LLS NO. 22-0300.01 Brita Darling x2241

SENATE BILL 22-077

SENATE SPONSORSHIP
Ginal and Woodward,

HOUSE SPONSORSHIP
Larson and Young,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

CONCERNING THE ADOPTION OF AN INTERSTATE COMPACT TO ALLOW
A PERSON WHO IS A LICENSED PROFESSIONAL COUNSELOR IN
THE PERSON'S STATE OF RESIDENCE TO PRACTICE
PROFESSIONAL COUNSELING IN A COMPACT STATE IN WHICH THE
PERSON IS NOT LICENSED.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill enacts the "Interstate Licensed Professional Counselors Compact", which, once effective, will allow licensed professional

Shading denotes HOUSE amendment
Double underlining denotes SENATE amendment
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.
counselors in any state that has joined the compact (member state) to provide:

- Licensed professional counselor services in each member state under a privilege to practice; and
- Telehealth services in each member state under a privilege to practice.

The bill authorizes the state board of licensed professional counselor examiners (board) to promulgate rules and to facilitate Colorado's participation in the compact, including notification to the Counseling Compact Commission (commission) established by the compact of any adverse action taken by the board against a Colorado licensed professional counselor. The commission includes a delegate from each member state and has the powers and duties set forth in the bill. The compact becomes effective on the date the compact is enacted in the tenth member state.

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Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add part 43 to article 60 of title 24 as follows:

PART 43

INTERSTATE LICENSED PROFESSIONAL COUNSELORS COMPACT

24-60-4301. Short title. The short title of this Part 43 is the "INTERSTATE LICENSED PROFESSIONAL COUNSELORS COMPACT".

24-60-4302. Compact approved and ratified. The General Assembly hereby approves and ratifies, and the Governor shall enter into, a compact on behalf of the State of Colorado and any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

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;

B. ENHANCE THE STATES' ABILITY TO PROTECT THE PUBLIC'S
HEALTH AND SAFETY;

C. ENCOURAGE THE COOPERATION OF MEMBER STATES IN
REGULATING MULTISTATE PRACTICE FOR LICENSED PROFESSIONAL
COUNSELORS;

D. SUPPORT SPOUSES OF RELOCATING ACTIVE DUTY MILITARY
PERSONNEL;

E. ENHANCE THE EXCHANGE OF LICENSURE, INVESTIGATIVE, AND
DISCIPLINARY INFORMATION AMONG MEMBER STATES;

F. ALLOW FOR THE USE OF TELEHEALTH TECHNOLOGY TO
FACILITATE INCREASED ACCESS TO PROFESSIONAL COUNSELING SERVICES;

G. SUPPORT THE UNIFORMITY OF PROFESSIONAL COUNSELING
LICENSURE REQUIREMENTS THROUGHOUT THE STATES TO PROMOTE
PUBLIC SAFETY AND PUBLIC HEALTH BENEFITS;

H. INVEST ALL MEMBER STATES WITH THE AUTHORITY TO HOLD
A LICENSED PROFESSIONAL COUNSELOR ACCOUNTABLE FOR MEETING ALL
STATE PRACTICE LAWS IN THE STATE IN WHICH THE CLIENT IS LOCATED AT
THE TIME CARE IS RENDERED THROUGH THE MUTUAL RECOGNITION OF
MEMBER STATE LICENSES;

I. ELIMINATE THE NECESSITY FOR LICENSES IN MULTIPLE STATES;

AND

J. PROVIDE OPPORTUNITIES FOR INTERSTATE PRACTICE BY
LICENSED PROFESSIONAL COUNSELORS WHO MEET UNIFORM LICENSURE
REQUIREMENTS.

SECTION 2.
DEFINITIONS

AS USED IN THIS COMPACT, AND EXCEPT AS OTHERWISE PROVIDED,
THE FOLLOWING DEFINITIONS SHALL APPLY:

A. "ACTIVE DUTY MILITARY" MEANS FULL-TIME DUTY STATUS IN
THE ACTIVE UNIFORMED SERVICE OF THE UNITED STATES, INCLUDING
MEMBERS OF THE NATIONAL GUARD AND RESERVE ON ACTIVE DUTY
ORDERS PURSUANT TO 10 U.S.C. CHAPTERS 1209 AND 1211.

B. "ADVERSE ACTION" MEANS ANY ADMINISTRATIVE, CIVIL,
eQUITABLE, OR CRIMINAL ACTION PERMITTED BY A STATE’S LAWS WHICH
IS IMPOSED BY A LICENSING BOARD OR OTHER AUTHORITY AGAINST A
LICENSED PROFESSIONAL COUNSELOR, INCLUDING ACTIONS AGAINST AN
INDIVIDUAL’S LICENSE OR PRIVILEGE TO PRACTICE SUCH AS REVOCATION,
sUSPENSION, PROBATION, MONITORING OF THE LICENSEE, LIMITATION ON
THE LICENSEE’S PRACTICE, OR ANY OTHER ENCUMBRANCE ON LICENSURE
AFFECTING A LICENSED PROFESSIONAL COUNSELOR’S AUTHORIZATION TO
PRACTICE, INCLUDING ISSUANCE OF A CEASE AND DESIST ACTION.

C. "ALTERNATIVE PROGRAM" MEANS A NON-DISCIPLINARY
MONITORING OR PRACTICE REMEDIATION PROCESS APPROVED BY A
professional counseling licensing board to address impaired practitioners.

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

E. "Counseling Compact Commission" or "Commission" means the national administrative body whose membership consists of all states that have enacted the compact.

F. "Current Significant Investigative Information" means:

1. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the licensed professional counselor to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

2. Investigative information that indicates that the licensed professional counselor represents an immediate threat to public health and safety regardless of whether the licensed professional counselor has been notified and had an opportunity to respond.

