

By: Buckley

H.B. No. 2557

A BILL TO BE ENTITLED

AN ACT

relating to the Licensed Professional Counselors Compact;
authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 503, Occupations Code, is amended by
adding Subchapter K to read as follows:

SUBCHAPTER K. LICENSED PROFESSIONAL COUNSELORS COMPACT

Sec. 503.501. LICENSED PROFESSIONAL COUNSELORS COMPACT.

The Licensed Professional Counselors Compact is enacted and entered
into with all other jurisdictions that legally join in the compact,
which reads as follows:

LICENSED PROFESSIONAL COUNSELORS COMPACT

SECTION 1: PURPOSE

The purpose of this Compact is to facilitate interstate practice of
Licensed Professional Counselors with the goal of improving public
access to Professional Counseling services. The practice of
Professional Counseling occurs in the State where the client is
located at the time of the counseling services. The Compact
preserves the regulatory authority of States to protect public
health and safety through the current system of State licensure.

This Compact is designed to achieve the following objectives:

A. Increase public access to Professional Counseling
services by providing for the mutual recognition of other Member
State licenses;

1 B. Enhance the States' ability to protect the public's
2 health and safety;

3 C. Encourage the cooperation of Member States in regulating
4 multistate practice for Licensed Professional Counselors;

5 D. Support spouses of relocating Active Duty Military
6 personnel;

7 E. Enhance the exchange of licensure, investigative, and
8 disciplinary information among Member States;

9 F. Allow for the use of Telehealth technology to facilitate
10 increased access to Professional Counseling services;

11 G. Support the uniformity of Professional Counseling
12 licensure requirements throughout the States to promote public
13 safety and public health benefits;

14 H. Invest all Member States with the authority to hold a
15 Licensed Professional Counselor accountable for meeting all State
16 practice laws in the State in which the client is located at the
17 time care is rendered through the mutual recognition of Member
18 State licenses;

19 I. Eliminate the necessity for licenses in multiple States;
20 and

21 J. Provide opportunities for interstate practice by
22 Licensed Professional Counselors who meet uniform licensure
23 requirements.

24 SECTION 2. DEFINITIONS

25 As used in this Compact, and except as otherwise provided, the
26 following definitions shall apply:

27 A. "Active Duty Military" means full-time duty status in the

1 active uniformed service of the United States, including members of
2 the National Guard and Reserve on active duty orders pursuant to 10
3 U.S.C. Chapters 1209 and 1211.

4 B. "Adverse Action" means any administrative, civil, equitable or
5 criminal action permitted by a State's laws which is imposed by a
6 licensing board or other authority against a Licensed Professional
7 Counselor, including actions against an individual's license or
8 Privilege to Practice such as revocation, suspension, probation,
9 monitoring of the licensee, limitation on the licensee's practice,
10 or any other Encumbrance on licensure affecting a Licensed
11 Professional Counselor's authorization to practice, including
12 issuance of a cease and desist action.

13 C. "Alternative Program" means a non-disciplinary monitoring or
14 practice remediation process approved by a Professional Counseling
15 Licensing Board to address Impaired Practitioners.

16 D. "Continuing Competence/Education" means a requirement, as a
17 condition of license renewal, to provide evidence of participation
18 in, and/or completion of, educational and professional activities
19 relevant to practice or area of work.

20 E. "Counseling Compact Commission" or "Commission" means the
21 national administrative body whose membership consists of all
22 States that have enacted the Compact.

23 F. "Current Significant Investigative Information" means:

24 1. Investigative Information that a Licensing Board, after
25 a preliminary inquiry that includes notification and an opportunity
26 for the Licensed Professional Counselor to respond, if required by
27 State law, has reason to believe is not groundless and, if proved

1 true, would indicate more than a minor infraction; or

2 2. Investigative Information that indicates that the
3 Licensed Professional Counselor represents an immediate threat to
4 public health and safety regardless of whether the Licensed
5 Professional Counselor has been notified and had an opportunity to
6 respond.

7 G. "Data System" means a repository of information about
8 Licensees, including, but not limited to, continuing education,
9 examination, licensure, investigative, Privilege to Practice and
10 Adverse Action information.

11 H. "Encumbered License" means a license in which an Adverse Action
12 restricts the practice of licensed Professional Counseling by the
13 Licensee and said Adverse Action has been reported to the National
14 Practitioners Data Bank (NPDB).

15 I. "Encumbrance" means a revocation or suspension of, or any
16 limitation on, the full and unrestricted practice of Licensed
17 Professional Counseling by a Licensing Board.

18 J. "Executive Committee" means a group of directors elected or
19 appointed to act on behalf of, and within the powers granted to them
20 by, the Commission.

21 K. "Home State" means the Member State that is the Licensee's
22 primary State of residence.

23 L. "Impaired Practitioner" means an individual who has a
24 condition(s) that may impair their ability to practice as a
25 Licensed Professional Counselor without some type of intervention
26 and may include, but are not limited to, alcohol and drug
27 dependence, mental health impairment, and neurological or

1 physical impairments.

2 M. "Investigative Information" means information, records, and
3 documents received or generated by a Professional Counseling
4 Licensing Board pursuant to an investigation.

