved to approve the March 13, 2023, Committee Meeting Minutes. Ms. Ellis seconded.

No comments were received from the public.

Motion to approve March 13, 2023, Committee Meeting Minutes carried; 4 yes, 0 no, and 0 abstain, per roll call vote as follows:

The Committee Members voted "Yes": Reese Isbell, Megan Ellis, Colette Kavanaugh, and Calimay Pham.

**3. AGENDA ITEM #3, DISCUSSION AND POSSIBLE RECOMMENDATIONS REGARDING PROPOSED BILLS:**

**a. AB 1328 (Gipson) Cosmetology Licensure Compact**

Executive Officer Kristy Underwood stated that this bill would establish a cosmetology licensure compact. The language that went to the Board was from the Council for State Governments. The language was placed into a bill by Assemblymember Gipson. The compact license would allow individuals from states that enter the compact to work in a sister compact state without getting a separate license unless they move to that state. The license is intended for people who temporarily work in different states. The compact

license was put together with the Department of Defense. The Department strongly desires to get military families working as quickly as possible if they are temporarily relocated.

Ms. Underwood stated that to make the compact, every bill should have the same language. She mentioned that the same language presented at the last Board meeting is what is being offered to legislators all over the country. She noted that the bill has some technical cleanup numbering that is slightly different from what was in the language provided by the Council for State Governments, but the content is the same. The Governor of Kentucky has already signed the bill into law. The bill is in Arizona and Ohio; several other states have it in their current session. About ten states have it in their two-year session.

Ms. Underwood noted that it would be helpful if California joined the compact licensing at the beginning because there will be regulations that will be developed that each member state will have to comply with. A cosmetology compact commission will be formed and joining at the beginning will allow California to be part of the regulation-creating process. Chair Isbell noted that the Board had supported the same concept at the January Board meeting.

Ms. Kavanaugh asked if the bill would be strictly for cosmetologists and not the other professions. Ms. Underwood answered in the affirmative, adding that the group that created the language for the compact license, which she had been a part of, had originally started by looking at cosmetology and barbering. However, the group decided to focus on cosmetology since there are many differences in barbering in different states. The group also looked at esthetics but determined that the scope of practice differed in many states. Cosmetology is the only one that is similar in scope for hair, skin, and nails.

Ms. Kavanaugh also asked if a licensee from a non-member state can apply for the multi-state license if they move to a member state. Ms. Underwood said yes. Ms. Kavanaugh also inquired about the re-issuance of a multi-state license concerning a new home state. She asked if a licensee who moves from Kentucky to California can get a re-issuance if that licensee still practices in Kentucky. Ms. Underwood stated that a person who changes their permanent residence must obtain a license in the new state. They will be required to pay a fee to have a California multi-state license issued. Ms. Kavanaugh asked if California could get two delegates for representation in the compact commission since it will be the largest state. Ms. Underwood stated that it would not be possible, but it will be raised as a concern in the legislative process.

**Motion:** Ms. Kavanaugh moved to recommend a support position to the full Board and allow the Executive Officer to make non-substantive, technical recommendations to the legislature. Ms. Ellis seconded.

**Public Comment:**

- Ruth Hamm asked whether a person who moves from California to Arizona temporarily needs a multi-state license issued in California before attempting to work in Arizona. Ms. Underwood stated that as long as both states were members of the compact, a person moving to Arizona temporarily could go right to work.
- Wendy Cochran mentioned that she was calling outside Camp Pendleton. She noted that there is a substantial number of military residents in California. There are about 41 military bases in California. She emphasized that it is important for California to participate in the compact, adding that esthetics should also be looked at. Ms. Cochran noted that esthetics is a shorter program and that many people traveling with their families overseas learn things like lash extensions. Most of these people practice on base without licensing and must be inspected. She stated that esthetics should be made part of the compact because it is easier for people to go through the 600-hour esthetic program than it is for them to go through the full cosmetology program.

Motion to recommend a support position to the full Board with allowing the Executive Officer to make non-substantive, technical recommendations to the legislature carried; 4 yes, 0 no, and 0 abstain, per roll call vote as follows:

The Committee Members voted "Yes": Reese Isbell, Megan Ellis, Colette Kavanaugh, and Calimay Pham.

**b. SB 247 (Wilk) Alcoholic beverages: licensing exemptions: barbering and cosmetology services**

Ms. Underwood stated that this bill, which Senator Wilk authored, does not impact the Board, but it affects licensees. It is a cleanup bill for the Alcohol Beverage Control. Current law states that a certain amount of alcohol can be served in beauty salons and barber shops, but this bill clarifies that it applies to all establishments licensed by the Board. Chair Isbell wondered when the original language was put into law. Ms. Underwood stated that it was around 2021.

Ms. Underwood noted that the Committee could move to support or oppose and make a motion to watch the bill.

**Motion:** Chair Isbell moved to recommend a support position to the full Board. Ms. Pham seconded.

**Public Comment:**

- Wendy Cochran mentioned that the bill has been in place since 2018. Back then, people were opening lash studios, brow bars, and things like that, but cities were hung up on beauty salons and barber shops. Ms. Cochran stated that, from a city standpoint, it is important for this bill to go through. She also appreciated the support of the Committee.

Motion to recommend a support position to the full Board carried; 4 yes, 0 no, and 0 abstain, per roll call vote as follows:

The Committee Members voted "Yes": Reese Isbell, Megan Ellis, Colette Kavanaugh, and Calimay Pham.

**c. SB 384 (Bradford) Barbering and Cosmetology**

Ms. Underwood noted that Senator Bradford authored this bill. It is the remedial education bill that the Board started. She mentioned that Senator Bradford's office had contacted her when the Board decided to pursue a legislative proposal for remedial education. The bill will require the Board to establish, by regulation, a Board-offered remedial education in lieu of a first offense of a health and safety violation. This would give the Board the statutory authority to develop a regulatory program. Ms. Underwood indicated that much work would go into the regulations to develop the program, and she was happy that Senator Bradford's office had offered to help.

**Motion:** Ms. Kavanaugh moved to recommend a support position to the full Board. Ms. Pham seconded.

No comments were received from the public.

Motion to recommend a support position to the full Board carried; 4 yes, 0 no, and 0 abstain, per roll call vote as follows:

The Committee Members voted "Yes": Reese Isbell, Megan Ellis, Colette Kavanaugh, and Calimay Pham.

**d. SB 451 (Nguyen) Worker Classification: employees and independent contractors: licensed manicurists**

Senator Nguyen authored this bill. The bill addresses the exemption of manicurists for the ABC test for independent contractors. It does not impact the Board, but it affects licensees. Ms. Underwood indicated that the same language was presented last year. It did not pass, but the Board supported it. When the major changes came out for independent contractors, licensees were exempted from the ABC test to determine if they were independent contractors.

Chair Isbell noted that the Committee had voted to recommend a support position to the full Board at the March 13 meeting. However, at the time, the introduced Bill deleted the inoperative date.

Ms. Pham noted that the Bill changed from exempting manicurists indefinitely, and it now has a date of 2030. She inquired about the reason for that change. Ms. Underwood stated that in the beginning, the legislature felt that manicurists did not operate as independent contractors or booth renters. This was the original discussion on AB 5. She was, however, trying to understand why it was changed to 2030.

**Motion:** Ms. Pham moved to recommend a support position to the full Board. Ms. Ellis seconded.



**Public Comment:**

- Fred Jones, from the Professional Beauty Federation, stated that the bill is a simple case of equality. He mentioned that they supported bill last time and still support it this time. He added that the Federation would support a bill to permanently remove the sunset date so that manicurists are treated like all licensee categories.
- Jaime Schrabek from Precision Nails was disappointed that an inoperative date had been added to the bill. She recommended that the Committee recommend a support position to the full Board to continue to support the effort to ensure that manicurists are treated the same as all other license types.
- Wendy Cochran from the California Aesthetic Alliance agreed that all license types should be treated equally. She noted that the assumption that all manicurists are trafficked is problematic. She further indicated that some laws and regulations cover trafficking. She added that the Alliance supports the Bill going through even though they are disappointed about the sunset date 2030.

Motion to recommend a support position to the full Board carried; 4 yes, 0 no, and 0 abstain, per roll call vote as follows:

The Committee Members voted “Yes”: Reese Isbell, Megan Ellis, Colette Kavanaugh, and Calimay Pham.

**e. SB 544 (Laird) Bagley-Keene Open Meeting Act: teleconferencing**

Senator Laird introduced this bill. It is intended to change the Bagley-Keene Open Meeting Act and will allow the continuation of teleconferencing. The Board had previously supported the bill in 2022 when there was other legislation to try and extend the exceptions made during the pandemic. Teleconferencing is a productive way of having meetings and this bill will allow that change to become permanent.

Chair Isbell asked if it was generally supported or was a dead bill. Ms. Underwood stated that the bill has much support from the Department of Consumer Affairs (DCA) since many boards have saved significant money through teleconferencing. She believed it would be moving forward but needed to figure out how far. Ms. Knight mentioned that other boards support the bill for the mentioned reasons. She added that all boards have seen increased public participation when meetings are held via WebEx. The Department is, therefore, happy to see many members participating.

**Motion:** Ms. Kavanaugh moved to recommend a support position to the full Board. Ms. Pham seconded.

No comments were received from the public.

Motion to recommend a support position to the full Board carried; 4 yes, 0 no, and 0 abstain, per roll call vote as follows:

The Committee Members voted “Yes”: Reese Isbell, Megan Ellis, Colette Kavanaugh, and Calimay Pham.

**f. SB 817 (Roth) Barbering and cosmetology: application, examination, and licensing fees**

Senator Roth authored this bill. The language clarified the new hairstylist license fee, which needs to be implemented. It is a cleanup language that the Board suggested last year. It ensures that the fee follows the same format as all the other individual license types. The current hairstylist licensing fee is \$50. A cosmetologist's initial licensing fee is \$50, and the application and examination fee shall be the actual cost to the Board to develop, grade, and administer the exam. This language will allow the Board to establish an examination and application fee for a hairstylist license in addition to the set licensing fee of \$50.

**Motion:** Ms. Pham moved to recommend a support position to the full Board. Ms. Kavanaugh seconded.

**Public Comment:**

- Wendy Cochran stated that the bill has much support and will move on to appropriations today, April 10, for a hearing.

Motion to recommend a support position to the full Board carried; 4 yes, 0 no, and 0 abstain, per roll call vote as follows:

The Committee Members voted "Yes": Reese Isbell, Megan Ellis, Colette Kavanaugh, and Calimay Pham.

**4. AGENDA ITEM #4, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

No comments were received from the public.

**5. AGENDA ITEM #5, SUGGESTIONS FOR FUTURE AGENDA ITEMS**

No suggestions from the Committee members.

**Public Comment:**

- Jaime Schrabecck congratulated the Board and this Committee specifically for acting proactively to meet some legislative priorities of the Board. She noted that that was something that had been missing in the past. She further encouraged the Committee to develop such legislative solutions in the future so they can enact things sooner.

**6. AGENDA ITEM #6, ADJOURNMENT**

There being no further business to discuss, the meeting adjourned at approximately 9:47 a.m.



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## BOARD OF BARBERING & COSMETOLOGY

### BILL ANALYSIS

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**Author:** Assembly Member Gipson

**Subject:** Cosmetology Licensure Compact

**Bill Number:** AB 1328

**Version:** March 23, 2023

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#### **Existing Law:**

Existing law, the Barbering and Cosmetology Act, establishes in the Department of Consumer Affairs the State Board of Barbering and Cosmetology to license and regulate the practice of cosmetology. A violation of the act is a misdemeanor, unless otherwise provided. Existing law requires the board to grant a license to an applicant who holds a current license to practice issued by another state that is not revoked, suspended, or otherwise restricted and is in good standing, upon submission of a completed application form and fees.

#### **This Bill:**

This bill would enact the Cosmetology Licensure Compact, the purpose of which is to facilitate the interstate practice and regulation of cosmetology. The compact would require the board to grant a multistate license to practice cosmetology to an applicant who meets specified eligibility requirements, including holding an active and unencumbered license to practice cosmetology issued by the board in this state. The compact would require the state to recognize a multistate license issued by each member state as authorizing the licensee to practice cosmetology in this state. The compact would require the board to select a delegate to serve on the Cosmetology Licensure Compact Commission, a joint governmental agency consisting of all member states that have enacted the compact, and would enact specified provisions relating to the establishment, operation, powers, and duties of the commission. The compact would specify procedures for the adoption of rules by the commission for purposes of implementing and administering the compact and would state that the rules of the commission shall have the force of law, except as specified. The compact would require the board to take specified actions relating to the administration and enforcement of the compact, including receiving complaints about individuals practicing cosmetology and communicating investigative information about any adverse action to the other member states through a data system, as specified. The compact would authorize the board to charge a fee to grant a multistate license or for the renewal of a multistate license. The bill would authorize the commission to levy and collect an annual assessment from the state and impose fees on licensees of member states to whom it grants a multistate license to cover the cost of operations and activities of the commission. Because the bill would expand the scope of a crime under the act to holders of multistate licenses practicing in this state, the bill would impose a state-mandated local program.