G. "Data System" means a repository of information about licensees, including, but not limited to, continuing education, examination, licensure, investigative, privilege to practice, and adverse action information.

H. "Encumbered License" means a license in which an adverse action restricts the practice of licensed professional
COUNSELING BY THE LICENSEE AND SAID ADVERSE ACTION HAS BEEN
REPORTED TO THE NATIONAL PRACTITIONERS DATA BANK (NPDB).

I. "ENCUMBRANCE" MEANS A REVOCATION OR SUSPENSION OF, OR
ANY LIMITATION ON, THE FULL AND UNRESTRICTED PRACTICE OF LICENSED
PROFESSIONAL COUNSELING BY A LICENSING BOARD.

J. "EXECUTIVE COMMITTEE" MEANS A GROUP OF DIRECTORS
ELECTED OR APPOINTED TO ACT ON BEHALF OF, AND WITHIN THE POWERS
GRANTED TO THEM BY, THE COMMISSION.

K. "HOME STATE" MEANS THE MEMBER STATE THAT IS THE
LICENSEE'S PRIMARY STATE OF RESIDENCE.

L. "IMPAIRED PRACTITIONER" MEANS AN INDIVIDUAL WHO HAS A
CONDITION THAT MAY IMPAIR THEIR ABILITY TO PRACTICE AS A LICENSED
PROFESSIONAL COUNSELOR WITHOUT SOME TYPE OF INTERVENTION AND
MAY INCLUDE, BUT IS NOT LIMITED TO, ALCOHOL AND DRUG DEPENDENCE,
MENTAL HEALTH IMPAIRMENT, AND NEUROLOGICAL OR PHYSICAL
IMPAIRMENTS.

M. "INVESTIGATIVE INFORMATION" MEANS INFORMATION,
RECORDS, AND DOCUMENTS RECEIVED OR GENERATED BY A PROFESSIONAL
COUNSELING LICENSING BOARD PURSUANT TO AN INVESTIGATION.

N. "JURISPRUDENCE REQUIREMENT", IF REQUIRED BY A MEMBER
STATE, MEANS THE ASSESSMENT OF AN INDIVIDUAL'S KNOWLEDGE OF THE
LAWS AND RULES GOVERNING THE PRACTICE OF PROFESSIONAL
COUNSELING IN A STATE.

O. "LICENSED PROFESSIONAL COUNSELOR" MEANS A COUNSELOR
LICENSED BY A MEMBER STATE, REGARDLESS OF THE TITLE USED BY THAT
STATE, TO INDEPENDENTLY ASSESS, DIAGNOSE, AND TREAT BEHAVIORAL
HEALTH CONDITIONS.
P. "LICENSEE" MEANS AN INDIVIDUAL WHO CURRENTLY HOLDS AN
AUTHORIZATION FROM THE STATE TO PRACTICE AS A LICENSED
PROFESSIONAL COUNSELOR.

Q. "LICENSING BOARD" MEANS THE AGENCY OF A STATE, OR
EQUIVALENT, THAT IS RESPONSIBLE FOR THE LICENSING AND REGULATION
OF LICENSED PROFESSIONAL COUNSELORS.

R. "MEMBER STATE" MEANS A STATE THAT HAS ENACTED THE
COMPACT.

S. "PRIVILEGE TO PRACTICE" MEANS A LEGAL AUTHORIZATION,
WHICH IS EQUIVALENT TO A LICENSE, PERMITTING THE PRACTICE OF
PROFESSIONAL COUNSELING IN A REMOTE STATE.

T. "PROFESSIONAL COUNSELING" MEANS THE ASSESSMENT,
DIAGNOSIS, AND TREATMENT OF BEHAVIORAL HEALTH CONDITIONS BY A
LICENSED PROFESSIONAL COUNSELOR.

U. "REMOTE STATE" MEANS A MEMBER STATE OTHER THAN THE
HOME STATE, WHERE A LICENSEE IS EXERCISING OR SEEKING TO EXERCISE
THE PRIVILEGE TO PRACTICE.

V. "RULE" MEANS A REGULATION PROMULGATED BY THE
COMMISSION THAT HAS THE FORCE OF LAW.

W. "SINGLE STATE LICENSE" MEANS A LICENSED PROFESSIONAL
COUNSELOR LICENSE ISSUED BY A MEMBER STATE THAT AUTHORIZES
PRACTICE ONLY WITHIN THE ISSUING STATE AND DOES NOT INCLUDE A
PRIVILEGE TO PRACTICE IN ANY OTHER MEMBER STATE.

X. "STATE" MEANS ANY STATE, COMMONWEALTH, DISTRICT, OR
TERRITORY OF THE UNITED STATES OF AMERICA THAT REGULATES THE
PRACTICE OF PROFESSIONAL COUNSELING.

Y. "TELEHEALTH" MEANS THE APPLICATION OF
TELECOMMUNICATION TECHNOLOGY TO DELIVER PROFESSIONAL COUNSELING SERVICES REMOTELY TO ASSESS, DIAGNOSE, AND TREAT BEHAVIORAL HEALTH CONDITIONS.

Z. "UNENCUMBERED LICENSE" MEANS A LICENSE THAT AUTHORIZES A LICENSED PROFESSIONAL COUNSELOR TO ENGAGE IN THE FULL AND UNRESTRICTED PRACTICE OF PROFESSIONAL COUNSELING.

SECTION 3.