5 N. "Jurisprudence Requirement" if required by a Member State,
6 means the assessment of an individual's knowledge of the laws and
7 Rules governing the practice of Professional Counseling in a State.

8 O. "Licensed Professional Counselor" means a counselor licensed
9 by a Member State, regardless of the title used by that State, to
10 independently assess, diagnose, and treat behavioral health
11 conditions.

12 P. "Licensee" means an individual who currently holds an
13 authorization from the State to practice as a Licensed Professional
14 Counselor.

15 Q. "Licensing Board" means the agency of a State, or equivalent,
16 that is responsible for the licensing and regulation of Licensed
17 Professional Counselors.

18 R. Member State" means a State that has enacted the Compact.

19 S. "Privilege to Practice" means a legal authorization, which is
20 equivalent to a license, permitting the practice of Professional
21 Counseling in a Remote State.

22 T. "Professional Counseling" means the assessment, diagnosis, and
23 treatment of behavioral health conditions by a Licensed
24 Professional Counselor.

25 U. "Remote State" means a Member State other than the Home State,
26 where a Licensee is exercising or seeking to exercise the Privilege
27 to Practice.

1 V. "Rule" means a regulation promulgated by the Commission that
2 has the force of law.

3 W. "Single State License" means a Licensed Professional Counselor
4 license issued by a Member State that authorizes practice only
5 within the issuing State and does not include a Privilege to
6 Practice in any other Member State.

7 X. "State" means any state, commonwealth, district, or territory
8 of the United States of America that regulates the practice of
9 Professional Counseling.

10 Y. "Telehealth" means the application of telecommunication
11 technology to deliver Professional Counseling services remotely to
12 assess, diagnose, and treat behavioral health conditions.

13 Z. "Unencumbered License" means a license that authorizes a
14 Licensed Professional Counselor to engage in the full and
15 unrestricted practice of Professional Counseling.

16 SECTION 3. STATE PARTICIPATION IN THE COMPACT

17 A. To Participate in the Compact, a State must currently:

18 1. License and regulate Licensed Professional Counselors;
19 2. Require Licensees to pass a nationally recognized exam
20 approved by the Commission;

21 3. Require Licensees to have a 60 semester-hour (or 90
22 quarter-hour) master's degree in counseling or 60 semester-hours
23 (or 90 quarter-hours) of graduate course work including the
24 following topic areas:

25 a. Professional Counseling Orientation and Ethical
26 Practice;

27 b. Social and Cultural Diversity;

- c. Human Growth and Development;
- d. Career Development;
- e. Counseling and Helping Relationships;
- f. Group Counseling and Group Work;
- g. Diagnosis and Treatment; Assessment and Testing;
- h. Research and Program Evaluation; and
- i. Other areas as determined by the Commission.

4. Require Licensees to complete a supervised postgraduate professional experience as defined by the Commission;

5. Have a mechanism in place for receiving and investigating complaints about Licensees.

B. A Member State shall:

1. Participate fully in the Commission's Data System, including using the Commission's unique identifier as defined in Rules;

2. Notify the Commission, in compliance with the terms of the Compact and Rules, of any Adverse Action or the availability of Investigative Information regarding a Licensee;

3. Implement or utilize procedures for considering the criminal history records of applicants for an initial Privilege to Practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records;

a. A member state must fully implement a criminal background check requirement, within a time frame established by

1 rule, by receiving the results of the Federal Bureau of
2 Investigation record search and shall use the results in making
3 licensure decisions.

4 b. Communication between a Member State, the
5 Commission and among Member States regarding the verification of
6 eligibility for licensure through the Compact shall not include any
7 information received from the Federal Bureau of Investigation
8 relating to a federal criminal records check performed by a Member
9 State under Public Law 92-544.

10 4. Comply with the Rules of the Commission;

11 5. Require an applicant to obtain or retain a license in the
12 Home State and meet the Home State's qualifications for licensure
13 or renewal of licensure, as well as all other applicable State laws;

14 6. Grant the Privilege to Practice to a Licensee holding a
15 valid Unencumbered License in another Member State in accordance
16 with the terms of the Compact and Rules; and

17 7. Provide for the attendance of the State's commissioner to
18 the Counseling Compact Commission meetings.

19 C. Member States may charge a fee for granting the Privilege to
20 Practice.

21 D. Individuals not residing in a Member State shall continue to be
22 able to apply for a Member State's Single State License as provided
23 under the laws of each Member State. However, the Single State
24 License granted to these individuals shall not be recognized as
25 granting a Privilege to Practice Professional Counseling in any
26 other Member State.

27 E. Nothing in this Compact shall affect the requirements

established by a Member State for the issuance of a Single State License.

F. A license issued to a Licensed Professional Counselor by a Home State to a resident in that State shall be recognized by each Member State as authorizing a Licensed Professional Counselor to practice Professional Counseling, under a Privilege to Practice, in each Member State.