**Status:** 04/26/2023 From committee: Do pass and re-refer to Committee on Appropriations. (Ayes 16. Noes 0.) (April 25). Re-referred to Committee on Appropriations.

**Analysis:**

At the January 23, 2023, the Board voiced support of joining the inter-state compact and motioned to move forward with a legislative proposal. The compact will allow licensees to work in other states in the compact while also giving the Board access to enforcement information through a shared database and grant the Board the authority to participate in joint investigations with other states.

**Board Position:** Support and allow the Executive Officer to make non-substantive, technical recommendations to the legislature (as of 4/17/2023).

AMENDED IN ASSEMBLY MARCH 23, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1328**

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**Introduced by Assembly Member Gipson**

February 16, 2023

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~~An act relating to business and professions.~~ *An act to add Article 14 (commencing with Section 7430) to Chapter 10 of Division 3 of the Business and Professions Code, relating to professions and vocations.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1328, as amended, Gipson. ~~Barbering and cosmetology: interstate cosmetology licensure compact.~~ *Cosmetology Licensure Compact.*

*Existing law, the Barbering and Cosmetology Act, establishes in the Department of Consumer Affairs the State Board of Barbering and Cosmetology to license and regulate the practice of cosmetology. A violation of the act is a misdemeanor, unless otherwise provided. Existing law requires the board to grant a license to an applicant who holds a current license to practice issued by another state that is not revoked, suspended, or otherwise restricted and is in good standing, upon submission of a completed application form and fees.*

*This bill would enact the Cosmetology Licensure Compact, the purpose of which is to facilitate the interstate practice and regulation of cosmetology. The compact would require the board to grant a multistate license to practice cosmetology to an applicant who meets specified eligibility requirements, including holding an active and unencumbered license to practice cosmetology issued by the board in this state. The compact would require the state to recognize a multistate license issued by each member state as authorizing the licensee to practice cosmetology in this state. The compact would require the board*

*to select a delegate to serve on the Cosmetology Licensure Compact Commission, a joint governmental agency consisting of all member states that have enacted the compact, and would enact specified provisions relating to the establishment, operation, powers, and duties of the commission. The compact would specify procedures for the adoption of rules by the commission for purposes of implementing and administering the compact and would state that the rules of the commission shall have the force of law, except as specified. The compact would require the board to take specified actions relating to the administration and enforcement of the compact, including receiving complaints about individuals practicing cosmetology and communicating investigative information about any adverse action to the other member states through a data system, as specified. The compact would authorize the board to charge a fee to grant a multistate license or for the renewal of a multistate license. The bill would authorize the commission to levy and collect an annual assessment from the state and impose fees on licensees of member states to whom it grants a multistate license to cover the cost of operations and activities of the commission. Because the bill would expand the scope of a crime under the act to holders of multistate licenses practicing in this state, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law, the Barbering and Cosmetology Act, establishes the State Board of Barbering and Cosmetology in the Department of Consumer Affairs to license and regulate barbers and cosmetologists. Existing law requires the board to grant a license to practice to an applicant who holds a current license to practice issued by another state that is not revoked, suspended, or otherwise restricted and is in good standing, upon submission of a completed application form and fees.~~

~~This bill would state the intent of the Legislature to enact legislation that would facilitate membership in an interstate cosmetology licensure compact.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Article 14 (commencing with Section 7430) is*  
2 *added to Chapter 10 of Division 3 of the Business and Professions*  
3 *Code, to read:*

4  
5             *Article 14. Cosmetology Licensure Compact*  
6

7     7430. (a) *The Legislature hereby enacts the Cosmetology*  
8 *Licensure Compact as set forth in Section 7431.*

9     (b) *The State Board of Barbering and Cosmetology is designated*  
10 *as the state licensing authority for purposes of the compact.*

11     7431. *ARTICLE 1- PURPOSE*

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

22     *This Compact is designed to achieve the following objectives,*  
23 *and the Member States hereby ratify the same intentions by*  
24 *subscribing hereto:*

25     *Provide opportunities for interstate practice by Cosmetologists*  
26 *who meet uniform requirements for multistate licensure;*

27     *B. Enhance the abilities of Member States to protect public health*  
28 *and safety, and prevent fraud and unlicensed activity within the*  
29 *profession;*

30     *C. Ensure and encourage cooperation between Member States*  
31 *in the licensure and regulation of the Practice of Cosmetology;*

32     *D. Support relocating military members and their spouses;*

33     *E. Facilitate the exchange of information between Member States*  
34 *related to the licensure, investigation, and discipline of the Practice*  
35 *of Cosmetology;*

36     *F. Provide for the licensure and mobility of the workforce in the*  
37 *profession, while addressing the shortage of workers and lessening*  
38 *the associated burdens on the Member States.*

1     *ARTICLE 2- DEFINITIONS*

2     *As used in this Compact, and except as otherwise provided, the*  
 3     *following definitions shall govern the terms herein:*

4     *“Active Duty Military” means any individual in full-time duty*  
 5     *status in the active uniformed service of the United States including*  
 6     *members of the National Guard and Reserve.*

7     *B. “Adverse Action” means any administrative, civil, equitable,*  
 8     *or criminal action permitted by a Member State’s laws which is*  
 9     *imposed by a State Licensing Authority or other regulatory body*  
 10    *against a or Cosmetologist, including actions against an*  
 11    *individual’s license or Authorization to Practice such as*  
 12    *revocation, suspension, probation, monitoring of the Licensee,*  
 13    *limitation of the Licensee’s practice, or any other Encumbrance*  
 14    *on a license affecting an individual’s ability to participate in the*  
 15    *Cosmetology industry, including the issuance of a cease and desist*  
 16    *order.*

17    *C. “Authorization to Practice” means a legal authorization*  
 18    *associated with a Multistate License permitting the Practice of*  
 19    *Cosmetology in that Remote State, which shall be subject to the*  
 20    *enforcement jurisdiction of the State Licensing Authority in that*  
 21    *Remote State.*

22    *D. “Alternative Program” means a non-disciplinary monitoring*  
 23    *or prosecutorial diversion program approved by a Member State’s*  
 24    *State Licensing Authority.*

25    *E. “Background Check” means the submission of information*  
 26    *for an applicant for the purpose of obtaining that applicant’s*  
 27    *criminal history record information, as further defined in C.F.R.*  
 28    *§ 20.3(d), from the Federal Bureau of Investigation and the agency*  
 29    *responsible for retaining State criminal or disciplinary history in*  
 30    *the applicant’s Home State.*

31    *F. “Charter Member State” means Member States who have*  
 32    *enacted legislation to adopt this Compact where such legislation*  
 33    *predates the effective date of this Compact as defined in Article*  
 34    *13.*

35    *G. “Commission” the government agency whose membership*  
 36    *consists of all States that have enacted this Compact, which is*  
 37    *known as the Cosmetology Licensure Compact Commission, as*  
 38    *defined in Article 9, and which shall operate as an instrumentality*  
 39    *of the Member States.*



1 H. “Cosmetologist” means an individual licensed in their Home  
2 State to practice Cosmetology.

3 “Cosmetology”, “Cosmetology Services”, and the “Practice of  
4 Cosmetology” mean the care and services provided by a  
5 Cosmetologist as set forth in the Member State’s statutes and  
6 regulations in the State where the services are being provided.

7 J. “Current Significant Investigative Information” means:

8 Investigative Information that a State Licensing Authority, after  
9 an inquiry or investigation that complies with a Member State’s  
10 due process requirements, has reason to believe is not groundless  
11 and, if proved true, would indicate a violation of that State’s laws  
12 regarding fraud or the Practice of Cosmetology; or

13 2. Investigative Information that indicates that a Licensee has  
14 engaged in fraud or represents an immediate threat to public health  
15 and safety, regardless of whether the Licensee has been notified  
16 and had an opportunity to respond.

17 K. “Data System” means a repository of information about  
18 Licensees, including but not limited to license status, Investigative  
19 Information, and Adverse Actions.

20 L. “Disqualifying Event” means any event which shall disqualify  
21 an individual from holding a Multistate License under this  
22 Compact, which the Commission may by Rule or order specify.

23 M. “Encumbered License” means a license in which an Adverse  
24 Action restricts the Practice of Cosmetology by a Licensee, or  
25 where said Adverse Action has been reported to the Commission.

26 N. “Encumbrance” means a revocation or suspension of, or any  
27 limitation on, the full and unrestricted Practice of Cosmetology  
28 by a State Licensing Authority.

29 O. “Executive Committee” means a group of delegates elected  
30 or appointed to act on behalf of, and within the powers granted  
31 to them by, the Commission.

32 P. “Home State” means the Member State which is a Licensee’s  
33 primary State of residence, and where that Licensee holds an active  
34 and unencumbered license to practice Cosmetology.

35 Q. “Investigative Information” means information, records, or  
36 documents received or generated by a State Licensing Authority  
37 pursuant to an investigation or other inquiry.

38 R. “Jurisprudence Requirement” means the assessment of an  
39 individual’s knowledge of the laws and rules governing the  
40 Practice of Cosmetology in a State.

1 S. “Licensee” means an individual who currently holds a license  
 2 from a Member State to practice as a Cosmetologist.

3 T. “Member State” means any State that has adopted this  
 4 Compact.

5 U. “Multistate License” means a license issued by and subject  
 6 to the enforcement jurisdiction of the State Licensing Authority in  
 7 a Licensee’s Home State, which authorizes the Practice of  
 8 Cosmetology in Member States and includes Authorizations to  
 9 Practice Cosmetology in all Remote States pursuant to this  
 10 Compact.

11 V. “Remote State” means any Member State, other than the  
 12 Licensee’s Home State.

13 W. “Rule” means any rule or regulation promulgated by the  
 14 Commission under this Compact which has the force of law.

15 X. “Single-State License” means a Cosmetology license issued  
 16 by a Member State that authorizes practice of Cosmetology only  
 17 within the issuing State and does not include any authorization  
 18 outside of the issuing State.

19 Y. “State” means a State, territory, or possession of the United  
 20 States and the District of Columbia.

21 Z. “State Licensing Authority” means a Member State’s  
 22 regulatory body responsible for issuing Cosmetology licenses or  
 23 otherwise overseeing the Practice of Cosmetology in that State.

24 **ARTICLE 3- MEMBER STATE REQUIREMENTS**

25 To be eligible to join this Compact, and to maintain eligibility  
 26 as a Member State, a State must:

- 27 1. License and regulate Cosmetology;
- 28 2. Have a mechanism or entity in place to receive and investigate  
 29 complaints about Licensees practicing in that State;
- 30 3. Require that Licensees within the State pass a Cosmetology  
 31 competency examination prior to being licensed to provide  
 32 Cosmetology Services to the public in that State;
- 33 4. Require that Licensees satisfy educational or training  
 34 requirements in Cosmetology prior to being licensed to provide  
 35 Cosmetology Services to the public in that State;
- 36 5. Implement procedures for considering one or more of the  
 37 following categories of information from applicants for licensure:  
 38 criminal history; disciplinary history; or Background Check. Such  
 39 procedures may include the submission of information by

1 *applicants for the purpose of obtaining an applicant's Background*  
2 *Check as defined herein;*

3 *6. Participate in the Data System, including through the use of*  
4 *unique identifying numbers;*

5 *7. Share information related to Adverse Actions with the*  
6 *Commission and other Member States, both through the Data*  
7 *System and otherwise;*

8 *8. Notify the Commission and other Member States, in*  
9 *compliance with the terms of the Compact and Rules of the*  
10 *Commission, of the existence of Investigative Information or*  
11 *Current Significant Investigative Information in the State's*  
12 *possession regarding a Licensee practicing in that State;*

13 *9. Comply with such Rules as may be enacted by the Commission*  
14 *to administer the Compact; and*

15 *10. Accept Licensees from other Member States as established*  
16 *herein.*

17 *B. Member States may charge a fee for granting a license to*  
18 *practice Cosmetology.*

19 *C. Individuals not residing in a Member State shall continue to*  
20 *be able to apply for a Member State's Single-State License as*  
21 *provided under the laws of each Member State. However, the*  
22 *Single-State License granted to these individuals shall not be*  
23 *recognized as granting a Multistate License to provide services*  
24 *in any other Member State.*

25 *D. Nothing in this Compact shall affect the requirements*  
26 *established by a Member State for the issuance of a Single-State*  
27 *License.*

28 *E. A Multistate License issued to a Licensee by a Home State to*  
29 *a resident of that State shall be recognized by each Member State*  
30 *as authorizing a Licensee to practice Cosmetology in each Member*  
31 *State.*

32 *F. At no point shall the Commission have the power to define*  
33 *the educational or professional requirements for a license to*  
34 *practice Cosmetology. The Member States shall retain sole*  
35 *jurisdiction over the provision of these requirements.*

36 **ARTICLE 4- MULTISTATE LICENSE**

37 *To be eligible to apply to their Home State's State Licensing*  
38 *Authority for an initial Multistate License under this Compact, a*  
39 *Licensee must hold an active and unencumbered Single-State*  
40 *License to practice Cosmetology in their Home State.*

1     *B. Upon the receipt of an application for a Multistate License,*  
 2     *according to the Rules of the Commission, a Member State’s State*  
 3     *Licensing Authority shall ascertain whether the applicant meets*  
 4     *the requirements for a Multistate License under this Compact.*