STATE PARTICIPATION IN THE COMPACT

A. TO PARTICIPATE IN THE COMPACT, A STATE MUST CURRENTLY:

1. LICENSE AND REGULATE LICENSED PROFESSIONAL COUNSELORS;

2. REQUIRE LICENSEES TO PASS A NATIONALLY RECOGNIZED EXAM APPROVED BY THE COMMISSION;

3. REQUIRE LICENSEES TO HAVE A 60 SEMESTER-HOUR (OR 90 QUARTER-HOUR) MASTER’S DEGREE IN COUNSELING OR 60 SEMESTER-HOURS (OR 90 QUARTER-HOURS) OF GRADUATE COURSE WORK, INCLUDING THE FOLLOWING TOPIC AREAS:

   a. PROFESSIONAL COUNSELING ORIENTATION AND ETHICAL PRACTICE;

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

   b. Communication between a Member State, the Commission, and among Member States regarding the
VERIFICATION OF ELIGIBILITY FOR LICENSURE THROUGH THE COMPACT SHALL NOT INCLUDE ANY INFORMATION RECEIVED FROM THE FEDERAL BUREAU OF INVESTIGATION RELATING TO A FEDERAL CRIMINAL RECORDS CHECK PERFORMED BY A MEMBER STATE UNDER PUBLIC LAW 92-544.

4. Comply with the Rules of the Commission;

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

6. Grant the privilege to practice to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules; and

7. Provide for the attendance of the state's commissioner to the Counseling Compact Commission meetings.

C. Member States may charge a fee for granting the privilege to practice.

D. Individuals not residing in a member state shall continue to be able to apply for a member state's single state license as provided under the laws of each member state. However, the single state license granted to these individuals shall not be recognized as granting a privilege to practice professional counseling in any other member state.

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, ENCUMBRANCE, OR RESTRICTION ON LICENSE TAKEN BY ANY NON-MEMBER STATE WITHIN 30 DAYS FROM THE DATE THE ACTION IS TAKEN.
B. The privilege to practice is valid until the expiration date of the home state license. The licensee must comply with the requirements of Section 4(A) to maintain the privilege to practice in the remote state.

C. A licensee providing professional counseling in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state.

D. A licensee providing professional counseling services in a remote state is subject to that state’s regulatory authority. A remote state may, in accordance with due process and that state’s laws, remove a licensee’s privilege to practice in the remote state for a specific period of time, impose fines, or take any other necessary actions to protect the health and safety of its citizens. The licensee may be ineligible for a privilege to practice in any member state until the specific time for removal has passed and all fines are paid.

E. If a home state license is encumbered, the licensee shall lose the privilege to practice in any remote state until the following occur:

1. The home state license is no longer encumbered; and
2. The licensee has not had any encumbrance or restriction against any license or privilege to practice within the previous two (2) years.

F. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of Section 4(A) to obtain a privilege to practice in
G. If a licensee's privilege to practice in any remote state is removed, the individual may lose the privilege to practice in all other remote states until the following occur:

1. The specific period of time for which the privilege to practice was removed has ended;
2. All fines have been paid; and
3. The licensee has not had any encumbrance or restriction against any license or privilege to practice within the previous two (2) years.

H. Once the requirements of Section 4(G) have been met, the licensee must meet the requirements in Section 4(A) to obtain a privilege to practice in a remote state.

SECTION 5:

OBTAINING A NEW HOME STATE LICENSE

BASED ON A PRIVILEGE TO PRACTICE

A. A licensed professional counselor may hold a home state license, which allows for a privilege to practice in other member states, in only one member state at a time.

B. If a licensed professional counselor changes primary state of residence by moving between two member states:

1. The licensed professional counselor shall file an application for obtaining a new home state license based on a privilege to practice, pay all applicable fees, and notify the current and new home state in accordance with applicable rules adopted by the Commission.
2. Upon receipt of an application for obtaining a new home state license, the new home state makes a determination whether the applicant meets the requirements for obtaining a new home state license based on a privilege to practice.
STATE LICENSE BY VIRTUE OF A PRIVILEGE TO PRACTICE, THE NEW HOME
STATE SHALL VERIFY THAT THE LICENSED PROFESSIONAL COUNSELOR
MEETS THE PERTINENT CRITERIA OUTLINED IN SECTION 4 VIA THE DATA
SYSTEM, WITHOUT NEED FOR PRIMARY SOURCE VERIFICATION EXCEPT FOR:

a. A FEDERAL BUREAU OF INVESTIGATION FINGERPRINT BASED
CRIMINAL BACKGROUND CHECK IF NOT PREVIOUSLY PERFORMED OR
UPDATED PURSUANT TO APPLICABLE RULES ADOPTED BY THE COMMISSION
IN ACCORDANCE WITH PUBLIC LAW 92-544;

b. OTHER CRIMINAL BACKGROUND CHECK AS REQUIRED BY THE
NEW HOME STATE; AND

c. COMPLETION OF ANY REQUISITE JURISPRUDENCE
REQUIREMENTS OF THE NEW HOME STATE.

3. THE FORMER HOME STATE SHALL CONVERT THE FORMER HOME
STATE LICENSE INTO A PRIVILEGE TO PRACTICE ONCE THE NEW HOME
STATE HAS ACTIVATED THE NEW HOME STATE LICENSE IN ACCORDANCE
WITH APPLICABLE RULES ADOPTED BY THE COMMISSION.

4. NOTWITHSTANDING ANY OTHER PROVISION OF THIS COMPACT,
IF THE LICENSED PROFESSIONAL COUNSELOR CANNOT MEET THE CRITERIA
IN SECTION 4, THE NEW HOME STATE MAY APPLY ITS REQUIREMENTS FOR
ISSUING A NEW SINGLE STATE LICENSE.

5. THE LICENSED PROFESSIONAL COUNSELOR SHALL PAY ALL
APPLICABLE FEES TO THE NEW HOME STATE IN ORDER TO BE ISSUED A NEW
HOME STATE LICENSE.