SECTION 4. PRIVILEGE TO PRACTICE

A. To exercise the Privilege to Practice under the terms and provisions of the Compact, the Licensee shall:

1. Hold a license in the Home State;

2. Have a valid United States Social Security Number or National Practitioner Identifier;

3. Be eligible for a Privilege to Practice in any Member State in accordance with Section 4(D), (G) and (H);

4. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years;

5. Notify the Commission that the Licensee is seeking the Privilege to Practice within a Remote State(s);

6. Pay any applicable fees, including any State fee, for the Privilege to Practice;

7. Meet any Continuing Competence/Education requirements established by the Home State;

8. Meet any Jurisprudence Requirements established by the Remote State(s) in which the Licensee is seeking a Privilege to Practice; and

9. Report to the Commission any Adverse Action,

1 Encumbrance, or restriction on license taken by any non-Member
2 State within 30 days from the date the action is taken.

3 B. The Privilege to Practice is valid until the expiration date of
4 the Home State license. The Licensee must comply with the
5 requirements of Section 4(A) to maintain the Privilege to Practice
6 in the Remote State.

7 C. A Licensee providing Professional Counseling in a Remote State
8 under the Privilege to Practice shall adhere to the laws and
9 regulations of the Remote State.

10 D. A Licensee providing Professional Counseling services in a
11 Remote State is subject to that State's regulatory authority. A
12 Remote State may, in accordance with due process and that State's
13 laws, remove a Licensee's Privilege to Practice in the Remote State
14 for a specific period of time, impose fines, and/or take any other
15 necessary actions to protect the health and safety of its citizens.
16 The Licensee may be ineligible for a Privilege to Practice in any
17 Member State until the specific time for removal has passed and all
18 fines are paid.

19 E. If a Home State license is encumbered, the Licensee shall lose
20 the Privilege to Practice in any Remote State until the following
21 occur:

- 22 1. The Home State license is no longer encumbered; and
23 2. Have not had any Encumbrance or restriction against any
24 license or Privilege to Practice within the previous two (2) years.

25 F. Once an Encumbered License in the Home State is restored to good
26 standing, the Licensee must meet the requirements of Section 4(A)
27 to obtain a Privilege to Practice in any Remote State.

1 G. If a Licensee's Privilege to Practice in any Remote State is
2 removed, the individual may lose the Privilege to Practice in all
3 other Remote States until the following occur:

4 1. The specific period of time for which the Privilege to
5 Practice was removed has ended;

6 2. All fines have been paid; and

7 3. Have not had any Encumbrance or restriction against any
8 license or Privilege to Practice within the previous two (2) years.

9 H. Once the requirements of Section 4(G) have been met, the
10 Licensee must meet the requirements in Section 4(A) to obtain a
11 Privilege to Practice in a Remote State.

12 SECTION 5: OBTAINING A NEW HOME STATE LICENSE BASED ON A PRIVILEGE
13 TO PRACTICE

14 A. A Licensed Professional Counselor may hold a Home State
15 license, which allows for a Privilege to Practice in other Member
16 States, in only one Member State at a time.

17 B. If a Licensed Professional Counselor changes primary State of
18 residence by moving between two Member States:

19 1. The Licensed Professional Counselor shall file an
20 application for obtaining a new Home State license based on a
21 Privilege to Practice, pay all applicable fees, and notify the
22 current and new Home State in accordance with applicable Rules
23 adopted by the Commission.

24 2. Upon receipt of an application for obtaining a new Home
25 State license by virtue of a Privilege to Practice, the new Home
26 State shall verify that the Licensed Professional Counselor meets
27 the pertinent criteria outlined in Section 4 via the Data System,

1 without need for primary source verification except for:

2 a. a Federal Bureau of Investigation fingerprint based
3 criminal background check if not previously performed or updated
4 pursuant to applicable rules adopted by the Commission in
5 accordance with Public Law 92-544;

6 b. other criminal background check as required by the
7 new Home State; and

8 c. completion of any requisite Jurisprudence
9 Requirements of the new Home State.

10 3. The former Home State shall convert the former Home State
11 license into a Privilege to Practice once the new Home State has
12 activated the new Home State license in accordance with applicable
13 Rules adopted by the Commission.

14 4. Notwithstanding any other provision of this Compact, if
15 the Licensed Professional Counselor cannot meet the criteria in
16 Section 4, the new Home State may apply its requirements for issuing
17 a new Single State License.

18 5. The Licensed Professional Counselor shall pay all
19 applicable fees to the new Home State in order to be issued a new
20 Home State license.

21 C. If a Licensed Professional Counselor changes Primary State of
22 Residence by moving from a Member State to a non-Member State, or
23 from a non-Member State to a Member State, the State criteria shall
24 apply for issuance of a Single State License in the new State.

25 D. Nothing in this Compact shall interfere with a Licensee's
26 ability to hold a Single State License in multiple States, however
27 for the purposes of this Compact, a Licensee shall have only one

1 Home State license.

2 E. Nothing in this Compact shall affect the requirements
3 established by a Member State for the issuance of a Single State
4 License.

5 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

6 Active Duty Military personnel, or their spouse, shall designate a
7 Home State where the individual has a current license in good
8 standing. The individual may retain the Home State designation
9 during the period the service member is on active duty. Subsequent
10 to designating a Home State, the individual shall only change their
11 Home State through application for licensure in the new State, or
12 through the process outlined in Section 5.