5     *C. If an applicant meets the requirements for a Multistate License*  
 6     *under this Compact and any applicable Rules of the Commission,*  
 7     *the State Licensing Authority in receipt of the application shall,*  
 8     *within a reasonable time, grant a Multistate License to that*  
 9     *applicant, and inform all Member States of the grant of said*  
 10     *Multistate License.*

11     *D. A Multistate License to practice Cosmetology issued by a*  
 12     *Member State’s State Licensing Authority shall be recognized by*  
 13     *each Member State as authorizing the practice thereof as though*  
 14     *that Licensee held a Single-State License to do so in each Member*  
 15     *State, subject to the restrictions herein.*

16     *E. A Multistate License granted pursuant to this Compact may*  
 17     *be effective for a definite period of time, concurrent with the*  
 18     *licensure renewal period in the Home State.*

19     *F. To maintain a Multistate License under this Compact, a*  
 20     *Licensee must:*

21     *Agree to abide by the rules of the State Licensing Authority, and*  
 22     *the State scope of practice laws governing the Practice of*  
 23     *Cosmetology, of any Member State in which the Licensee provides*  
 24     *services;*

25     2. *Pay all required fees related to the application and process,*  
 26     *and any other fees which the Commission may by Rule require;*  
 27     *and*

28     3. *Comply with any and all other requirements regarding*  
 29     *Multistate Licenses which the Commission may by Rule provide.*

30     *G. A Licensee practicing in a Member State is subject to all*  
 31     *scope of practice laws governing Cosmetology Services in that*  
 32     *State.*

33     *H. The Practice of Cosmetology under a Multistate License*  
 34     *granted pursuant to this Compact will subject the Licensee to the*  
 35     *jurisdiction of the State Licensing Authority, the courts, and the*  
 36     *laws of the Member State in which the Cosmetology Services are*  
 37     *provided.*

38     **ARTICLE 5- REISSUANCE OF A MULTISTATE LICENSE BY**  
 39     **A NEW HOME STATE**

1 *A Licensee may hold a Multistate License, issued by their Home*  
2 *State, in only one Member State at any given time.*

3 *B. If a Licensee changes their Home State by moving between*  
4 *two Member States:*

5 *The Licensee shall immediately apply for the reissuance of their*  
6 *Multistate License in their new Home State. The Licensee shall*  
7 *pay all applicable fees and notify the prior Home State in*  
8 *accordance with the Rules of the Commission.*

9 *2. Upon receipt of an application to reissue a Multistate License,*  
10 *the new Home State shall verify that the Multistate License is*  
11 *active, unencumbered and eligible for reissuance under the terms*  
12 *of the Compact and the Rules of the Commission. The Multistate*  
13 *License issued by the prior Home State will be deactivated and all*  
14 *Member States notified in accordance with the applicable Rules*  
15 *adopted by the Commission.*

16 *3. If required for initial licensure, the new Home State may*  
17 *require a Background Check as specified in the laws of that State,*  
18 *or the compliance with any Jurisprudence Requirements of the*  
19 *new Home State.*

20 *4. Notwithstanding any other provision of this Compact, if a*  
21 *Licensee does not meet the requirements set forth in this Compact*  
22 *for the reissuance of a Multistate License by the new Home State,*  
23 *then the Licensee shall be subject to the new Home State*  
24 *requirements for the issuance of a Single-State License in that*  
25 *State.*

26 *C. If a Licensee changes their primary state of residence by*  
27 *moving from a Member State to a non-Member State, or from a*  
28 *non-Member State to a Member State, then the Licensee shall be*  
29 *subject to the State requirements for the issuance of a Single-State*  
30 *License in the new Home State.*

31 *D. Nothing in this Compact shall interfere with a Licensee's*  
32 *ability to hold a Single-State License in multiple States; however,*  
33 *for the purposes of this Compact, a Licensee shall have only one*  
34 *Home State, and only one Multistate License.*

35 *E. Nothing in this Compact shall interfere with the requirements*  
36 *established by a Member State for the issuance of a Single-State*  
37 *License.*

38 **ARTICLE 6- AUTHORITY OF THE COMPACT COMMISSION**  
39 **AND MEMBER STATE LICENSING AUTHORITIES**

1 *Nothing in this Compact, nor any Rule or regulation of the*  
 2 *Commission, shall be construed to limit, restrict, or in any way*  
 3 *reduce the ability of a Member State to enact and enforce laws,*  
 4 *regulations, or other rules related to the Practice of Cosmetology*  
 5 *in that State, where those laws, regulations, or other rules are not*  
 6 *inconsistent with the provisions of this Compact.*

7 *B. Insofar as practical, a Member State’s State Licensing*  
 8 *Authority shall cooperate with the Commission and with each*  
 9 *entity exercising independent regulatory authority over the Practice*  
 10 *of Cosmetology according to the provisions of this Compact.*

11 *C. Discipline shall be the sole responsibility of the State in which*  
 12 *Cosmetology Services are provided. Accordingly, each Member*  
 13 *State’s State Licensing Authority shall be responsible for receiving*  
 14 *complaints about individuals practicing Cosmetology in that State,*  
 15 *and for communicating all relevant Investigative Information about*  
 16 *any such Adverse Action to the other Member States through the*  
 17 *Data System in addition to any other methods the Commission*  
 18 *may by Rule require.*

19 **ARTICLE 7- ADVERSE ACTIONS**

20 *A Licensee’s Home State shall have exclusive power to impose*  
 21 *an Adverse Action against a Licensee’s Multistate License issued*  
 22 *by the Home State.*

23 *B. A Home State may take Adverse Action on a Multistate License*  
 24 *based on the Investigative Information, Current Significant*  
 25 *Investigative Information, or Adverse Action of a Remote State.*

26 *C. In addition to the powers conferred by State law, each Remote*  
 27 *State’s State Licensing Authority shall have the power to:*

28 *Take Adverse Action against a Licensee’s Authorization to*  
 29 *Practice Cosmetology through the Multistate License in that*  
 30 *Member State, provided that:*

31 *Only the Licensee’s Home State shall have the power to take*  
 32 *Adverse Action against the Multistate License issued by the Home*  
 33 *State; and*

34 *For the purposes of taking Adverse Action, the Home State’s*  
 35 *State Licensing Authority shall give the same priority and effect*  
 36 *to reported conduct received from a Remote State as it would if*  
 37 *such conduct had occurred within the Home State. In so doing,*  
 38 *the Home State shall apply its own State laws to determine the*  
 39 *appropriate action.*

1 *Issue cease and desist orders or impose an Encumbrance on a*  
2 *Licensee's Authorization to Practice within that Member State.*

3 *Complete any pending investigations of a Licensee who changes*  
4 *their primary state of residence during the course of such an*  
5 *investigation. The State Licensing Authority shall also be*  
6 *empowered to report the results of such an investigation to the*  
7 *Commission through the Data System as described herein.*

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

19 *If otherwise permitted by State law, recover from the affected*  
20 *Licensee the costs of investigations and disposition of cases*  
21 *resulting from any Adverse Action taken against that Licensee.*

22 *Take Adverse Action against the Licensee's Authorization to*  
23 *Practice in that State based on the factual findings of another*  
24 *Remote State.*

25 *D. A Licensee's Home State shall complete any pending*  
26 *investigation(s) of a Cosmetologist who changes their primary*  
27 *state of residence during the course of the investigation(s). The*  
28 *Home State shall also have the authority to take appropriate*  
29 *action(s) and shall promptly report the conclusions of the*  
30 *investigations to the Data System.*

31 *E. If an Adverse Action is taken by the Home State against*  
32 *Licensee's Multistate License, the Licensee's Authorization to*  
33 *Practice in all other Member States shall be deactivated until all*  
34 *Encumbrances have been removed from the Home State license.*  
35 *All Home State disciplinary orders that impose an Adverse Action*  
36 *against a Licensee's Multistate License shall include a statement*  
37 *that the Cosmetologist's Authorization to Practice is deactivated*  
38 *in all Member States during the pendency of the order.*

39 *F. Nothing in this Compact shall override a Member State's*  
40 *authority to accept a Licensee's participation in an Alternative*

1 *Program in lieu of Adverse Action. A Licensee’s Multistate License*  
2 *shall be suspended for the duration of the Licensee’s participation*  
3 *in any Alternative Program.*

4 *G. Joint Investigations*

5 *In addition to the authority granted to a Member State by its*  
6 *respective scope of practice laws or other applicable State law, a*  
7 *Member State may participate with other Member States in joint*  
8 *investigations of Licensees.*

9 *2. Member States shall share any investigative, litigation, or*  
10 *compliance materials in furtherance of any joint or individual*  
11 *investigation initiated under the Compact.*

12 **ARTICLE 8- ACTIVE DUTY MILITARY AND THEIR SPOUSES**

13 *Active Duty Military personnel, or their spouses, shall designate*  
14 *a Home State where the individual has a current license to practice*  
15 *Cosmetology in good standing. The individual may retain their*  
16 *Home State designation during any period of service when that*  
17 *individual or their spouse is on active duty assignment.*

18 **ARTICLE 9- ESTABLISHMENT AND OPERATION OF THE**  
19 **COSMETOLOGY LICENSURE COMPACT COMMISSION**

20 *The Compact Member States hereby create and establish a joint*  
21 *government agency whose membership consists of all Member*  
22 *States that have enacted the Compact known as the Cosmetology*  
23 *Licensure Compact Commission. The Commission is an*  
24 *instrumentality of the Compact Member States acting jointly and*  
25 *not an instrumentality of any one State. The Commission shall*  
26 *come into existence on or after the effective date of the Compact*  
27 *as set forth in Article 13.*

28 *B. Membership, Voting, and Meetings*

29 *Each Member State shall have and be limited to one (1) delegate*  
30 *selected by that Member State’s State Licensing Authority.*

31 *2. The delegate shall be an administrator of the State Licensing*  
32 *Authority of the Member State or their designee.*

33 *3. The Commission shall by Rule or bylaw establish a term of*  
34 *office for delegates and may by Rule or bylaw establish term limits.*

35 *4. The Commission may recommend removal or suspension of*  
36 *any delegate from office.*

37 *5. A Member State’s State Licensing Authority shall fill any*  
38 *vacancy of its delegate occurring on the Commission within 60*  
39 *days of the vacancy.*



1     6. Each delegate shall be entitled to one vote on all matters that  
2 are voted on by the Commission.

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

7     C. The Commission shall have the following powers:

8     Establish the fiscal year of the Commission;

9     Establish code of conduct and conflict of interest policies;

10    Adopt Rules and bylaws;

11    Maintain its financial records in accordance with the bylaws;

12    Meet and take such actions as are consistent with the provisions  
13 of this Compact, the Commission's Rules, and the bylaws;

14    6. Initiate and conclude legal proceedings or actions in the name  
15 of the Commission, provided that the standing of any State  
16 Licensing Authority to sue or be sued under applicable law shall  
17 not be affected;

18    7. Maintain and certify records and information provided to a  
19 Member State as the authenticated business records of the  
20 Commission, and designate an agent to do so on the Commission's  
21 behalf;

22    8. Purchase and maintain insurance and bonds;

23    9. Borrow, accept, or contract for services of personnel,  
24 including, but not limited to, employees of a Member State;

25    10. Conduct an annual financial review;

26    11. Hire employees, elect or appoint officers, fix compensation,  
27 define duties, grant such individuals appropriate authority to carry  
28 out the purposes of the Compact, and establish the Commission's  
29 personnel policies and programs relating to conflicts of interest,  
30 qualifications of personnel, and other related personnel matters;

31    12. As set forth in the Commission Rules, charge a fee to a  
32 Licensee for the grant of a Multistate License and thereafter, as  
33 may be established by Commission Rule, charge the Licensee a  
34 Multistate License renewal fee for each renewal period. Nothing  
35 herein shall be construed to prevent a Home State from charging  
36 a Licensee a fee for a Multistate License or renewals of a Multistate  
37 License, or a fee for the jurisprudence requirement if the Member  
38 State imposes such a requirement for the grant of Multistate  
39 License;

40    13. Assess and collect fees;