C. IF A LICENSED PROFESSIONAL COUNSELOR CHANGES PRIMARY
STATE OF RESIDENCE BY MOVING FROM A MEMBER STATE TO A
NON-MEMBER STATE, OR FROM A NON-MEMBER STATE TO A MEMBER
STATE, THE STATE CRITERIA SHALL APPLY FOR ISSUANCE OF A SINGLE
STATE LICENSE IN THE NEW STATE.

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

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

SECTION 6.

ACTIVE DUTY MILITARY PERSONNEL
OR THEIR SPOUSES

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

SECTION 7.

COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Section 3 and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission.
B. A LICENSEE PROVIDING PROFESSIONAL COUNSELING SERVICES
IN A REMOTE STATE UNDER THE PRIVILEGE TO PRACTICE SHALL ADHERE
TO THE LAWS AND REGULATIONS OF THE REMOTE STATE.

SECTION 8.

ADVERSE ACTIONS

A. IN ADDITION TO THE OTHER POWERS CONFERRED BY STATE
LAW, A REMOTE STATE SHALL HAVE THE AUTHORITY, IN ACCORDANCE
WITH EXISTING STATE DUE PROCESS LAW, TO:

1. TAKE ADVERSE ACTION AGAINST A LICENSED PROFESSIONAL
COUNSELOR'S PRIVILEGE TO PRACTICE WITHIN THAT MEMBER STATE, AND

2. ISSUE SUBPOENAS FOR BOTH HEARINGS AND INVESTIGATIONS
THAT REQUIRE THE ATTENDANCE AND TESTIMONY OF WITNESSES AS WELL
AS THE PRODUCTION OF EVIDENCE. SUBPOENAS ISSUED BY A LICENSING
BOARD IN A MEMBER STATE FOR THE ATTENDANCE AND TESTIMONY OF
WITNESSES OR THE PRODUCTION OF EVIDENCE FROM ANOTHER MEMBER
STATE SHALL BE ENFORCED IN THE LATTER STATE BY ANY COURT OF
COMPETENT JURISDICTION, ACCORDING TO THE PRACTICE AND PROCEDURE
OF THAT COURT APPLICABLE TO SUBPOENAS ISSUED IN PROCEEDINGS
PENDING BEFORE IT. THE ISSUING AUTHORITY SHALL PAY ANY WITNESS
FEES, TRAVEL EXPENSES, MILEAGE, AND OTHER FEES REQUIRED BY THE
SERVICE STATUTES OF THE STATE IN WHICH THE WITNESSES OR EVIDENCE
IS LOCATED.

3. ONLY THE HOME STATE SHALL HAVE THE POWER TO TAKE
ADVERSE ACTION AGAINST A LICENSED PROFESSIONAL COUNSELOR'S
LICENSE ISSUED BY THE HOME STATE.

B. FOR PURPOSES OF TAKING ADVERSE ACTION, THE HOME STATE
SHALL GIVE THE SAME PRIORITY AND EFFECT TO REPORTED CONDUCT
RECEIVED FROM A MEMBER STATE AS IT WOULD IF THE CONDUCT HAD OCCURRED WITHIN THE HOME STATE. IN SO DOING, THE HOME STATE SHALL APPLY ITS OWN STATE LAWS TO DETERMINE APPROPRIATE ACTION.

C. THE HOME STATE SHALL COMPLETE ANY PENDING INVESTIGATIONS OF A LICENSED PROFESSIONAL COUNSELOR WHO CHANGES PRIMARY STATE OF RESIDENCE DURING THE COURSE OF THE INVESTIGATIONS. THE HOME STATE SHALL ALSO HAVE THE AUTHORITY TO TAKE APPROPRIATE ACTION(S) AND SHALL PROMPTLY REPORT THE CONCLUSIONS OF THE INVESTIGATIONS TO THE ADMINISTRATOR OF THE DATA SYSTEM. THE ADMINISTRATOR OF THE COORDINATED LICENSURE INFORMATION SYSTEM SHALL PROMPTLY NOTIFY THE NEW HOME STATE OF ANY ADVERSE ACTIONS.

D. A MEMBER STATE, IF OTHERWISE PERMITTED BY STATE LAW, MAY RECOVER FROM THE AFFECTED LICENSED PROFESSIONAL COUNSELOR THE COSTS OF INVESTIGATIONS AND DISPOSITIONS OF CASES RESULTING FROM ANY ADVERSE ACTION TAKEN AGAINST THAT LICENSED PROFESSIONAL COUNSELOR.

E. A MEMBER STATE MAY TAKE ADVERSE ACTION BASED ON THE FACTUAL FINDINGS OF THE REMOTE STATE, PROVIDED THAT THE MEMBER STATE FOLLOWS ITS OWN PROCEDURES FOR TAKING THE ADVERSE ACTION.

F. JOINT INVESTIGATIONS:

1. IN ADDITION TO THE AUTHORITY GRANTED TO A MEMBER STATE BY ITS RESPECTIVE PROFESSIONAL COUNSELING PRACTICE ACT OR OTHER APPLICABLE STATE LAW, ANY MEMBER STATE MAY PARTICIPATE WITH OTHER MEMBER STATES IN JOINT INVESTIGATIONS OF LICENSEES.

2. MEMBER STATES SHALL SHARE ANY INVESTIGATIVE,
LITIGATION, OR COMPLIANCE MATERIALS IN FURTHERANCE OF ANY JOINT
OR INDIVIDUAL INVESTIGATION INITIATED UNDER THE COMPACT.