13 SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

14 A. Member States shall recognize the right of a Licensed
15 Professional Counselor, licensed by a Home State in accordance with
16 Section 3 and under Rules promulgated by the Commission, to
17 practice Professional Counseling in any Member State via Telehealth
18 under a Privilege to Practice as provided in the Compact and Rules
19 promulgated by the Commission.

20 B. A Licensee providing Professional Counseling services in a
21 Remote State under the Privilege to Practice shall adhere to the
22 laws and regulations of the Remote State.

23 SECTION 8. ADVERSE ACTIONS

24 A. In addition to the other powers conferred by State law, a Remote
25 State shall have the authority, in accordance with existing State
26 due process law, to:

27 1. Take Adverse Action against a Licensed Professional

1 Counselor's Privilege to Practice within that Member State, and

2 2. Issue subpoenas for both hearings and investigations
3 that require the attendance and testimony of witnesses as well as
4 the production of evidence. Subpoenas issued by a Licensing Board
5 in a Member State for the attendance and testimony of witnesses or
6 the production of evidence from another Member State shall be
7 enforced in the latter State by any court of competent
8 jurisdiction, according to the practice and procedure of that court
9 applicable to subpoenas issued in proceedings pending before it.
10 The issuing authority shall pay any witness fees, travel expenses,
11 mileage, and other fees required by the service statutes of the
12 State in which the witnesses or evidence are located.

13 3. Only the Home State shall have the power to take Adverse
14 Action against a Licensed Professional Counselor's license issued
15 by the Home State.

16 B. For purposes of taking Adverse Action, the Home State shall
17 give the same priority and effect to reported conduct received from
18 a Member State as it would if the conduct had occurred within the
19 Home State. In so doing, the Home State shall apply its own State
20 laws to determine appropriate action.

21 C. The Home State shall complete any pending investigations of a
22 Licensed Professional Counselor who changes primary State of
23 residence during the course of the investigations. The Home State
24 shall also have the authority to take appropriate action(s) and
25 shall promptly report the conclusions of the investigations to the
26 administrator of the Data System. The administrator of the
27 coordinated licensure information system shall promptly notify the

1 new Home State of any Adverse Actions.

2 D. A Member State, if otherwise permitted by State law, may
3 recover from the affected Licensed Professional Counselor the costs
4 of investigations and dispositions of cases resulting from any
5 Adverse Action taken against that Licensed Professional Counselor.

6 E. A Member State may take Adverse Action based on the factual
7 findings of the Remote State, provided that the Member State
8 follows its own procedures for taking the Adverse Action.

9 F. Joint Investigations:

10 1. In addition to the authority granted to a Member State by
11 its respective Professional Counseling practice act or other
12 applicable State law, any Member State may participate with other
13 Member States in joint investigations of Licensees.

14 2. Member States shall share any investigative, litigation,
15 or compliance materials in furtherance of any joint or individual
16 investigation initiated under the Compact.

17 G. If Adverse Action is taken by the Home State against the license
18 of a Licensed Professional Counselor, the Licensed Professional
19 Counselor's Privilege to Practice in all other Member States shall
20 be deactivated until all Encumbrances have been removed from the
21 State license. All Home State disciplinary orders that impose
22 Adverse Action against the license of a Licensed Professional
23 Counselor shall include a Statement that the Licensed Professional
24 Counselor's Privilege to Practice is deactivated in all Member
25 States during the pendency of the order.

26 H. If a Member State takes Adverse Action, it shall promptly
27 notify the administrator of the Data System. The administrator of

1 the Data System shall promptly notify the Home State of any Adverse
2 Actions by Remote States.

3 I. Nothing in this Compact shall override a Member State's
4 decision that participation in an Alternative Program may be used
5 in lieu of Adverse Action.

6 SECTION 9. ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

7 A. The Compact Member States hereby create and establish a joint
8 public agency known as the Counseling Compact Commission:

9 1. The Commission is an instrumentality of the Compact
10 States.

11 2. Venue is proper and judicial proceedings by or against
12 the Commission shall be brought solely and exclusively in a court of
13 competent jurisdiction where the principal office of the Commission
14 is located. The Commission may waive venue and jurisdictional
15 defenses to the extent it adopts or consents to participate in
16 alternative dispute resolution proceedings.

17 3. Nothing in this Compact shall be construed to be a waiver
18 of sovereign immunity.

19 B. Membership, Voting, and Meetings

20 1. Each Member State shall have and be limited to one (1)
21 delegate selected by that Member State's Licensing Board.

22 2. The delegate shall be either:

23 a. A current member of the Licensing Board at the time
24 of appointment, who is a Licensed Professional Counselor or public
25 member; or

26 b. An administrator of the Licensing Board.

27 3. Any delegate may be removed or suspended from office as

1 provided by the law of the State from which the delegate is
2 appointed.

3 4. The Member State Licensing Board shall fill any vacancy
4 occurring on the Commission within 60 days.

5 5. Each delegate shall be entitled to one (1) vote with
6 regard to the promulgation of Rules and creation of bylaws and shall
7 otherwise have an opportunity to participate in the business and
8 affairs of the Commission.

9 6. A delegate shall vote in person or by such other means as
10 provided in the bylaws. The bylaws may provide for delegates'
11 participation in meetings by telephone or other means of
12 communication.