- 1     14. Accept any and all appropriate gifts, donations, grants of
- 2     money, other sources of revenue, equipment, supplies, materials,
- 3     and services, and receive, utilize, and dispose of the same; provided
- 4     that at all times the Commission shall avoid any appearance of
- 5     impropriety or conflict of interest;
- 6     15. Lease, purchase, retain, own, hold, improve, or use any
- 7     property, real, personal, or mixed, or any undivided interest
- 8     therein;
- 9     16. Sell, convey, mortgage, pledge, lease, exchange, abandon,
- 10    or otherwise dispose of any property real, personal, or mixed;
- 11    17. Establish a budget and make expenditures;
- 12    18. Borrow money;
- 13    19. Appoint committees, including standing committees,
- 14    composed of members, State regulators, State legislators or their
- 15    representatives, and consumer representatives, and such other
- 16    interested persons as may be designated in this Compact and the
- 17    bylaws;
- 18    20. Provide and receive information from, and cooperate with,
- 19    law enforcement agencies
- 20    21. Elect a Chair, Vice Chair, Secretary and Treasurer and such
- 21    other officers of the Commission as provided in the Commission’s
- 22    bylaws;
- 23    22. Establish and elect an Executive Committee, including a
- 24    chair and a vice chair;
- 25    23. Adopt and provide to the Participating States an annual
- 26    report.
- 27    24. Determine whether a State’s adopted language is materially
- 28    different from the model Compact language such that the State
- 29    would not qualify for participation in the Compact; and
- 30    25. Perform such other functions as may be necessary or
- 31    appropriate to achieve the purposes of this Compact.
- 32    D. The Executive Committee
- 33    The Executive Committee shall have the power to act on behalf
- 34    of the Commission according to the terms of this Compact. The
- 35    powers, duties, and responsibilities of the Executive Committee
- 36    shall include:
- 37    Overseeing the day-to-day activities of the administration of the
- 38    Compact including compliance with the provisions of the Compact,
- 39    the Commission’s Rules and bylaws, and other such duties as
- 40    deemed necessary;

1 *b. Recommending to the Commission changes to the Rules or*  
2 *bylaws, changes to this Compact legislation, fees charged to*  
3 *Compact Member States, fees charged to Licensees, and other*  
4 *fees;*

5 *c. Ensuring Compact administration services are appropriately*  
6 *provided, including by contract;*

7 *d. Preparing and recommending the budget;*

8 *e. Maintaining financial records on behalf of the Commission;*

9 *f. Monitoring Compact compliance of Member States and*  
10 *providing compliance reports to the Commission;*

11 *g. Establishing additional committees as necessary;*

12 *h. Exercise the powers and duties of the Commission during the*  
13 *interim between*

14 *Commission meetings, except for adopting or amending Rules,*  
15 *adopting or amending bylaws, and exercising any other powers*  
16 *and duties expressly reserved to the Commission by Rule or bylaw;*  
17 *and*

18 *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 *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 and vice-chair, secretary and treasurer,*  
26 *the 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*  
30 *as approved by the Commission. The Commission's bylaws shall*  
31 *identify qualifying organizations and the manner of appointment*  
32 *if the number of organizations seeking to appoint an ex officio*  
33 *member exceeds the number of members specified in this Article.*

34 *3. The Commission may remove any member of the Executive*  
35 *Committee as provided in the Commission's bylaws.*

36 *4. The Executive Committee shall meet at least annually.*

37 *Annual Executive Committee meetings, as well as any Executive*  
38 *Committee meeting at which it does not take or intend to take*  
39 *formal action on a matter for which a Commission vote would*  
40 *otherwise be required, shall be open to the public, except that the*

1 *Executive Committee may meet in a closed, non-public session of*  
2 *a public meeting when dealing with any of the matters covered*  
3 *under Article 9.F.4.*

4 *b. The Executive Committee shall give five business days advance*  
5 *notice of its public meetings, posted on its website and as*  
6 *determined to provide notice to persons with an interest in the*  
7 *public matters the Executive Committee intends to address at those*  
8 *meetings.*

9 *5. The Executive Committee may hold an emergency meeting*  
10 *when acting for the Commission to:*

11 *Meet an imminent threat to public health, safety, or welfare;*

12 *Prevent a loss of Commission or Participating State funds; or*

13 *Protect public health and safety.*

14 *E. The Commission shall adopt and provide to the Member States*  
15 *an annual report.*

16 *F. Meetings of the Commission*

17 *All meetings of the Commission that are not closed pursuant to*  
18 *Article 9.F.4 shall be open to the public. Notice of public meetings*  
19 *shall be posted on the Commission's website at least thirty (30)*  
20 *days prior to the public meeting.*

21 *2. Notwithstanding Article 9.F.1, the Commission may convene*  
22 *an emergency public meeting by providing at least twenty-four*  
23 *(24) hours prior notice on the Commission's website, and any*  
24 *other means as provided in the Commission's Rules, for any of the*  
25 *reasons it may dispense with notice of proposed rulemaking under*  
26 *Article 11.L. The Commission's legal counsel shall certify that*  
27 *one of the reasons justifying an emergency public meeting has*  
28 *been met.*

29 *3. Notice of all Commission meetings shall provide the time,*  
30 *date, and location of the meeting, and if the meeting is to be held*  
31 *or accessible via telecommunication, video conference, or other*  
32 *electronic means, the notice shall include the mechanism for access*  
33 *to the meeting.*

34 *4. The Commission may convene in a closed, non-public meeting*  
35 *for the Commission to discuss:*

36 *Non-compliance of a Member State with its obligations under*  
37 *the Compact;*

38 *The employment, compensation, discipline or other matters,*  
39 *practices or procedures related to specific employees or other*

1 *matters related to the Commission's internal personnel practices*  
2 *and procedures;*

3 *Current or threatened discipline of a Licensee by the Commission*  
4 *or by a Member State's Licensing Authority;*

5 *Current, threatened, or reasonably anticipated litigation;*

6 *Negotiation of contracts for the purchase, lease, or sale of goods,*  
7 *services, or real estate;*

8 *Accusing any person of a crime or formally censuring any*  
9 *person;*

10 *Trade secrets or commercial or financial information that is*  
11 *privileged or confidential;*

12 *Information of a personal nature where disclosure would*  
13 *constitute a clearly unwarranted invasion of personal privacy;*

14 *Investigative records compiled for law enforcement purposes;*

15 *Information related to any investigative reports prepared by or*  
16 *on behalf of or for use of the Commission or other committee*  
17 *charged with responsibility of investigation or determination of*  
18 *compliance issues pursuant to the Compact;*

19 *Legal Advice*

20 *Matters specifically exempted from disclosure to the public by*  
21 *federal or Member State law; or*

22 *Other matters as promulgated by the Commission by Rule.*

23 *If a meeting, or portion of a meeting, is closed, the presiding*  
24 *officer shall state that the meeting will be closed and reference*  
25 *each relevant exempting provision, and such reference shall be*  
26 *recorded in the minutes.*

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

36 *G. Financing of the Commission*

37 *The Commission shall pay, or provide for the payment of, the*  
38 *reasonable expenses of its establishment, organization, and*  
39 *ongoing activities.*

1     2. *The Commission may accept any and all appropriate sources*  
2 *of revenue, donations, and grants of money, equipment, supplies,*  
3 *materials, and services.*

4     3. *The Commission may levy on and collect an annual assessment*  
5 *from each Member State and impose fees on Licensees of Member*  
6 *States to whom it grants a Multistate License to cover the cost of*  
7 *the operations and activities of the Commission and its staff, which*  
8 *must be in a total amount sufficient to cover its annual budget as*  
9 *approved each year for which revenue is not provided by other*  
10 *sources. The aggregate annual assessment amount for Member*  
11 *States shall be allocated based upon a formula that the Commission*  
12 *shall promulgate by Rule.*

13     4. *The Commission shall not incur obligations of any kind prior*  
14 *to securing the funds adequate to meet the same; nor shall the*  
15 *Commission pledge the credit of any Member States, except by*  
16 *and with the authority of the Member State.*

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

25     *H. Qualified Immunity, Defense, and Indemnification*

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

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

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

25     4. *Nothing herein shall be construed as a limitation on the*  
26 *liability of any Licensee for professional malpractice or*  
27 *misconduct, which shall be governed solely by any other applicable*  
28 *State laws.*

29     5. *Nothing in this Compact shall be interpreted to waive or*  
30 *otherwise abrogate a Member State's State action immunity or*  
31 *State action affirmative defense with respect to antitrust claims*  
32 *under the Sherman Act, Clayton Act, or any other State or federal*  
33 *antitrust or anticompetitive law or regulation.*

34     6. *Nothing in this Compact shall be construed to be a waiver of*  
35 *sovereign immunity by the Member States or by the Commission.*

36     **ARTICLE 10- DATA SYSTEM**

37     *The Commission shall provide for the development, maintenance,*  
38 *operation, and utilization of a coordinated database and reporting*  
39 *system.*

1     *B. The Commission shall assign each applicant for a Multistate*  
2     *License a unique identifier, as determined by the Rules of the*  
3     *Commission.*

4     *C. Notwithstanding any other provision of State law to the*  
5     *contrary, a Member State shall submit a uniform data set to the*  
6     *Data System on all individuals to whom this Compact is applicable*  
7     *as required by the Rules of the Commission, including:*

8     *Identifying information;*

9     *Licensure data;*

10    *Adverse Actions against a license and information related*  
11    *thereto;*

12    *Non-confidential information related to Alternative Program*  
13    *participation, the beginning and ending dates of such participation,*  
14    *and other information related to such participation;*

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

18    *6. The existence of Investigative Information;*

19    *7. The existence of Current Significant Investigative Information;*  
20    *and*

21    *8. Other information that may facilitate the administration of*  
22    *this Compact or the protection of the public, as determined by the*  
23    *Rules of the Commission.*

24    *D. The records and information provided to a Member State*  
25    *pursuant to this Compact or through the Data System, when*  
26    *certified by the Commission or an agent thereof, shall constitute*  
27    *the authenticated business records of the Commission, and shall*  
28    *be entitled to any associated hearsay exception in any relevant*  
29    *judicial, quasi-judicial or administrative proceedings in a Member*  
30    *State.*

31    *E. The existence of Current Significant Investigative Information*  
32    *and the existence of Investigative Information pertaining to a*  
33    *Licensee in any Member State will only be available to other*  
34    *Member States.*

35    *F. It is the responsibility of the Member States to monitor the*  
36    *database to determine whether Adverse Action has been taken*  
37    *against such a Licensee or License applicant. Adverse Action*  
38    *information pertaining to a Licensee or License applicant in any*  
39    *Member State will be available to any other Member State.*



1 *G. Member States contributing information to the Data System*  
2 *may designate information that may not be shared with the public*  
3 *without the express permission of the contributing State.*

4 *H. Any information submitted to the Data System that is*  
5 *subsequently expunged pursuant to federal law or the laws of the*  
6 *Member State contributing the information shall be removed from*  
7 *the Data System.*

8 **ARTICLE 11- RULEMAKING**

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

17 *B. The Rules of the Commission shall have the force of law in*  
18 *each Member State, provided however that where the Rules of the*  
19 *Commission conflict with the laws of the Member State that*  
20 *establish the Member State's scope of practice laws governing the*  
21 *Practice of Cosmetology as held by a court of competent*  
22 *jurisdiction, the Rules of the Commission shall be ineffective in*  
23 *that State to the extent of the conflict.*

24 *C. The Commission shall exercise its rulemaking powers*  
25 *pursuant to the criteria set forth in this Article and the Rules*  
26 *adopted thereunder. Rules shall become binding as of the date*  
27 *specified by the Commission for each Rule.*

28 *D. If a majority of the legislatures of the Member States rejects*  
29 *a Rule or portion of a Rule, by enactment of a statute or resolution*  
30 *in the same manner used to adopt the Compact within four (4)*  
31 *years of the date of adoption of the Rule, then such Rule shall have*  
32 *no further force and effect in any Member State or to any State*  
33 *applying to participate in the Compact.*

34 *E. Rules shall be adopted at a regular or special meeting of the*  
35 *Commission.*

36 *F. Prior to adoption of a proposed Rule, the Commission shall*  
37 *hold a public hearing and allow persons to provide oral and*  
38 *written comments, data, facts, opinions, and arguments.*

39 *G. Prior to adoption of a proposed Rule by the Commission,*  
40 *and at least thirty (30) days in advance of the meeting at which*

1 *the Commission will hold a public hearing on the proposed Rule,*  
2 *the Commission shall provide a notice of proposed rulemaking:*

3 *On the website of the Commission or other publicly accessible*  
4 *platform;*

5 *To persons who have requested notice of the Commission's*  
6 *notices of proposed rulemaking, and*

7 *3. In such other way(s) as the Commission may by Rule specify.*

8 *H. The notice of proposed rulemaking shall include:*

9 *The time, date, and location of the public hearing at which the*  
10 *Commission will hear public comments on the proposed Rule and,*  
11 *if different, the time, date, and location of the meeting where the*  
12 *Commission will consider and vote on the proposed Rule;*

13 *2. If the hearing is held via telecommunication, video conference,*  
14 *or other electronic means, the Commission shall include the*  
15 *mechanism for access to the hearing in the notice of proposed*  
16 *rulemaking;*

17 *3. The text of the proposed Rule and the reason therefor;*

18 *4. A request for comments on the proposed Rule from any*  
19 *interested person; and*

20 *5. The manner in which interested persons may submit written*  
21 *comments.*

22 *All hearings will be recorded. A copy of the recording and all*  
23 *written comments and documents received by the Commission in*  
24 *response to the proposed Rule shall be available to the public.*

25 *J. Nothing in this Article shall be construed as requiring a*  
26 *separate hearing on each Rule. Rules may be grouped for the*  
27 *convenience of the Commission at hearings required by this Article.*

28 *K. The Commission shall, by majority vote of all members, take*  
29 *final action on the proposed Rule based on the rulemaking record*  
30 *and the full text of the Rule.*

31 *The Commission may adopt changes to the proposed Rule*  
32 *provided the changes do not enlarge the original purpose of the*  
33 *proposed Rule.*

34 *2. The Commission shall provide an explanation of the reasons*  
35 *for substantive changes made to the proposed Rule as well as*  
36 *reasons for substantive changes not made that were recommended*  
37 *by commenters.*

38 *3. The Commission shall determine a reasonable effective date*  
39 *for the Rule. Except for an emergency as provided in Article 11.L,*  
40 *the effective date of the Rule shall be no sooner than forty-five (45)*

1 days after the Commission issuing the notice that it adopted or  
2 amended the Rule.