G. IF ADVERSE ACTION IS TAKEN BY THE HOME STATE AGAINST
THE LICENSE OF A LICENSED PROFESSIONAL COUNSELOR, THE LICENSED
PROFESSIONAL COUNSELOR’S PRIVILEGE TO PRACTICE IN ALL OTHER
MEMBER STATES SHALL BE DEACTIVATED UNTIL ALL ENCUMBRANCES
HAVE BEEN REMOVED FROM THE STATE LICENSE. ALL HOME STATE
DISCIPLINARY ORDERS THAT IMPOSE ADVERSE ACTION AGAINST THE
LICENSE OF A LICENSED PROFESSIONAL COUNSELOR SHALL INCLUDE A
STATEMENT THAT THE LICENSED PROFESSIONAL COUNSELOR’S PRIVILEGE
to practice is deactivated in all Member States during the
pendency of the order.

H. IF A MEMBER STATE TAKES ADVERSE ACTION, IT SHALL
PROMPTLY NOTIFY THE ADMINISTRATOR OF THE DATA SYSTEM. THE
ADMINISTRATOR OF THE DATA SYSTEM SHALL PROMPTLY NOTIFY THE
HOME STATE OF ANY ADVERSE ACTIONS BY REMOTE STATES.

I. NOTHING IN THIS COMPACT SHALL OVERRIDE A MEMBER
STATE’S DECISION THAT PARTICIPATION IN AN ALTERNATIVE PROGRAM
MAY BE USED IN LIEU OF ADVERSE ACTION.

SECTION 9.

ESTABLISHMENT OF COUNSELING

COMPACT COMMISSION

A. THE COMPACT MEMBER STATES HEREBY CREATE AND
ESTABLISH A JOINT PUBLIC AGENCY KNOWN AS THE COUNSELING
COMPACT COMMISSION:

1. THE COMMISSION IS AN INSTRUMENTALITY OF THE COMPACT
STATES.
2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

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

B. Membership, Voting, and Meetings

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

2. The delegate shall be either:
   a. A current member of the Licensing Board at the time of appointment, who is a Licensed Professional Counselor or public member; or
   b. An administrator of the Licensing Board.

3. Any delegate may be removed or suspended from office as provided by the law of the State from which the delegate is appointed.

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

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

6. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates'
PARTICIPATION IN MEETINGS BY TELEPHONE OR OTHER MEANS OF COMMUNICATION.

7. THE COMMISSION SHALL MEET AT LEAST ONCE DURING EACH CALENDAR YEAR. ADDITIONAL MEETINGS SHALL BE HELD AS SET FORTH IN THE BYLAWS.

8. THE COMMISSION SHALL BY RULE ESTABLISH A TERM OF OFFICE FOR DELEGATES AND MAY BY RULE ESTABLISH TERM LIMITS.

C. THE COMMISSION SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

1. ESTABLISH THE FISCAL YEAR OF THE COMMISSION;

2. ESTABLISH BYLAWS;

3. MAINTAIN ITS FINANCIAL RECORDS IN ACCORDANCE WITH THE BYLAWS;

4. MEET AND TAKE SUCH ACTIONS AS ARE CONSISTENT WITH THE PROVISIONS OF THIS COMPACT AND THE BYLAWS;

5. PROMULGATE RULES WHICH SHALL BE BINDING TO THE EXTENT AND IN THE MANNER PROVIDED FOR IN THE COMPACT;

6. BRING AND PROSECUTE LEGAL PROCEEDINGS OR ACTIONS IN THE NAME OF THE COMMISSION, PROVIDED THAT THE STANDING OF ANY STATE LICENSING BOARD TO SUE OR BE SUED UNDER APPLICABLE LAW SHALL NOT BE AFFECTED;

7. PURCHASE AND MAINTAIN INSURANCE AND BONDS;

8. BORROW, ACCEPT, OR CONTRACT FOR SERVICES OF PERSONNEL, INCLUDING, BUT NOT LIMITED TO, EMPLOYEES OF A MEMBER STATE;

9. HIRE EMPLOYEES, ELECT OR APPOINT OFFICERS, FIX COMPENSATION, DEFINE DUTIES, GRANT SUCH INDIVIDUALS APPROPRIATE AUTHORITY TO CARRY OUT THE PURPOSES OF THE COMPACT, AND
ESTABLISH THE COMMISSION'S PERSONNEL POLICIES AND PROGRAMS
RELATING TO CONFLICTS OF INTEREST, QUALIFICATIONS OF PERSONNEL,
AND OTHER RELATED PERSONNEL MATTERS;

10. ACCEPT ANY AND ALL APPROPRIATE DONATIONS AND GRANTS
OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS, AND SERVICES, AND TO
receive, utilize, and dispose of the same; provided that at all
times the Commission shall avoid any appearance of impropriety
or conflict of interest;

11. LEASE, PURCHASE, ACCEPT APPROPRIATE GIFTS OR DONATIONS
OF, OR OTHERWISE TO OWN, HOLD, IMPROVE OR USE, ANY PROPERTY, REAL,
PERSONAL OR MIXED; PROVIDED THAT AT ALL TIMES THE COMMISSION
SHALL AVOID ANY APPEARANCE OF IMPROPRIETY;

12. SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE,
ABANDON, OR OTHERWISE DISPOSE OF ANY PROPERTY REAL, PERSONAL, OR
MIXED;

13. ESTABLISH A BUDGET AND MAKE EXPENDITURES;

14. BORROW MONEY;

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
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, 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:**
   
   a. **Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact Member States such as annual dues, and any Commission Compact fee charged to licensees for the privilege to practice;**
   
   b. **Ensure Compact administration services are appropriately provided, contractual or otherwise;**
   
   c. **Prepare and recommend the budget;**
   
   d. **Maintain financial records on behalf of the"
COMMISSION;

e. MONITOR COMPACT COMPLIANCE OF MEMBER STATES AND PROVIDE COMPLIANCE REPORTS TO THE COMMISSION;
f. ESTABLISH ADDITIONAL COMMITTEES AS NECESSARY; AND
g. OTHER DUTIES AS PROVIDED IN RULES OR BYLAWS.