13 7. The Commission shall meet at least once during each
14 calendar year. Additional meetings shall be held as set forth in
15 the bylaws.

16 8. The Commission shall by Rule establish a term of office
17 for delegates and may by Rule establish term limits.

18 C. The Commission shall have the following powers and duties:

19 1. Establish the fiscal year of the Commission;

20 2. Establish bylaws;

21 3. Maintain its financial records in accordance with the
22 bylaws;

23 4. Meet and take such actions as are consistent with the
24 provisions of this Compact and the bylaws;

25 5. Promulgate Rules which shall be binding to the extent and
26 in the manner provided for in the Compact;

27 6. Bring and prosecute legal proceedings or actions in the

1 name of the Commission, provided that the standing of any State
2 Licensing Board to sue or be sued under applicable law shall not be
3 affected;

4 7. Purchase and maintain insurance and bonds;

5 8. Borrow, accept, or contract for services of personnel,
6 including, but not limited to, employees of a Member State;

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

13 10. Accept any and all appropriate donations and grants of
14 money, equipment, supplies, materials, and services, and to
15 receive, utilize, and dispose of the same; provided that at all
16 times the Commission shall avoid any appearance of impropriety
17 and/or conflict of interest;

18 11. Lease, purchase, accept appropriate gifts or donations
19 of, or otherwise to own, hold, improve or use, any property, real,
20 personal or mixed; provided that at all times the Commission shall
21 avoid any appearance of impropriety;

22 12. Sell convey, mortgage, pledge, lease, exchange,
23 abandon, or otherwise dispose of any property real, personal, or
24 mixed;

25 13. Establish a budget and make expenditures;

26 14. Borrow money;

27 15. Appoint committees, including standing committees

composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

16. Provide and receive information from, and cooperate with, law enforcement agencies;

17. Establish and elect an Executive Committee; and

18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the State regulation of Professional Counseling licensure and practice.

D. The Executive Committee

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact.

2. The Executive Committee shall be composed of up to eleven (11) members:

a. Seven voting members who are elected by the Commission from the current membership of the Commission; and

b. Up to four (4) ex-officio, nonvoting members from four (4) recognized national professional counselor organizations.

c. The ex-officio members will be selected by their respective organizations.

3. The Commission may remove any member of the Executive Committee as provided in bylaws.

4. The Executive Committee shall meet at least annually.

5. The Executive Committee shall have the following duties and responsibilities:

1 a. Recommend to the entire Commission changes to the
2 Rules or bylaws, changes to this Compact legislation, fees paid by
3 Compact Member States such as annual dues, and any Commission
4 Compact fee charged to Licensees for the Privilege to Practice;

5 b. Ensure Compact administration services are
6 appropriately provided, contractual or otherwise;

7 c. Prepare and recommend the budget;

8 d. Maintain financial records on behalf of the
9 Commission;

10 e. Monitor Compact compliance of Member States and
11 provide compliance reports to the Commission;

12 f. Establish additional committees as necessary; and

13 g. Other duties as provided in Rules or bylaws.

14 E. Meetings of the Commission

15 1. All meetings shall be open to the public, and public
16 notice of meetings shall be given in the same manner as required
17 under the Rulemaking provisions in Section 9.

18 2. The Commission or the Executive Committee or other
19 committees of the Commission may convene in a closed, non-public
20 meeting if the Commission or Executive Committee or other
21 committees of the Commission must discuss:

22 a. Non-compliance of a Member State with its
23 obligations under the Compact;

24 b. The employment, compensation, discipline or other
25 matters, practices or procedures related to specific employees or
26 other matters related to the Commission's internal personnel
27 practices and procedures;

1 c. Current, threatened, or reasonably anticipated
2 litigation;

3 d. Negotiation of contracts for the purchase, lease,
4 or sale of goods, services, or real estate;

5 e. Accusing any person of a crime or formally
6 censuring any person;

7 f. Disclosure of trade secrets or commercial or
8 financial information that is privileged or confidential;

9 g. Disclosure of information of a personal nature
10 where disclosure would constitute a clearly unwarranted invasion of
11 personal privacy;

12 h. Disclosure of investigative records compiled for
13 law enforcement purposes;

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

19 j. Matters specifically exempted from disclosure by
20 federal or Member State statute.

21 3. If a meeting, or portion of a meeting, is closed pursuant
22 to this provision, the Commission's legal counsel or designee shall
23 certify that the meeting may be closed and shall reference each
24 relevant exempting provision.

25 4. The Commission shall keep minutes that fully and clearly
26 describe all matters discussed in a meeting and shall provide a full
27 and accurate summary of actions taken, and the reasons therefore,

1 including a description of the views expressed. All documents
2 considered in connection with an action shall be identified in such
3 minutes. All minutes and documents of a closed meeting shall remain
4 under seal, subject to release by a majority vote of the Commission
5 or order of a court of competent jurisdiction.

6 F. Financing of the Commission

7 1. The Commission shall pay, or provide for the payment of,
8 the reasonable expenses of its establishment, organization, and
9 ongoing activities.