3 L. Upon determination that an emergency exists, the Commission  
4 may consider and adopt an emergency Rule with five (5) days'  
5 notice, with opportunity to comment, provided that the usual  
6 rulemaking procedures provided in the Compact and in this Article  
7 shall be retroactively applied to the Rule as soon as reasonably  
8 possible, in no event later than ninety (90) days after the effective  
9 date of the Rule. For the purposes of this provision, an emergency  
10 Rule is one that must be adopted immediately to:

11 Meet an imminent threat to public health, safety, or welfare;

12 Prevent a loss of Commission or Member State funds;

13 Meet a deadline for the promulgation of a Rule that is established  
14 by federal law or rule; or

15 4. Protect public health and safety.

16 M. The Commission or an authorized committee of the  
17 Commission may direct revisions to a previously adopted Rule for  
18 purposes of correcting typographical errors, errors in format,  
19 errors in consistency, or grammatical errors. Public notice of any  
20 revisions shall be posted on the website of the Commission. The  
21 revision shall be subject to challenge by any person for a period  
22 of thirty (30) days after posting. The revision may be challenged  
23 only on grounds that the revision results in a material change to  
24 a Rule. A challenge shall be made in writing and delivered to the  
25 Commission prior to the end of the notice period. If no challenge  
26 is made, the revision will take effect without further action. If the  
27 revision is challenged, the revision may not take effect without the  
28 approval of the Commission.

29 N. No Member State's rulemaking requirements shall apply  
30 under this Compact.

31 **ARTICLE 12- OVERSIGHT, DISPUTE RESOLUTION, AND**  
32 **ENFORCEMENT**

33 **Oversight**

34 The executive and judicial branches of State government in each  
35 Member State shall enforce this Compact and take all actions  
36 necessary and appropriate to implement the Compact.

37 2. Venue is proper and judicial proceedings by or against the  
38 Commission shall be brought solely and exclusively in a court of  
39 competent jurisdiction where the principal office of the Commission  
40 is located. The Commission may waive venue and jurisdictional

1 *defenses to the extent it adopts or consents to participate in*  
2 *alternative dispute resolution proceedings. Nothing herein shall*  
3 *affect or limit the selection or propriety of venue in any action*  
4 *against a Licensee for professional malpractice, misconduct or*  
5 *any such similar matter.*

6 *3. The Commission shall be entitled to receive service of process*  
7 *in any proceeding regarding the enforcement or interpretation of*  
8 *the Compact and shall have standing to intervene in such a*  
9 *proceeding for all purposes. Failure to provide the Commission*  
10 *service of process shall render a judgment or order void as to the*  
11 *Commission, this Compact, or promulgated Rules.*

12 *B. Default, Technical Assistance, and Termination*

13 *If the Commission determines that a Member State has defaulted*  
14 *in the performance of its obligations or responsibilities under this*  
15 *Compact or the promulgated Rules, the Commission shall provide*  
16 *written notice to the defaulting State. The notice of default shall*  
17 *describe the default, the proposed means of curing the default,*  
18 *and any other action that the Commission may take, and shall offer*  
19 *training and specific technical assistance regarding the default.*

20 *2. The Commission shall provide a copy of the notice of default*  
21 *to the other Member States.*

22 *3. If a State in default fails to cure the default, the defaulting*  
23 *State may be terminated from the Compact upon an affirmative*  
24 *vote of a majority of the delegates of the Member States, and all*  
25 *rights, privileges and benefits conferred on that State by this*  
26 *Compact may be terminated on the effective date of termination.*  
27 *A cure of the default does not relieve the offending State of*  
28 *obligations or liabilities incurred during the period of default.*

29 *4. Termination of membership in the Compact shall be imposed*  
30 *only after all other means of securing compliance have been*  
31 *exhausted. Notice of intent to suspend or terminate shall be given*  
32 *by the Commission to the governor, the majority and minority*  
33 *leaders of the defaulting State's legislature, the defaulting State's*  
34 *State Licensing Authority and each of the Member States' State*  
35 *Licensing Authority.*

36 *5. A State that has been terminated is responsible for all*  
37 *assessments, obligations, and liabilities incurred through the*  
38 *effective date of termination, including obligations that extend*  
39 *beyond the effective date of termination.*

1 6. Upon the termination of a State's membership from this  
2 Compact, that State shall immediately provide notice to all  
3 Licensees who hold a Multistate License within that State of such  
4 termination. The terminated State shall continue to recognize all  
5 licenses granted pursuant to this Compact for a minimum of one  
6 hundred eighty (180) days after the date of said notice of  
7 termination.

8 7. The Commission shall not bear any costs related to a State  
9 that is found to be in default or that has been terminated from the  
10 Compact, unless agreed upon in writing between the Commission  
11 and the defaulting State.

12 8. The defaulting State may appeal the action of the Commission  
13 by petitioning the U.S. District Court for the District of Columbia  
14 or the federal district where the Commission has its principal  
15 offices. The prevailing party shall be awarded all costs of such  
16 litigation, including reasonable attorney's fees.

17 C. Dispute Resolution

18 Upon request by a Member State, the Commission shall attempt  
19 to resolve disputes related to the Compact that arise among  
20 Member States and between Member and non-Member States.

21 2. The Commission shall promulgate a Rule providing for both  
22 mediation and binding dispute resolution for disputes as  
23 appropriate.

24 D. Enforcement

25 The Commission, in the reasonable exercise of its discretion,  
26 shall enforce the provisions of this Compact and the Commission's  
27 Rules.

28 2. By majority vote as provided by Commission Rule, the  
29 Commission may initiate legal action against a Member State in  
30 default in the United States District Court for the District of  
31 Columbia or the federal district where the Commission has its  
32 principal offices to enforce compliance with the provisions of the  
33 Compact and its promulgated Rules. The relief sought may include  
34 both injunctive relief and damages. In the event judicial  
35 enforcement is necessary, the prevailing party shall be awarded  
36 all costs of such litigation, including reasonable attorney's fees.  
37 The remedies herein shall not be the exclusive remedies of the  
38 Commission. The Commission may pursue any other remedies  
39 available under federal or the defaulting Member State's law.

1 3. A Member State may initiate legal action against the  
2 Commission in the U.S. District Court for the District of Columbia  
3 or the federal district where the Commission has its principal  
4 offices to enforce compliance with the provisions of the Compact  
5 and its promulgated Rules. The relief sought may include both  
6 injunctive relief and damages. In the event judicial enforcement  
7 is necessary, the prevailing party shall be awarded all costs of  
8 such litigation, including reasonable attorney's fees.

9 4. No individual or entity other than a Member State may enforce  
10 this Compact against the Commission.

11 **ARTICLE 13- EFFECTIVE DATE, WITHDRAWAL, AND**  
12 **AMENDMENT**

13 The Compact shall come into effect on the date on which the  
14 Compact statute is enacted into law in the seventh Member State.

15 1. On or after the effective date of the Compact, the Commission  
16 shall convene and review the enactment of each of the Charter  
17 Member States to determine if the statute enacted by each such  
18 Charter Member State is materially different than the model  
19 Compact statute.

20 A Charter Member State whose enactment is found to be  
21 materially different from the model Compact statute shall be  
22 entitled to the default process set forth in Article 12.

23 If any Member State is later found to be in default, or is  
24 terminated or withdraws from the Compact, the Commission shall  
25 remain in existence and the Compact shall remain in effect even  
26 if the number of Member States should be less than seven (7).

27 2. Member States enacting the Compact subsequent to the  
28 Charter Member States shall be subject to the process set forth in  
29 Article 9.C.24 to determine if their enactments are materially  
30 different from the model Compact statute and whether they qualify  
31 for participation in the Compact.

32 3. All actions taken for the benefit of the Commission or in  
33 furtherance of the purposes of the administration of the Compact  
34 prior to the effective date of the Compact or the Commission  
35 coming into existence shall be considered to be actions of the  
36 Commission unless specifically repudiated by the Commission.

37 4. Any State that joins the Compact shall be subject to the  
38 Commission's Rules and bylaws as they exist on the date on which  
39 the Compact becomes law in that State. Any Rule that has been

1 *previously adopted by the Commission shall have the full force*  
2 *and effect of law on the day the Compact becomes law in that State.*

3 *B. Any Member State may withdraw from this Compact by*  
4 *enacting a statute repealing that State's enactment of the Compact.*

5 *A Member State's withdrawal shall not take effect until one*  
6 *hundred eighty (180) days after enactment of the repealing statute.*

7 *2. Withdrawal shall not affect the continuing requirement of the*  
8 *withdrawing State's State Licensing Authority to comply with the*  
9 *investigative and Adverse Action reporting requirements of this*  
10 *Compact prior to the effective date of withdrawal.*

11 *3. Upon the enactment of a statute withdrawing from this*  
12 *Compact, a State shall immediately provide notice of such*  
13 *withdrawal to all Licensees within that State. Notwithstanding any*  
14 *subsequent statutory enactment to the contrary, such withdrawing*  
15 *State shall continue to recognize all licenses granted pursuant to*  
16 *this Compact for a minimum of 180 days after the date of such*  
17 *notice of withdrawal.*

18 *C. Nothing contained in this Compact shall be construed to*  
19 *invalidate or prevent any licensure agreement or other cooperative*  
20 *arrangement between a Member State and a non-Member State*  
21 *that does not conflict with the provisions of this Compact.*

22 *D. This Compact may be amended by the Member States. No*  
23 *amendment to this Compact shall become effective and binding*  
24 *upon any Member State until it is enacted into the laws of all*  
25 *Member States.*

26 **ARTICLE 14- CONSTRUCTION AND SEVERABILITY**

27 *This Compact and the Commission's rulemaking authority shall*  
28 *be liberally construed so as to effectuate the purposes, and the*  
29 *implementation and administration of the Compact. Provisions of*  
30 *the Compact expressly authorizing or requiring the promulgation*  
31 *of Rules shall not be construed to limit the Commission's*  
32 *rulemaking authority solely for those purposes.*

33 *B. The provisions of this Compact shall be severable and if any*  
34 *phrase, clause, sentence or provision of this Compact is held by*  
35 *a court of competent jurisdiction to be contrary to the constitution*  
36 *of any Member State, a State seeking participation in the Compact,*  
37 *or of the United States, or the applicability thereof to any*  
38 *government, agency, person or circumstance is held to be*  
39 *unconstitutional by a court of competent jurisdiction, the validity*  
40 *of the remainder of this Compact and the applicability thereof to*

1 any other government, agency, person or circumstance shall not  
2 be affected thereby.

3 C. Notwithstanding Article 14.B, the Commission may deny a  
4 State’s participation in the Compact or, in accordance with the  
5 requirements of Article 12, terminate a Member State’s  
6 participation in the Compact, if it determines that a constitutional  
7 requirement of a Member State is a material departure from the  
8 Compact. Otherwise, if this Compact shall be held to be contrary  
9 to the constitution of any Member State, the Compact shall remain  
10 in full force and effect as to the remaining Member States and in  
11 full force and effect as to the Member State affected as to all  
12 severable matters.

13 ARTICLE 15- CONSISTENT EFFECT AND CONFLICT WITH  
14 OTHER STATE LAWS

15 Nothing herein shall prevent or inhibit the enforcement of any  
16 other law of a Member State that is not inconsistent with the  
17 Compact.

18 B. Any laws, statutes, regulations, or other legal requirements  
19 in a Member State in conflict with the Compact are superseded to  
20 the extent of the conflict.

21 C. All permissible agreements between the Commission and the  
22 Member States are binding in accordance with their terms.

23 SEC. 2. No reimbursement is required by this act pursuant to  
24 Section 6 of Article XIII B of the California Constitution because  
25 the only costs that may be incurred by a local agency or school  
26 district will be incurred because this act creates a new crime or  
27 infraction, eliminates a crime or infraction, or changes the penalty  
28 for a crime or infraction, within the meaning of Section 17556 of  
29 the Government Code, or changes the definition of a crime within  
30 the meaning of Section 6 of Article XIII B of the California  
31 Constitution.

32 SECTION 1. ~~It is the intent of the Legislature to enact~~  
33 ~~legislation that would facilitate membership in an interstate~~  
34 ~~cosmetology licensure compact.~~

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BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR  
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## BOARD OF BARBERING & COSMETOLOGY

### BILL ANALYSIS

**Author:** Senator Wilk

**Subject:** Alcoholic beverages:  
licensing exemptions: barbering and  
cosmetology services.

**Bill Number:** SB 247

**Version:** February 28, 2023

#### **Existing Law:**

Existing law generally prohibits anyone from manufacturing, importing, or selling alcoholic beverages in California without a license from the Department of Alcoholic Beverage Control. Existing law creates certain exceptions from this proscription, including by allowing the serving of beer or wine without a license or permit as part of a beauty salon service or barber shop service, subject to additional restrictions on the sizes of the beverages and hours of service.