E. MEETINGS OF THE COMMISSION


2. THE COMMISSION OR THE EXECUTIVE COMMITTEE OR OTHER COMMITTEES OF THE COMMISSION MAY CONVENE IN A CLOSED, NON-PUBLIC MEETING IF THE COMMISSION OR EXECUTIVE COMMITTEE OR OTHER COMMITTEES OF THE COMMISSION MUST DISCUSS:

a. NON-COMPLIANCE OF A MEMBER STATE WITH ITS OBLIGATIONS UNDER THE COMPACT;

b. THE EMPLOYMENT, COMPENSATION, DISCIPLINE, OR OTHER MATTERS, PRACTICES, OR PROCEDURES RELATED TO SPECIFIC EMPLOYEES OR OTHER MATTERS RELATED TO THE COMMISSION'S INTERNAL PERSONNEL PRACTICES AND PROCEDURES;

c. CURRENT, THREATENED, OR REASONABLY ANTICIPATED LITIGATION;

d. NEGOTIATION OF CONTRACTS FOR THE PURCHASE, LEASE, OR SALE OF GOODS, SERVICES, OR REAL ESTATE;

e. ACCUSING ANY PERSON OF A CRIME OR FORMALLY CENSURING ANY PERSON;

f. DISCLOSURE OF TRADE SECRETS OR COMMERCIAL OR FINANCIAL INFORMATION THAT IS PRIVILEGED OR CONFIDENTIAL;
g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

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

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

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

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

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

F. Financing of the Commission

1. The Commission shall pay, or provide for the payment
OF, THE REASONABLE EXPENSES OF ITS ESTABLISHMENT, ORGANIZATION, AND ONGOING ACTIVITIES.

2. THE COMMISSION MAY ACCEPT ANY AND ALL APPROPRIATE REVENUE SOURCES, DONATIONS, AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS, AND SERVICES.

3. THE COMMISSION MAY LEVY ON AND COLLECT AN ANNUAL ASSESSMENT FROM EACH MEMBER STATE OR IMPOSE FEES ON OTHER PARTIES TO COVER THE COST OF THE OPERATIONS AND ACTIVITIES OF THE COMMISSION AND ITS STAFF, WHICH MUST BE IN A TOTAL AMOUNT SUFFICIENT TO COVER ITS ANNUAL BUDGET AS APPROVED EACH YEAR FOR WHICH REVENUE IS NOT PROVIDED BY OTHER SOURCES. THE AGGREGATE ANNUAL ASSESSMENT AMOUNT SHALL BE ALLOCATED BASED UPON A FORMULA TO BE DETERMINED BY THE COMMISSION, WHICH SHALL PROMULGATE A RULE BINDING UPON ALL MEMBER STATES.

4. THE COMMISSION SHALL NOT INCUR OBLIGATIONS OF ANY KIND PRIOR TO SECURING THE FUNDS ADEQUATE TO MEET THE SAME; NOR SHALL THE COMMISSION PLEDGE THE CREDIT OF ANY OF THE MEMBER STATES, EXCEPT BY AND WITH THE AUTHORITY OF THE MEMBER STATE.


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

2. The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any
MEMBER, OFFICER, EXECUTIVE DIRECTOR, EMPLOYEE, OR REPRESENTATIVE
OF THE COMMISSION FOR THE AMOUNT OF ANY SETTLEMENT OR JUDGMENT
OBTAINED AGAINST THAT PERSON ARISING OUT OF ANY ACTUAL OR
ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE
OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT
SUCH PERSON HAD A REASONABLE BASIS FOR BELIEVING OCCURRED
WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR
RESPONSIBILITIES, PROVIDED THAT THE ACTUAL OR ALLEGED ACT, ERROR,
OR OMISSION DID NOT RESULT FROM THE INTENTIONAL OR WILLFUL OR
WANTON MISCONDUCT OF THAT PERSON.

SECTION 10.
DATA SYSTEM

A. THE COMMISSION SHALL PROVIDE FOR THE DEVELOPMENT,
MAINTENANCE, OPERATION, AND UTILIZATION OF A COORDINATED
DATABASE AND REPORTING SYSTEM CONTAINING LICENSURE, ADVERSE
ACTION, AND INVESTIGATIVE INFORMATION ON ALL LICENSED
INDIVIDUALS IN MEMBER STATES.

B. NOTWITHSTANDING ANY OTHER PROVISION OF STATE LAW TO
THE CONTRARY, A MEMBER STATE SHALL SUBMIT A UNIFORM DATA SET
TO THE DATA SYSTEM ON ALL INDIVIDUALS TO WHOM THIS COMPACT IS
APPLICABLE AS REQUIRED BY THE RULES OF THE COMMISSION, INCLUDING:

1. IDENTIFYING INFORMATION;
2. LICENSURE DATA;
3. ADVERSE ACTIONS AGAINST A LICENSE OR PRIVILEGE TO
PRACTICE;
4. NON-CONFIDENTIAL INFORMATION RELATED TO ALTERNATIVE
PROGRAM PARTICIPATION;
5. Any denial of application for licensure, and the reason(s) for such denial;
6. Current significant investigatory information; and
7. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. Investigative information pertaining to a licensee in any Member State will only be available to other Member States.

D. The Commission shall promptly notify all Member States of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any Member State will be available to any other Member State.

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

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

SECTION 11.