10 2. The Commission may accept any and all appropriate revenue
11 sources, donations, and grants of money, equipment, supplies,
12 materials, and services.

13 3. The Commission may levy on and collect an annual
14 assessment from each Member State or impose fees on other parties to
15 cover the cost of the operations and activities of the Commission
16 and its staff, which must be in a total amount sufficient to cover
17 its annual budget as approved each year for which revenue is not
18 provided by other sources. The aggregate annual assessment amount
19 shall be allocated based upon a formula to be determined by the
20 Commission, which shall promulgate a Rule binding upon all Member
21 States.

22 4. The Commission shall not incur obligations of any kind
23 prior to securing the funds adequate to meet the same; nor shall the
24 Commission pledge the credit of any of the Member States, except by
25 and with the authority of the Member State.

26 5. The Commission shall keep accurate accounts of all
27 receipts and disbursements. The receipts and disbursements of the

1 Commission shall be subject to the audit and accounting procedures
2 established under its bylaws. However, all receipts and
3 disbursements of funds handled by the Commission shall be audited
4 yearly by a certified or licensed public accountant, and the report
5 of the audit shall be included in and become part of the annual
6 report of the Commission.

7 G. Qualified Immunity, Defense, and Indemnification

8 1. The members, officers, executive director, employees and
9 representatives of the Commission shall be immune from suit and
10 liability, either personally or in their official capacity, for any
11 claim for damage to or loss of property or personal injury or other
12 civil liability caused by or arising out of any actual or alleged
13 act, error or omission that occurred, or that the person against
14 whom the claim is made had a reasonable basis for believing occurred
15 within the scope of Commission employment, duties or
16 responsibilities; provided that nothing in this paragraph shall be
17 construed to protect any such person from suit and/or liability for
18 any damage, loss, injury, or liability caused by the intentional or
19 willful or wanton misconduct of that person.

20 2. The Commission shall defend any member, officer,
21 executive director, employee or representative of the Commission in
22 any civil action seeking to impose liability arising out of any
23 actual or alleged act, error, or omission that occurred within the
24 scope of Commission employment, duties, or responsibilities, or
25 that the person against whom the claim is made had a reasonable
26 basis for believing occurred within the scope of Commission
27 employment, duties, or responsibilities; provided that nothing

1 herein shall be construed to prohibit that person from retaining
2 his or her own counsel; and provided further, that the actual or
3 alleged act, error, or omission did not result from that person's
4 intentional or willful or wanton misconduct.

5 3. The Commission shall indemnify and hold harmless any
6 member, officer, executive director, employee, or representative
7 of the Commission for the amount of any settlement or judgment
8 obtained against that person arising out of any actual or alleged
9 act, error, or omission that occurred within the scope of
10 Commission employment, duties, or responsibilities, or that such
11 person had a reasonable basis for believing occurred within the
12 scope of Commission employment, duties, or responsibilities,
13 provided that the actual or alleged act, error, or omission did not
14 result from the intentional or willful or wanton misconduct of that
15 person.

16 SECTION 10. DATA SYSTEM

17 A. The Commission shall provide for the development, maintenance,
18 operation, and utilization of a coordinated database and reporting
19 system containing licensure, Adverse Action, and Investigative
20 Information on all licensed individuals in Member States.

21 B. Notwithstanding any other provision of State law to the
22 contrary, a Member State shall submit a uniform data set to the Data
23 System on all individuals to whom this Compact is applicable as
24 required by the Rules of the Commission, including:

25 1. Identifying information;

26 2. Licensure data;

27 3. Adverse Actions against a license or Privilege to

1 Practice;

2 4. Non-confidential information related to Alternative
3 Program participation;

4 5. Any denial of application for licensure, and the
5 reason(s) for such denial;

6 6. Current Significant Investigative Information; and

7 7. Other information that may facilitate the administration
8 of this Compact, as determined by the Rules of the Commission.

9 C. Investigative Information pertaining to a Licensee in any
10 Member State will only be available to other Member States.

11 D. The Commission shall promptly notify all Member States of any
12 Adverse Action taken against a Licensee or an individual applying
13 for a license. Adverse Action information pertaining to a Licensee
14 in any Member State will be available to any other Member State.

15 E. Member States contributing information to the Data System may
16 designate information that may not be shared with the public
17 without the express permission of the contributing State.

18 F. Any information submitted to the Data System that is
19 subsequently required to be expunged by the laws of the Member State
20 contributing the information shall be removed from the Data System.

21 SECTION 11. RULEMAKING

22 A. The Commission shall promulgate reasonable Rules in order to
23 effectively and efficiently achieve the purpose of the Compact.
24 Notwithstanding the foregoing, in the event the Commission
25 exercises its Rulemaking authority in a manner that is beyond the
26 scope of the purposes of the Compact, or the powers granted
27 hereunder, then such an action by the Commission shall be invalid

1 and have no force or effect.

2 B. The Commission shall exercise its Rulemaking powers pursuant to
3 the criteria set forth in this Section and the Rules adopted
4 thereunder. Rules and amendments shall become binding as of the
5 date specified in each Rule or amendment.