#### **This Bill:**

This bill would revise the exception to instead apply to the serving of beer or wine as part of any service provided by an establishment that is subject to regulation by the State Board of Barbering and Cosmetology.

**Status:** 04/25/2023 From committee: Do pass and re-refer to Committee on Appropriations. (Ayes 15. Noes 0.) (April 25). Re-referred to Committee on Appropriations.

#### **Analysis:**

This bill only changes the verbiage from a “beauty salon or barber shop” to any establishment licensed by the Board. This bill does not have any effect on Board operations as the Board does not enforce this law. It simply clarifies that the exception applies to all Board establishments.

**Board Position:** Support (as of 4/17/2023).

AMENDED IN SENATE FEBRUARY 28, 2023

**SENATE BILL**

**No. 247**

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**Introduced by Senator Wilk**

January 26, 2023

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An act to amend Section ~~108 23399.5~~ of the Business and Professions Code, relating to ~~professions and vocations~~: *alcoholic beverages*.

LEGISLATIVE COUNSEL'S DIGEST

SB 247, as amended, Wilk. ~~Department of Consumer Affairs~~. *Alcoholic beverages: licensing exemptions: barbering and cosmetology services*.

*Existing law generally prohibits anyone from manufacturing, importing, or selling alcoholic beverages in California without a license from the Department of Alcoholic Beverage Control. Existing law creates certain exceptions from this proscription, including by allowing the serving of beer or wine without a license or permit as part of a beauty salon service or barber shop service, subject to additional restrictions on the sizes of the beverages and hours of service.*

*This bill would revise the exception described above to instead apply to the serving of beer or wine as part of any service provided by an establishment that is subject to regulation by the State Board of Barbering and Cosmetology.*

~~Existing law establishes the Department of Consumer Affairs, which is comprised of boards that license and regulate various professions and vocations. Under existing law, each board within the department exists as a separate unit with specified functions.~~

~~This bill would make a nonsubstantive change to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 23399.5 of the Business and Professions  
2     Code is amended to read:

3     23399.5. (a) (1) A license or permit is not required for the  
4     serving of alcoholic beverages in a limousine by any person  
5     operating a limousine service regulated by the Public Utilities  
6     Commission, provided there is no extra charge or fee for the  
7     alcoholic beverages.

8     (2) For purposes of this subdivision, there is no extra charge or  
9     fee for the alcoholic beverages when the fee charged for the  
10    limousine service is the same regardless of whether alcoholic  
11    beverages are served.

12    (b) (1) A license or permit is not required for the serving of  
13    alcoholic beverages as part of a hot air balloon ride service,  
14    provided there is no extra charge or fee for the alcoholic beverages.

15    (2) For purposes of this subdivision, there is no extra charge or  
16    fee for the alcoholic beverages when the fee charged for the hot  
17    air balloon ride service is the same regardless of whether alcoholic  
18    beverages are served.

19    (c) A license or permit is not required for the serving of wine  
20    or beer as part of ~~a beauty salon service or barber shop service~~ any  
21    service provided by an establishment that is subject to regulation  
22    by the State Board of Barbering and Cosmetology under the  
23    Barbering and Cosmetology Act (Chapter 10 (commencing with  
24    Section 7301) of Division 3) if the following requirements are met:

25    (1) There is no extra charge or fee for the beer or wine. For  
26    purposes of this paragraph, there is no extra charge or fee for the  
27    beer or wine if the fee charged for the ~~beauty salon service or~~  
28    ~~barber shop~~ service is the same regardless of whether beer or wine  
29    is served.

30    (2) The license of the establishment providing the ~~beauty salon~~  
31    ~~service or barber shop~~ service is in good standing with the State  
32    Board of Barbering and Cosmetology.

33    (3) No more than 12 ounces of beer or six ounces of wine by  
34    the glass is offered to a client.

35    (4) The beer or wine is provided only during business hours and  
36    in no case later than 10 p.m.

37    (5) Nothing in this subdivision shall be construed to limit the  
38    authority of a city or city and county to restrict or limit the

1 consumption of alcoholic beverages, as described in this  
2 subdivision, pursuant to Section 23791.

3 ~~SECTION 1. Section 108 of the Business and Professions Code~~  
4 ~~is amended to read:~~

5 ~~108. Each board within the department exists as a separate unit,~~  
6 ~~and has the functions of setting standards, holding meetings, and~~  
7 ~~setting dates thereof, preparing and conducting examinations,~~  
8 ~~passing upon applicants, conducting investigations of violations~~  
9 ~~of laws under its jurisdiction, issuing citations and holding hearings~~  
10 ~~for the revocation of licenses, and the imposing of penalties~~  
11 ~~following those hearings, insofar as these powers are given by~~  
12 ~~statute to each respective board.~~



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## BOARD OF BARBERING & COSMETOLOGY

### BILL ANALYSIS

**Author:** Senator Bradford

**Subject:** Barbering and  
cosmetology

**Bill Number:** SB 384

**Version:** March 20, 2023

#### **Existing Law:**

Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of the practices of barbering, cosmetology, and electrolysis by the State Board of Barbering and Cosmetology. Under existing law, the board is authorized to assess administrative fines for a violation of the act or a violation of any rules and regulations adopted by the board pursuant to the act. Existing law requires the board to determine by regulation when a fine is required to be assessed against both the holder of the establishment license and the individual licensee for the same violation and also requires the board to determine by regulation when a fine shall be assessed to only the holder of the establishment license or to only an individual licensee for the same violation.

#### **This Bill:**

This bill would require the board to establish by regulation a board-offered remedial education program, in lieu of a first offense of a health and safety violation. The bill would authorize the board to impose a fee to cover the reasonable regulatory cost of administering the program.

**Status:** 04/24/2023 From committee: Do pass and re-refer to Committee on Appropriations. (Ayes 12. Noes 0.) (April 24). Re-referred to Committee on Appropriations.

#### **Analysis:**

At the January 23, 2023, board meeting, the Board motioned to direct staff to pursue legislative change to Business and Professions Code section 7407.1 to allow remedial education to reduce or remove administrative fines in lieu of a first offense of a health and safety violation. This bill does exactly that and allows the Board to impose a fee to cover the regulatory cost of administering the remedial education program.

**Board Position:** Support (as of 4/17/2023).

**Introduced by Senator Bradford**

February 9, 2023

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An act to amend Section ~~7319~~ 7407.1 of the Business and Professions Code, relating to barbering and cosmetology.

LEGISLATIVE COUNSEL'S DIGEST

SB 384, as amended, Bradford. Barbering and cosmetology.

*Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of the practices of barbering, cosmetology, and electrolysis by the State Board of Barbering and Cosmetology. Under existing law, the board is authorized to assess administrative fines for a violation of the act or a violation of any rules and regulations adopted by the board pursuant to the act. Existing law requires the board to determine by regulation when a fine is required to be assessed against both the holder of the establishment license and the individual licensee for the same violation and also requires the board to determine by regulation when a fine shall be assessed to only the holder of the establishment license or to only an individual licensee for the same violation.*

*This bill would require the board to establish by regulation a board-offered remedial education program, in lieu of a first offense of a health and safety violation. The bill would authorize the board to impose a fee to cover the reasonable regulatory cost of administering the program.*

~~Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of the practice of barbering and cosmetology by the State Board of Barbering and Cosmetology within the Department~~

of Consumer Affairs. Existing law exempts specified persons from those requirements.

This bill would make nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7407.1 of the Business and Professions  
2 Code is amended to read:

3 7407.1. (a) The board shall determine by regulation when a  
4 fine shall be assessed to both the holder of the establishment license  
5 and the individual licensee for the same violation. The board shall  
6 also determine by regulation when a fine shall be assessed to only  
7 the holder of the establishment license or to only an individual  
8 licensee for the same violation. In making these determinations,  
9 the board shall consider the egregiousness of the violation of the  
10 health and safety regulations and whether the violation is a repeated  
11 violation by licensees within the same establishment.

12 (b) (1) The board shall establish by regulation a board-offered  
13 remedial education program, in lieu of a first offense of a health  
14 and safety violation.

15 (2) The board may impose a fee to cover the reasonable  
16 regulatory cost of administering the program described in  
17 paragraph (1).

18 SECTION 1. ~~Section 7319 of the Business and Professions~~  
19 ~~Code is amended to read:~~

20 ~~7319. The following persons are exempt from this chapter:~~

21 ~~(a) All persons authorized by the laws of this state to practice~~  
22 ~~medicine, surgery, dentistry, pharmacy, osteopathic medicine,~~  
23 ~~chiropractic, naturopathy, podiatry, or nursing and acting within~~  
24 ~~the scope of practice for which they are licensed.~~

25 ~~(b) Commissioned officers of the United States Army, Navy,~~  
26 ~~Air Force, Marine Corps, members of the United States Public~~  
27 ~~Health Service, and attendants attached to those services when~~  
28 ~~engaged in the actual performance of their official duties.~~

29 ~~(c) Persons employed to render barbering, cosmetology, or~~  
30 ~~electrolysis services in the course of and incidental to the business~~  
31 ~~of employers engaged in the theatrical, radio, television or motion~~  
32 ~~picture production industry.~~

1 ~~(d) Persons engaged in any practice within its scope when done~~  
2 ~~outside of a licensed establishment, without compensation.~~

3 ~~(e) Persons engaged in the administration of hair, skin, or nail~~  
4 ~~products for the exclusive purpose of recommending,~~  
5 ~~demonstrating, or selling those products.~~

6 ~~(f) Persons who render barbering or cosmetology services in an~~  
7 ~~institutional program during the course of and incidental to the~~  
8 ~~incarceration or confinement of inmates, prisoners, or persons~~  
9 ~~charged with a crime. However, all of the following conditions~~  
10 ~~shall apply:~~

11 ~~(1) Those persons shall complete a barbering training course,~~  
12 ~~developed by the Department of Corrections and Rehabilitation~~  
13 ~~and approved by the Department of Consumer Affairs, in the proper~~  
14 ~~care of instruments and the prevention of infectious diseases.~~

15 ~~(2) Those persons shall successfully pass an examination,~~  
16 ~~developed and administered by the Department of Corrections and~~  
17 ~~Rehabilitation, on the proper care of instruments and the prevention~~  
18 ~~of infectious diseases.~~

19 ~~(3) All barbering facilities located in correctional institutions~~  
20 ~~shall be subject to all appropriate health and safety sanitation~~  
21 ~~standards, as determined by the Department of Corrections and~~  
22 ~~Rehabilitation.~~





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## BOARD OF BARBERING & COSMETOLOGY

### BILL ANALYSIS

**Author:** Senator Nguyen

**Subject:** Worker classification:  
employees and independent  
contractors: licensed manicurists.

**Bill Number:** SB 451

**Version:** March 20, 2023

**Existing Law:**

Existing law requires a 3-part test, commonly known as the “ABC” test, to determine if workers are employees or independent contractors for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission. Under the ABC test, a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity’s business, and the person is customarily engaged in an independently established trade, occupation, or business. Existing law exempts specified occupations and business relationships from the application of the ABC test and instead provides that these exempt relationships are governed by the multifactor test previously adopted in the case of *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341. These exemptions include services provided by a licensed manicurist, subject to the manicurist meeting specified conditions. Existing law makes this exemption for licensed manicurists inoperative on January 1, 2025.

**This Bill:** This bill would make the exemption for manicurists inoperative on January 1, 2030.

**Status:** 04/20/2023 April 26 set for first hearing canceled at the request of author.

**Analysis:** This bill does not impact operations of the Board; however, it would impact manicurists operating as booth renters/independent contractors. This bill would allow manicurists to remain exempt from the ABC test like the other Board license types, however only until January 1, 2030. At the March 13, 2023, Legislative and Budget Committee meeting, the Committee voted to recommend a support position to the full Board, however at that time, the introduced bill deleted the inoperative date, making manicurists exempt indefinitely. On April 26, 2021, the Board took a Support position for AB 231 (Nguyen), which deleted the inoperative date.

**Board Position:** Support (as of 4/17/2023).

AMENDED IN SENATE MARCH 20, 2023

**SENATE BILL**

**No. 451**

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**Introduced by Senator Nguyen**

February 13, 2023

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An act to amend Section 2778 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 451, as amended, Nguyen. Worker classification: employees and independent contractors: licensed manicurists.

Existing law requires a 3-part test, commonly known as the "ABC" test, to determine if workers are employees or independent contractors for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission. Under the ABC test, a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity's business, and the person is customarily engaged in an independently established trade, occupation, or business. Existing law charges the Labor Commissioner with the enforcement of labor laws, including worker classification.

Existing law exempts specified occupations and business relationships from the application of the ABC test described above. Existing law, instead, provides that these exempt relationships are governed by the multifactor test previously adopted in the case of *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341. These exemptions include services provided by a licensed manicurist, subject

to the manicurist meeting specified conditions. Existing law makes this exemption for licensed manicurists inoperative on January 1, 2025.