RULEMAKING

A. The Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purpose of the Compact. Notwithstanding the foregoing, in the event the
COMMISSION exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force or effect.

B. The Commission shall exercise its rule-making powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

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

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

E. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rule-making:

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

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

F. The Notice of Proposed Rule-making shall include:
1. THE PROPOSED TIME, DATE, AND LOCATION OF THE MEETING IN
   WHICH THE RULE WILL BE CONSIDERED AND VOTED UPON;

2. THE TEXT OF THE PROPOSED RULE OR AMENDMENT AND THE
   REASON FOR THE PROPOSED RULE;

3. A REQUEST FOR COMMENTS ON THE PROPOSED RULE FROM ANY
   INTERESTED PERSON; AND

4. THE MANNER IN WHICH INTERESTED PERSONS MAY SUBMIT
   NOTICE TO THE COMMISSION OF THEIR INTENTION TO ATTEND THE PUBLIC
   HEARING AND ANY WRITTEN COMMENTS.

G. PRIOR TO ADOPTION OF A PROPOSED RULE, THE COMMISSION
   SHALL ALLOW PERSONS TO SUBMIT WRITTEN DATA, FACTS, OPINIONS, AND
   ARGUMENTS, WHICH SHALL BE MADE AVAILABLE TO THE PUBLIC.

H. THE COMMISSION SHALL GRANT AN OPPORTUNITY FOR A PUBLIC
   HEARING BEFORE IT ADOPTS A RULE OR AMENDMENT IF A HEARING IS
   REQUESTED BY:

1. AT LEAST TWENTY-FIVE (25) PERSONS;

2. A STATE OR FEDERAL GOVERNMENTAL SUBDIVISION OR
   AGENCY; OR

3. AN ASSOCIATION HAVING AT LEAST TWENTY-FIVE (25)
   MEMBERS.

I. IF A HEARING IS HELD ON THE PROPOSED RULE OR AMENDMENT,
   THE COMMISSION SHALL PUBLISH THE PLACE, TIME, AND DATE OF THE
   SCHEDULED PUBLIC HEARING. IF THE HEARING IS HELD VIA ELECTRONIC
   MEANS, THE COMMISSION SHALL PUBLISH THE MECHANISM FOR ACCESS TO
   THE ELECTRONIC HEARING.

1. ALL PERSONS WISHING TO BE HEARD AT THE HEARING SHALL
   NOTIFY THE EXECUTIVE DIRECTOR OF THE COMMISSION OR OTHER
DESIGNATED MEMBER IN WRITING OF THEIR DESIRE TO APPEAR AND TESTIFY AT THE HEARING NOT LESS THAN FIVE (5) BUSINESS DAYS BEFORE THE SCHEDULED DATE OF THE HEARING.

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

3. All hearings will be recorded. A copy of the recording will be made available on request.

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

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

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

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

M. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule without prior notice, opportunity for comment, or hearing, provided that
THE USUAL RULE-MAKING PROCEDURES PROVIDED IN THE COMPACT AND IN THIS SECTION SHALL BE RETROACTIVELY APPLIED TO THE RULE AS SOON AS REASONABLY POSSIBLE, IN NO EVENT LATER THAN NINETY (90) DAYS AFTER THE EFFECTIVE DATE OF THE RULE. FOR THE PURPOSES OF THIS PROVISION, AN EMERGENCY RULE IS ONE THAT MUST BE ADOPTED IMMEDIATELY IN ORDER TO:

1. MEET AN IMMINENT THREAT TO PUBLIC HEALTH, SAFETY, OR WELFARE;

2. PREVENT A LOSS OF COMMISSION OR MEMBER STATE FUNDS;

3. MEET A DEADLINE FOR THE PROMULGATION OF AN ADMINISTRATIVE RULE THAT IS ESTABLISHED BY FEDERAL LAW OR RULE;

OR

4. PROTECT PUBLIC HEALTH AND SAFETY.

N. THE COMMISSION OR AN AUTHORIZED COMMITTEE OF THE COMMISSION MAY DIRECT REVISIONS TO A PREVIOUSLY ADOPTED RULE OR AMENDMENT FOR PURPOSES OF CORRECTING TYPOGRAPHICAL ERRORS, ERRORS IN FORMAT, ERRORS IN CONSISTENCY, OR GRAMMATICAL ERRORS. PUBLIC NOTICE OF ANY REVISIONS SHALL BE POSTED ON THE WEBSITE OF THE COMMISSION. THE REVISION SHALL BE SUBJECT TO CHALLENGE BY ANY PERSON FOR A PERIOD OF THIRTY (30) DAYS AFTER POSTING. THE REVISION MAY BE CHALLENGED ONLY ON GROUNDS THAT THE REVISION RESULTS IN A MATERIAL CHANGE TO A RULE. A CHALLENGE SHALL BE MADE IN WRITING AND DELIVERED TO THE EXECUTIVE DIRECTOR OF THE COMMISSION PRIOR TO THE END OF THE NOTICE PERIOD. IF NO CHALLENGE IS MADE, THE REVISION WILL TAKE EFFECT WITHOUT FURTHER ACTION. IF THE REVISION IS CHALLENGED, THE REVISION MAY NOT TAKE EFFECT WITHOUT THE APPROVAL OF THE COMMISSION.
SECTION 12.
OVERSIGHT, DISPUTE RESOLUTION,
AND ENFORCEMENT

A. Oversight

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

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

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

B. Default, Technical Assistance, and Termination

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

   a. Provide written notice to the defaulting State and
OTHER MEMBER STATES OF THE NATURE OF THE DEFAULT, THE PROPOSED MEANS OF CURING THE DEFAULT, AND ANY OTHER ACTION TO BE TAKEN BY THE COMMISSION; AND

b. PROVIDE REMEDIAL TRAINING AND SPECIFIC TECHNICAL ASSISTANCE REGARDING THE DEFAULT.