6 C. If a majority of the legislatures of the Member States rejects a
7 Rule, by enactment of a statute or resolution in the same manner
8 used to adopt the Compact within four (4) years of the date of
9 adoption of the Rule, then such Rule shall have no further force and
10 effect in any Member State.

11 D. Rules or amendments to the Rules shall be adopted at a regular
12 or special meeting of the Commission.

13 E. Prior to promulgation and adoption of a final Rule or Rules by
14 the Commission, and at least thirty (30) days in advance of the
15 meeting at which the Rule will be considered and voted upon, the
16 Commission shall file a Notice of Proposed Rulemaking:

17 1. On the website of the Commission or other publicly
18 accessible platform; and

19 2. On the website of each Member State Professional
20 Counseling Licensing Board or other publicly accessible platform or
21 the publication in which each State would otherwise publish
22 proposed Rules.

23 F. The Notice of Proposed Rulemaking shall include:

24 1. The proposed time, date, and location of the meeting in
25 which the Rule will be considered and voted upon;

26 2. The text of the proposed Rule or amendment and the reason
27 for the proposed Rule;

1 3. A request for comments on the proposed Rule from any
2 interested person; and

3 4. The manner in which interested persons may submit notice
4 to the Commission of their intention to attend the public hearing
5 and any written comments.

6 G. Prior to adoption of a proposed Rule, the Commission shall
7 allow persons to submit written data, facts, opinions, and
8 arguments, which shall be made available to the public.

9 H. The Commission shall grant an opportunity for a public hearing
10 before it adopts a Rule or amendment if a hearing is requested by:

11 1. At least twenty-five (25) persons;

12 2. A State or federal governmental subdivision or agency; or

13 3. An association having at least twenty-five (25) members.

14 I. If a hearing is held on the proposed Rule or amendment, the
15 Commission shall publish the place, time, and date of the scheduled
16 public hearing. If the hearing is held via electronic means, the
17 Commission shall publish the mechanism for access to the electronic
18 hearing.

19 1. All persons wishing to be heard at the hearing shall
20 notify the executive director of the Commission or other designated
21 member in writing of their desire to appear and testify at the
22 hearing not less than five (5) business days before the scheduled
23 date of the hearing.

24 2. Hearings shall be conducted in a manner providing each
25 person who wishes to comment a fair and reasonable opportunity to
26 comment orally or in writing.

27 3. All hearings will be recorded. A copy of the recording

1 will be made available on request.

2 4. Nothing in this section shall be construed as requiring a
3 separate hearing on each Rule. Rules may be grouped for the
4 convenience of the Commission at hearings required by this section.

5 J. Following the scheduled hearing date, or by the close of
6 business on the scheduled hearing date if the hearing was not held,
7 the Commission shall consider all written and oral comments
8 received.

9 K. If no written notice of intent to attend the public hearing by
10 interested parties is received, the Commission may proceed with
11 promulgation of the proposed Rule without a public hearing.

12 L. The Commission shall, by majority vote of all members, take
13 final action on the proposed Rule and shall determine the effective
14 date of the Rule, if any, based on the Rulemaking record and the
15 full text of the Rule.

16 M. Upon determination that an emergency exists, the Commission may
17 consider and adopt an emergency Rule without prior notice,
18 opportunity for comment, or hearing, provided that the usual
19 Rulemaking procedures provided in the Compact and in this section
20 shall be retroactively applied to the Rule as soon as reasonably
21 possible, in no event later than ninety (90) days after the
22 effective date of the Rule. For the purposes of this provision, an
23 emergency Rule is one that must be adopted immediately in order to:

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

26 2. Prevent a loss of Commission or Member State funds;

27 3. Meet a deadline for the promulgation of an administrative

1 Rule that is established by federal law or Rule; or

2 4. Protect public health and safety.

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

16 SECTION 12. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

17 A. Oversight

18 1. The executive, legislative, and judicial branches of
19 State government in each Member State shall enforce this Compact
20 and take all actions necessary and appropriate to effectuate the
21 Compact's purposes and intent. The provisions of this Compact and
22 the Rules promulgated hereunder shall have standing as statutory
23 law.

24 2. All courts shall take judicial notice of the Compact and
25 the Rules in any judicial or administrative proceeding in a Member
26 State pertaining to the subject matter of this Compact which may
27 affect the powers, responsibilities, or actions of the Commission.

1 3. The Commission shall be entitled to receive service of
2 process in any such proceeding and shall have standing to intervene
3 in such a proceeding for all purposes. Failure to provide service
4 of process to the Commission shall render a judgment or order void
5 as to the Commission, this Compact, or promulgated Rules.

6 B. Default, Technical Assistance, and Termination

7 1. If the Commission determines that a Member State has
8 defaulted in the performance of its obligations or responsibilities
9 under this Compact or the promulgated Rules, the Commission shall:

10 a. Provide written notice to the defaulting State and
11 other Member States of the nature of the default, the proposed means
12 of curing the default and/or any other action to be taken by the
13 Commission; and

14 b. Provide remedial training and specific technical
15 assistance regarding the default.

16 C. If a State in default fails to cure the default, the defaulting
17 State may be terminated from the Compact upon an affirmative vote of
18 a majority of the Member States, and all rights, privileges and
19 benefits conferred by this Compact may be terminated on the
20 effective date of termination. A cure of the default does not
21 relieve the offending State of obligations or liabilities incurred
22 during the period of default.