~~This bill would delete the January 1, 2025, inoperative date, thereby making licensed manicurists subject to this exemption indefinitely.~~ *extend the exemption for licensed manicurists, making it inoperative on January 1, 2030.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 2778 of the Labor Code is amended to  
2 read:

3 2778. (a) Section 2775 and the holding in Dynamex do not  
4 apply to a contract for “professional services” as defined below,  
5 and instead the determination of whether the individual is an  
6 employee or independent contractor shall be governed by Borello  
7 if the hiring entity demonstrates that all of the following factors  
8 are satisfied:

9 (1) The individual maintains a business location, which may  
10 include the individual’s residence, that is separate from the hiring  
11 entity. Nothing in this paragraph prohibits an individual from  
12 choosing to perform services at the location of the hiring entity.

13 (2) If work is performed more than six months after the effective  
14 date of this section and the work is performed in a jurisdiction that  
15 requires the individual to have a business license or business tax  
16 registration, the individual has the required business license or  
17 business tax registration in order to provide the services under the  
18 contract, in addition to any required professional licenses or permits  
19 for the individual to practice in their profession.

20 (3) The individual has the ability to set or negotiate their own  
21 rates for the services performed.

22 (4) Outside of project completion dates and reasonable business  
23 hours, the individual has the ability to set the individual’s own  
24 hours.

25 (5) The individual is customarily engaged in the same type of  
26 work performed under contract with another hiring entity or holds  
27 themselves out to other potential customers as available to perform  
28 the same type of work.

- 1 (6) The individual customarily and regularly exercises discretion  
2 and independent judgment in the performance of the services.
- 3 (b) For purposes of this section:
- 4 (1) An “individual” includes an individual providing services  
5 as a sole proprietor or other business entity.
- 6 (2) “Professional services” means services that meet any of the  
7 following:
- 8 (A) Marketing, provided that the contracted work is original  
9 and creative in character and the result of which depends primarily  
10 on the invention, imagination, or talent of the individual or work  
11 that is an essential part of or necessarily incident to any of the  
12 contracted work.
- 13 (B) Administrator of human resources, provided that the  
14 contracted work is predominantly intellectual and varied in  
15 character and is of such character that the output produced or the  
16 result accomplished cannot be standardized in relation to a given  
17 period of time.
- 18 (C) Travel agent services provided by either of the following:
- 19 (i) A person regulated by the Attorney General under Article  
20 2.6 (commencing with Section 17550) of Chapter 1 of Part 3 of  
21 Division 7 of the Business and Professions Code.
- 22 (ii) An individual who is a seller of travel within the meaning  
23 of subdivision (a) of Section 17550.1 of the Business and  
24 Professions Code and who is exempt from the registration under  
25 subdivision (g) of Section 17550.20 of the Business and Professions  
26 Code.
- 27 (D) Graphic design.
- 28 (E) Grant writer.
- 29 (F) (i) Fine artist.
- 30 (ii) For the purposes of this subparagraph, “fine artist” means  
31 an individual who creates works of art to be appreciated primarily  
32 or solely for their imaginative, aesthetic, or intellectual content,  
33 including drawings, paintings, sculptures, mosaics, works of  
34 calligraphy, works of graphic art, crafts, or mixed media.
- 35 (G) Services provided by an enrolled agent who is licensed by  
36 the United States Department of the Treasury to practice before  
37 the Internal Revenue Service pursuant to Part 10 of Subtitle A of  
38 Title 31 of the Code of Federal Regulations.
- 39 (H) Payment processing agent through an independent sales  
40 organization.

1 (I) Services provided by any of the following:

2 (i) By a still photographer, photojournalist, videographer, or  
3 photo editor who works under a written contract that specifies the  
4 rate of pay and obligation to pay by a defined time, as long as the  
5 individual providing the services is not directly replacing an  
6 employee who performed the same work at the same volume for  
7 the hiring entity; the individual does not primarily perform the  
8 work at the hiring entity's business location, notwithstanding  
9 paragraph (1) of subdivision (a); and the individual is not restricted  
10 from working for more than one hiring entity. This subclause is  
11 not applicable to a still photographer, photojournalist, videographer,  
12 or photo editor who works on motion pictures, which is inclusive  
13 of, but is not limited to, theatrical or commercial productions,  
14 broadcast news, television, and music videos. Nothing in this  
15 section restricts a still photographer, photojournalist, photo editor,  
16 or videographer from distributing, licensing, or selling their work  
17 product to another business, except as prohibited under copyright  
18 laws or workplace collective bargaining agreements.

19 (ii) To a digital content aggregator by a still photographer,  
20 photojournalist, videographer, or photo editor.

21 (iii) For the purposes of this subparagraph the following  
22 definitions apply:

23 (I) "Photo editor" means an individual who performs services  
24 ancillary to the creation of digital content, such as retouching,  
25 editing, and keywording.

26 (II) "Digital content aggregator" means a licensing intermediary  
27 that obtains a license or assignment of copyright from a still  
28 photographer, photojournalist, videographer, or photo editor for  
29 the purposes of distributing that copyright by way of sublicense  
30 or assignment, to the intermediary's third-party end users.

31 (J) Services provided by a freelance writer, translator, editor,  
32 copy editor, illustrator, or newspaper cartoonist who works under  
33 a written contract that specifies the rate of pay, intellectual property  
34 rights, and obligation to pay by a defined time, as long as the  
35 individual providing the services is not directly replacing an  
36 employee who performed the same work at the same volume for  
37 the hiring entity; the individual does not primarily perform the  
38 work at the hiring entity's business location, notwithstanding  
39 paragraph (1) of subdivision (a); and the individual is not restricted  
40 from working for more than one hiring entity.

1 (K) Services provided by an individual as a content contributor,  
2 adviser, producer, narrator, or cartographer for a journal, book,  
3 periodical, evaluation, other publication or educational, academic,  
4 or instructional work in any format or media, who works under a  
5 written contract that specifies the rate of pay, intellectual property  
6 rights, and obligation to pay by a defined time, as long as the  
7 individual providing the services is not directly replacing an  
8 employee who performed the same work at the same volume for  
9 the hiring entity, the individual does not primarily perform the  
10 work at the hiring entity’s business location notwithstanding  
11 paragraph (1) of subdivision (a), and the individual is not restricted  
12 from working for more than one hiring entity.

13 (L) Services provided by a licensed esthetician, licensed  
14 electrologist, licensed manicurist, licensed barber, or licensed  
15 cosmetologist provided that the individual:

16 (i) Sets their own rates, processes their own payments, and is  
17 paid directly by clients.

18 (ii) Sets their own hours of work and has sole discretion to  
19 decide the number of clients and which clients for whom they will  
20 provide services.

21 (iii) Has their own book of business and schedules their own  
22 appointments.

23 (iv) Maintains their own business license for the services offered  
24 to clients.

25 (v) If the individual is performing services at the location of the  
26 hiring entity, then the individual issues a Form 1099 to the salon  
27 or business owner from which they rent their business space.

28 (vi) *This subparagraph shall become inoperative, with respect*  
29 *to licensed manicurists, on January 1, 2030.*

30 (M) A specialized performer hired by a performing arts company  
31 or organization to teach a master class for no more than one week.  
32 “Master class” means a specialized course for limited duration that  
33 is not regularly offered by the hiring entity and is taught by an  
34 expert in a recognized field of artistic endeavor who does not work  
35 for the hiring entity to teach on a regular basis.

36 (N) Services provided by an appraiser, as defined in Part 3  
37 (commencing with Section 11300) of Division 4 of the Business  
38 and Professions Code.

1 (O) Registered professional foresters licensed pursuant to Article  
2 3 (commencing with Section 750) of Chapter 2.5 of Division 1 of  
3 the Public Resources Code.

4 (c) Section 2775 and the holding in *Dynamex* do not apply to  
5 the following, which are subject to the Business and Professions  
6 Code:

7 (1) A real estate licensee licensed by the State of California  
8 pursuant to Division 4 (commencing with Section 10000) of the  
9 Business and Professions Code, for whom the determination of  
10 employee or independent contractor status shall be governed by  
11 subdivision (b) of Section 10032 of the Business and Professions  
12 Code. If that section is not applicable, then this determination shall  
13 be governed as follows:

14 (A) For purposes of unemployment insurance by Section 650  
15 of the Unemployment Insurance Code.

16 (B) For purposes of workers' compensation by Section 3200 et  
17 seq.

18 (C) For all other purposes in the Labor Code by *Borello*. The  
19 statutorily imposed duties of a responsible broker under Section  
20 10015.1 of the Business and Professions Code are not factors to  
21 be considered under the *Borello* test.

22 (2) A home inspector, as defined in Section 7195 of the Business  
23 and Professions Code, and subject to the provisions of Chapter 9.3  
24 (commencing with Section 7195) of Division 3 of that code.

25 (3) A repossession agency licensed pursuant to Section 7500.2  
26 of the Business and Professions Code, for whom the determination  
27 of employee or independent contractor status shall be governed  
28 by Section 7500.2 of the Business and Professions Code, if the  
29 repossession agency is free from the control and direction of the  
30 hiring person or entity in connection with the performance of the  
31 work, both under the contract for the performance of the work and  
32 in fact.

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## BOARD OF BARBERING & COSMETOLOGY

### BILL ANALYSIS

**Author:** Senator Laird

**Subject:** Bagley-Keene Open Meeting Act: teleconferencing.

**Bill Number:** SB 544

**Version:** April 27, 2023

#### **Existing Law:**

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act authorizes meetings through teleconference subject to specified requirements, including, among others, that the state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, that each teleconference location be accessible to the public, that the agenda provide an opportunity for members of the public to address the state body directly at each teleconference location, and that at least one member of the state body be physically present at the location specified in the notice of the meeting. Existing law, until July 1, 2023, authorizes, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and suspends certain requirements of the act, including the above-described teleconference requirements.

#### **This Bill:**

This bill would amend existing law that will remain operative after July 1, 2023, to remove indefinitely the teleconference requirements that a state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, and that each teleconference location be accessible to the public. The bill would require a state body to provide a means by which the public may remotely hear audio of the meeting, remotely observe the meeting, or attend the meeting by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for at least one site, including, if available, access equivalent to the access for a member of the state body participating remotely. The bill would require any notice required by the act to specify the applicable teleconference telephone number, internet website or other online platform, and physical address indicating how the public can access the meeting remotely and in person. The bill would revise existing law to no longer require that members of the public have the opportunity to address the state body directly at each teleconference location, but would continue to require that the agenda provide an opportunity for members of the public to address the state body directly. The bill would require a member or staff to be physically present at the location specified in the notice of the meeting. This bill would require a state body that holds a meeting through teleconferencing



pursuant to the bill and allows members of the public to observe and address the meeting telephonically or otherwise electronically to implement and advertise, as prescribed, a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990.

*Amended in Senate on April 27, 2023, to add:*

This bill would provide that it does not affect existing notice and agenda requirements and would require the state body to post an agenda on its internet website and, on the day of the meeting, at any physical meeting location designated in the notice of the meeting. The bill would prohibit the notice and agenda from disclosing information regarding any remote location from which a member is participating and define “remote location” for this purpose. The bill would provide that members of the public shall be entitled to exercise their right to directly address the state body during the teleconferenced meeting without being required to submit public comments prior to the meeting or in writing.

This bill would require a state body, upon discovering that a means of remote participation required by the bill has failed during a meeting and cannot be restored, to end or adjourn the meeting in accordance with prescribed adjournment and notice provisions, including information about reconvening.

This bill would require a member of a state body who attends a meeting by teleconference from a remote location to disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member and the general nature of the member’s relationship with any such individuals.

**Status:** 04/27/2023 Read second time and amended. Re-referred to Committee on Appropriations.

**Analysis:** At the July 25, 2022 board meeting, the Board voted in favor of teleconference committee meetings and in-person full Board meetings with the option for hybrid if available. Teleconference meetings are a cost benefit because of the savings on travel and also makes it easier to schedule meetings. Having the option to hold teleconference meetings gives the Board more flexibility while still allowing public participation by call-in features.

The recently added requirements do not majorly impact the Board. The Board already posts the agenda at physical meeting locations and does not require the public to submit public comment prior to the meeting. Whenever remote participation connection is lost, staff works to fix the issue.

The requirement for a board member attending a teleconference from a remote location to disclose whether anyone 18 years old or older are present in the room would not have a significant impact on Board operations.

**Board Position:** Support (as of 4/17/2023) on the 3/20/2023 version.

**Action needed:** The Committee may make a motion to recommend a position to this amended version to the full Board.

AMENDED IN SENATE APRIL 27, 2023  
AMENDED IN SENATE MARCH 20, 2023

**SENATE BILL**

**No. 544**

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**Introduced by Senator Laird**

February 15, 2023

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An act to amend Section 11123 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 544, as amended, Laird. Bagley-Keene Open Meeting Act: teleconferencing.

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act authorizes meetings through teleconference subject to specified requirements, including, among others, that the state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, that each teleconference location be accessible to the public, that the agenda provide an opportunity for members of the public to address the state body directly at each teleconference location, and that at least one member of the state body be physically present at the location specified in the notice of the meeting.

Existing law, until July 1, 2023, authorizes, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and suspends certain requirements of the act, including the above-described teleconference requirements.