23 D. Termination of membership in the Compact shall be imposed only
24 after all other means of securing compliance have been exhausted.
25 Notice of intent to suspend or terminate shall be given by the
26 Commission to the governor, the majority and minority leaders of
27 the defaulting State's legislature, and each of the Member States.

1 E. A State that has been terminated is responsible for all
2 assessments, obligations, and liabilities incurred through the
3 effective date of termination, including obligations that extend
4 beyond the effective date of termination.

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

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

14 H. Dispute Resolution

15 1. Upon request by a Member State, the Commission shall
16 attempt to resolve disputes related to the Compact that arise among
17 Member States and between member and non-Member States.

18 2. The Commission shall promulgate a Rule providing for both
19 mediation and binding dispute resolution for disputes as
20 appropriate.

21 I. Enforcement

22 1. The Commission, in the reasonable exercise of its
23 discretion, shall enforce the provisions and Rules of this Compact.

24 2. By majority vote, the Commission may initiate legal
25 action in the United States District Court for the District of
26 Columbia or the federal district where the Commission has its
27 principal offices against a Member State in default to enforce

1 compliance with the provisions of the Compact and its promulgated
2 Rules and bylaws. The relief sought may include both injunctive
3 relief and damages. In the event judicial enforcement is
4 necessary, the prevailing member shall be awarded all costs of such
5 litigation, including reasonable attorney's fees.

6 3. The remedies herein shall not be the exclusive remedies
7 of the Commission. The Commission may pursue any other remedies
8 available under federal or State law.

9 SECTION 13. DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT
10 COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

11 A. The Compact shall come into effect on the date on which the
12 Compact statute is enacted into law in the tenth Member State. The
13 provisions, which become effective at that time, shall be limited
14 to the powers granted to the Commission relating to assembly and the
15 promulgation of Rules. Thereafter, the Commission shall meet and
16 exercise Rulemaking powers necessary to the implementation and
17 administration of the Compact.

18 B. Any State that joins the Compact subsequent to the Commission's
19 initial adoption of the Rules shall be subject to the Rules as they
20 exist on the date on which the Compact becomes law in that State.
21 Any Rule that has been previously adopted by the Commission shall
22 have the full force and effect of law on the day the Compact becomes
23 law in that State.

24 C. Any Member State may withdraw from this Compact by enacting a
25 statute repealing the same.

26 1. A Member State's withdrawal shall not take effect until
27 six (6) months after enactment of the repealing statute.

1 2. Withdrawal shall not affect the continuing requirement
2 of the withdrawing State's Professional Counseling Licensing Board
3 to comply with the investigative and Adverse Action reporting
4 requirements of this act prior to the effective date of withdrawal.

5 D. Nothing contained in this Compact shall be construed to
6 invalidate or prevent any Professional Counseling licensure
7 agreement or other cooperative arrangement between a Member State
8 and a non-Member State that does not conflict with the provisions of
9 this Compact.

10 E. This Compact may be amended by the Member States. No amendment
11 to this Compact shall become effective and binding upon any Member
12 State until it is enacted into the laws of all Member States.

13 SECTION 14. CONSTRUCTION AND SEVERABILITY

14 This Compact shall be liberally construed so as to effectuate the
15 purposes thereof. The provisions of this Compact shall be
16 severable and if any phrase, clause, sentence or provision of this
17 Compact is declared to be contrary to the constitution of any Member
18 State or of the United States or the applicability thereof to any
19 government, agency, person or circumstance is held invalid, the
20 validity of the remainder of this Compact and the applicability
21 thereof to any government, agency, person or circumstance shall not
22 be affected thereby. If this Compact shall be held contrary to the
23 constitution of any Member State, the Compact shall remain in full
24 force and effect as to the remaining Member States and in full force
25 and effect as to the Member State affected as to all severable
26 matters.

27 SECTION 15. BINDING EFFECT OF COMPACT AND OTHER LAWS

1 A. A Licensee providing Professional Counseling services in a
2 Remote State under the Privilege to Practice shall adhere to the
3 laws and regulations, including scope of practice, of the Remote
4 State.

5 B. Nothing herein prevents the enforcement of any other law of a
6 Member State that is not inconsistent with the Compact.

7 C. Any laws in a Member State in conflict with the Compact are
8 superseded to the extent of the conflict.

9 D. Any lawful actions of the Commission, including all Rules and
10 bylaws properly promulgated by the Commission, are binding upon the
11 Member States.

12 E. All permissible agreements between the Commission and the
13 Member States are binding in accordance with their terms.

14 F. In the event any provision of the Compact exceeds the
15 constitutional limits imposed on the legislature of any Member
16 State, the provision shall be ineffective to the extent of the
17 conflict with the constitutional provision in question in that
18 Member State.

19 Sec. 503.502. ADMINISTRATION OF COMPACT. The executive
20 council is the Licensed Professional Counselors Compact
21 administrator for this state.

22 Sec. 503.503. RULES. The executive council may adopt rules
23 necessary to implement this subchapter.

24 SECTION 2. This Act takes effect September 1, 2023.