This bill would amend existing law that will remain operative after July 1, 2023, to remove indefinitely the teleconference requirements

that a state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, and that each teleconference location be accessible to the public. The bill would require a state body to provide a means by which the public may remotely hear audio of the meeting, remotely observe the meeting, or attend the meeting by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for at least one site, including, if available, access equivalent to the access for a member of the state body participating remotely. The bill would require any notice required by the act to specify the applicable teleconference telephone number, internet website or other online platform, and physical address indicating how the public can access the meeting remotely and in person. The bill would revise existing law to no longer require that members of the public have the opportunity to address the state body directly at each teleconference location, but would continue to require that the agenda provide an opportunity for members of the public to address the state body directly. The bill would require a member or staff to be physically present at the location specified in the notice of the meeting.

*This bill would provide that it does not affect prescribed existing notice and agenda requirements and would require the state body to post an agenda on its internet website and, on the day of the meeting, at any physical meeting location designated in the notice of the meeting. The bill would prohibit the notice and agenda from disclosing information regarding any remote location from which a member is participating and define “remote location” for this purpose. The bill would provide that members of the public shall be entitled to exercise their right to directly address the state body during the teleconferenced meeting without being required to submit public comments prior to the meeting or in writing.*

*This bill would require a state body, upon discovering that a means of remote participation required by the bill has failed during a meeting and cannot be restored, to end or adjourn the meeting in accordance with prescribed adjournment and notice provisions, including information about reconvening.*

This bill would require a state body that holds a meeting through teleconferencing pursuant to the bill and allows members of the public to observe and address the meeting telephonically or otherwise electronically to implement and advertise, as prescribed, a procedure

for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990.

*This bill would require a member of a state body who attends a meeting by teleconference from a remote location to disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member and the general nature of the member's relationship with any such individuals.*

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 11123 of the Government Code is  
2 amended to read:  
3 11123. (a) All meetings of a state body shall be open and  
4 public and all persons shall be permitted to attend any meeting of  
5 a state body except as otherwise provided in this article.  
6 (b) (1) This article does not prohibit a state body from holding  
7 an open or closed meeting by teleconference for the benefit of the  
8 public and state body. The meeting or proceeding held by  
9 teleconference shall otherwise comply with all applicable  
10 requirements or laws relating to a specific type of meeting or  
11 proceeding, including the following:  
12 (A) The teleconferencing meeting shall comply with all  
13 requirements of this article applicable to other meetings.  
14 (B) The portion of the teleconferenced meeting that is required  
15 to be open to the public shall be audible to the public at the location  
16 specified in the notice of the meeting.  
17 (C) If the state body elects to conduct a meeting or proceeding  
18 by teleconference, it shall conduct teleconference meetings in a  
19 manner that protects the rights of any party or member of the public  
20 appearing before the state body. The state body shall provide a  
21 means by which the public may remotely hear audio of the meeting,

1 remotely observe the meeting, or attend the meeting by providing  
2 on the posted agenda a teleconference telephone number, an  
3 internet website or other online platform, and a physical address  
4 for at least one site, including, if available, access equivalent to  
5 the access for a member of the state body participating remotely.  
6 The applicable teleconference telephone number, internet website  
7 or other online platform, and physical address indicating how the  
8 public can access the meeting remotely and in person shall be  
9 specified in any notice required by this article.

10 (D) The agenda shall provide an opportunity for members of  
11 the public to address the state body directly pursuant to Section  
12 11125.7.

13 (E) All votes taken during a teleconferenced meeting shall be  
14 by rollcall.

15 (F) The portion of the teleconferenced meeting that is closed to  
16 the public may not include the consideration of any agenda item  
17 being heard pursuant to Section 11125.5.

18 (G) At least one member or staff of the state body shall be  
19 physically present at the location specified in the notice of the  
20 meeting.

21 *(H) This section does not affect the requirement prescribed by*  
22 *this article that the state body post an agenda of a meeting in*  
23 *accordance with the applicable notice requirements of this article,*  
24 *including Section 11125, requiring the state body to post an agenda*  
25 *of a meeting at least 10 days in advance of the meeting, Section*  
26 *11125.4, applicable to special meetings, and Sections 11125.5 and*  
27 *11125.6, applicable to emergency meetings. The state body shall*  
28 *post the agenda on its internet website and, on the day of the*  
29 *meeting, at any physical meeting location designated in the notice*  
30 *of the meeting. The notice and agenda shall not disclose*  
31 *information regarding any remote location from which a member*  
32 *is participating.*

33 *(I) Members of the public shall be entitled to exercise their right*  
34 *to directly address the state body during the teleconferenced*  
35 *meeting without being required to submit public comments prior*  
36 *to the meeting or in writing.*

37 *(J) Upon discovering that a means of remote participation*  
38 *required by this section has failed during a meeting and cannot*  
39 *be restored, the state body shall end or adjourn the meeting in*  
40 *accordance with Section 11128.5. In addition to any other*

1 *requirements that may apply, the state body shall provide notice*  
2 *of the meeting's end or adjournment on the state body's internet*  
3 *website and by email to any person who has requested notice of*  
4 *meetings of the state body by email under this article. If the meeting*  
5 *will be adjourned and reconvened on the same day, further notice*  
6 *shall be provided by an automated message on a telephone line*  
7 *posted on the state body's agenda, internet website, or by a similar*  
8 *means, that will communicate when the state body intends to*  
9 *reconvene the meeting and how a member of the public may hear*  
10 *audio of the meeting or observe the meeting.*

11 (2) For the purposes of this subdivision, “teleconference” both  
12 of the following definitions shall apply:

13 (A) “Teleconference” means a meeting of a state body, the  
14 members of which are at different locations, connected by  
15 electronic means, through either audio or both audio and video.  
16 This section does not prohibit a state body from providing members  
17 of the public with additional locations in which the public may  
18 observe or address the state body by electronic means, through  
19 either audio or both audio and video.

20 (B) “Remote location” means a location from which a member  
21 of a state body participates in a meeting other than any physical  
22 meeting location designated in the notice of the meeting. Remote  
23 locations need not be accessible to the public.

24 (c) If a state body holds a meeting through teleconferencing  
25 pursuant to this section and allows members of the public to  
26 observe and address the meeting telephonically or otherwise  
27 electronically, the state body shall also do both of the following:

28 (1) Implement a procedure for receiving and swiftly resolving  
29 requests for reasonable modification or accommodation from  
30 individuals with disabilities, consistent with the federal Americans  
31 with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and  
32 resolving any doubt whatsoever in favor of accessibility.

33 (2) Advertise that procedure each time notice is given of the  
34 means by which members of the public may observe the meeting  
35 and offer public comment.

36 (d) The state body shall publicly report any action taken and  
37 the vote or abstention on that action of each member present for  
38 the action.

39 (e) *If a member of a state body attends a meeting by*  
40 *teleconference from a remote location, the member shall disclose*

1 *whether any other individuals 18 years of age or older are present*  
2 *in the room at the remote location with the member, and the*  
3 *general nature of the member's relationship with any such*  
4 *individuals.*

5 (e)

6 (f) For purposes of this section, “participate remotely” means  
7 participation in a meeting at a location other than the physical  
8 location designated in the agenda of the meeting.

9 SEC. 2. The Legislature finds and declares that Section 1 of  
10 this act, which amends Section 11123 of the Government Code,  
11 imposes a limitation on the public's right of access to the meetings  
12 of public bodies or the writings of public officials and agencies  
13 within the meaning of Section 3 of Article I of the California  
14 Constitution. Pursuant to that constitutional provision, the  
15 Legislature makes the following findings to demonstrate the interest  
16 protected by this limitation and the need for protecting that interest:

17 (a) By removing the requirement for agendas to be placed at  
18 the location of each public official participating in a public meeting  
19 remotely, including from the member's private home or hotel  
20 room, this act protects the personal, private information of public  
21 officials and their families while preserving the public's right to  
22 access information concerning the conduct of the people's business.

23 (b) During the COVID-19 public health emergency, audio and  
24 video teleconference were widely used to conduct public meetings  
25 in lieu of physical location meetings, and those public meetings  
26 have been productive, increased public participation by all  
27 members of the public regardless of their location and ability to  
28 travel to physical meeting locations, increased the pool of people  
29 who are able to serve on these bodies, protected the health and  
30 safety of civil servants and the public, and have reduced travel  
31 costs incurred by members of state bodies and reduced work hours  
32 spent traveling to and from meetings.

33 (c) Conducting audio and video teleconference meetings  
34 enhances public participation and the public's right of access to  
35 meetings of the public bodies by improving access for individuals  
36 that often face barriers to physical attendance.

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## BOARD OF BARBERING & COSMETOLOGY

### BILL ANALYSIS

**Author:** Senator Roth

**Subject:** Barbering and cosmetology: application, examination, and licensing fees.

**Bill Number:** SB 817

**Version:** February 17, 2023

**Existing Law:**

Existing law establishes in the Business, Consumer Services, and Housing Agency the Department of Consumer Affairs. Existing law establishes various boards within the department for the licensure, regulation, and discipline of various professions and vocations. Existing law establishes the Barbering and Cosmetology Act, under the administration of the State Board of Barbering and Cosmetology, for the licensure and regulation of barbers and cosmetologists. Existing law specifies a hairstylist's application and examination fee shall be \$50, or an amount as determined by the board, not to exceed the reasonable cost of developing, purchasing, grading, and administering the examination, and not to exceed \$50.

**This Bill:**

This bill would instead require that the hairstylist application and examination fee be the actual cost to the board for developing, purchasing, grading, and administering the examination, and limit a hairstylist's initial license fee to \$50.

**Status:** 04/11/2023 Read second time. Ordered to third reading.

**Analysis:** This is clean-up language to make the hairstylist application and examination fee consistent with the other scopes and allow the Board to charge the actual cost to the Board for developing, purchasing, grading, and administering the examination. It also clarifies that the hairstylist's initial license fee shall not be more than \$50.

**Board Position:** Support (as of 4/17/2023).



**Introduced by Senator Roth**February 17, 2023

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An act to amend Section 7423 of the Business and Professions Code, relating to professions.

## LEGISLATIVE COUNSEL'S DIGEST

SB 817, as introduced, Roth. Barbering and cosmetology: application, examination, and licensing fees.

Existing law establishes in the Business, Consumer Services, and Housing Agency the Department of Consumer Affairs. Existing law establishes various boards within the department for the licensure, regulation, and discipline of various professions and vocations. Existing law establishes the Barbering and Cosmetology Act, under the administration of the State Board of Barbering and Cosmetology, for the licensure and regulation of barbers and cosmetologists. Existing law specifies a hairstylist's application and examination fee shall be \$50, or an amount as determined by the board, not to exceed the reasonable cost of developing, purchasing, grading, and administering the examination, and not to exceed \$50.

This bill would instead require that the hairstylist application and examination fee be the actual cost to the board for developing, purchasing, grading, and administering the examination, and limit a hairstylist's initial license fee to \$50.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7423 of the Business and Professions  
2 Code is amended to read:

3 7423. The amounts of the fees required by this chapter relating  
4 to licenses for individual practitioners are as follows:

5 (a) (1) Cosmetologist application and examination fee shall be  
6 the actual cost to the board for developing, purchasing, grading,  
7 and administering the examination.

8 (2) A cosmetologist initial license fee shall not be more than  
9 fifty dollars (\$50).

10 (b) (1) An esthetician application and examination fee shall be  
11 the actual cost to the board for developing, purchasing, grading,  
12 and administering the examination.

13 (2) An esthetician initial license fee shall not be more than forty  
14 dollars (\$40).

15 (c) (1) A manicurist application and examination fee shall be  
16 the actual cost to the board for developing, purchasing, grading,  
17 and administering the examination.

18 (2) A manicurist initial license fee shall not be more than  
19 thirty-five dollars (\$35).

20 (d) (1) A barber application and examination fee shall be the  
21 actual cost to the board for developing, purchasing, grading, and  
22 administering the examination.

23 (2) A barber initial license fee shall be not more than fifty dollars  
24 (\$50).

25 (e) (1) An electrologist application and examination fee shall  
26 be the actual cost to the board for developing, purchasing, grading,  
27 and administering the examination.

28 (2) An electrologist initial license fee shall be not more than  
29 fifty dollars (\$50).

30 (f) An apprentice application and license fee shall be not more  
31 than twenty-five dollars (\$25).

32 (g) The license renewal fee for individual practitioner licenses  
33 that are subject to renewal shall be not more than fifty dollars  
34 (\$50).

35 (h) (1) A hairstylist application and examination fee shall be  
36 ~~fifty dollars (\$50) or a fee in an amount as determined by the board;~~  
37 ~~not to exceed the reasonable cost of~~ *the actual cost to the board*

1 *for* developing, purchasing, grading, and administering the  
2 ~~examination, not to exceed fifty dollars (\$50):~~ *examination.*

3 (2) *A hairstylist's initial license fee shall be not more than fifty*  
4 *dollars (\$50).*

5 (i) Notwithstanding Section 163.5 the license renewal  
6 delinquency fee shall be 50 percent of the renewal fee in effect on  
7 the date of renewal.

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*Agenda Items*

*No. 4-6*

*No Attachments*