C. IF A STATE IN DEFAULT FAILS TO CURE THE DEFAULT, THE DEFAULTING STATE MAY BE TERMINATED FROM THE COMPACT UPON AN AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBER STATES, AND ALL RIGHTS, PRIVILEGES AND BENEFITS CONFERRED BY THIS COMPACT MAY BE TERMINATED ON THE EFFECTIVE DATE OF TERMINATION. A CURE OF THE DEFAULT DOES NOT RELIEVE THE OFFENDING STATE OF OBLIGATIONS OR LIABILITIES INCURRED DURING THE PERIOD OF DEFAULT.

D. TERMINATION OF MEMBERSHIP IN THE COMPACT SHALL BE IMPOSED ONLY AFTER ALL OTHER MEANS OF SECURING COMPLIANCE HAVE BEEN EXHAUSTED. NOTICE OF INTENT TO SUSPEND OR TERMINATE SHALL BE GIVEN BY THE COMMISSION TO THE GOVERNOR, THE MAJORITY AND MINORITY LEADERS OF THE DEFAULTING STATE'S LEGISLATURE, AND EACH OF THE MEMBER STATES.

E. A STATE THAT HAS BEEN TERMINATED IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLIGATIONS, AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF TERMINATION, INCLUDING OBLIGATIONS THAT EXTEND BEYOND THE EFFECTIVE DATE OF TERMINATION.

F. THE COMMISSION SHALL NOT BEAR ANY COSTS RELATED TO A STATE THAT IS FOUND TO BE IN DEFAULT OR THAT HAS BEEN TERMINATED FROM THE COMPACT, UNLESS AGREED UPON IN WRITING BETWEEN THE COMMISSION AND THE DEFAULTING STATE.

G. THE DEFAULTING STATE MAY APPEAL THE ACTION OF THE
COMMISSION BY PETITIONING THE U.S. DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA OR THE FEDERAL DISTRICT WHERE THE
COMMISSION HAS ITS PRINCIPAL OFFICES. THE PREVAILING MEMBER SHALL
BE AWARDED ALL COSTS OF SUCH LITIGATION, INCLUDING REASONABLE
ATTORNEY'S FEES.

H. DISPUTE RESOLUTION

1. UPON REQUEST BY A MEMBER STATE, THE COMMISSION SHALL
ATTEMPT TO RESOLVE DISPUTES RELATED TO THE COMPACT THAT ARISE
AMONG MEMBER STATES AND BETWEEN MEMBER AND NON-MEMBER
STATES.

2. THE COMMISSION SHALL PROMULGATE A RULE PROVIDING FOR
BOTH MEDIATION AND BINDING DISPUTE RESOLUTION FOR DISPUTES AS
APPROPRIATE.

I. ENFORCEMENT

1. THE COMMISSION, IN THE REASONABLE EXERCISE OF ITS
DISCRETION, SHALL ENFORCE THE PROVISIONS AND RULES OF THIS
COMPACT.

2. BY MAJORITY VOTE, THE COMMISSION MAY INITIATE LEGAL
ACTION IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
COLUMBIA OR THE FEDERAL DISTRICT WHERE THE COMMISSION HAS ITS
PRINCIPAL OFFICES AGAINST A MEMBER STATE IN DEFAULT TO ENFORCE
COMPLIANCE WITH THE PROVISIONS OF THE COMPACT AND ITS
PROMULGATED RULES AND BYLAWS. THE RELIEF SOUGHT MAY INCLUDE
BOTH INJUNCTIVE RELIEF AND DAMAGES. IN THE EVENT JUDICIAL
ENFORCEMENT IS NECESSARY, THE PREVAILING MEMBER SHALL BE
AWARDED ALL COSTS OF SUCH LITIGATION, INCLUDING REASONABLE
ATTORNEY'S FEES.
3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

SECTION 13.

DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the Tenth Member State. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any State that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that State. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State.

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

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

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Professional
COUNSELING LICENSING BOARD TO COMPLY WITH THE INVESTIGATIVE
AND ADVERSE ACTION REPORTING REQUIREMENTS OF THIS COMPACT
PRIOR TO THE EFFECTIVE DATE OF WITHDRAWAL.

D. NOTHING CONTAINED IN THIS COMPACT SHALL BE CONSTRUED
TO INVALIDATE OR PREVENT ANY PROFESSIONAL COUNSELING LICENSURE
AGREEMENT OR OTHER COOPERATIVE ARRANGEMENT BETWEEN A
MEMBER STATE AND A NON-MEMBER STATE THAT DOES NOT CONFLICT
WITH THE PROVISIONS OF THIS COMPACT.

E. THIS COMPACT MAY BE AMENDED BY THE MEMBER STATES. NO
AMENDMENT TO THIS COMPACT SHALL BECOME EFFECTIVE AND BINDING
UPON ANY MEMBER STATE UNTIL IT IS ENACTED INTO THE LAWS OF ALL
MEMBER STATES.

SECTION 14.
CONSTRUCTION AND SEVERABILITY

THIS COMPACT SHALL BE LIBERALLY CONSTRUED SO AS TO
EFFECTUATE THE PURPOSES THEREOF. THE PROVISIONS OF THIS COMPACT
SHALL BE SEVERABLE AND IF ANY PHRASE, CLAUSE, SENTENCE, OR
PROVISION OF THIS COMPACT IS DECLARED TO BE CONTRARY TO THE
CONSTITUTION OF ANY MEMBER STATE OR OF THE UNITED STATES OR THE
APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON, OR
CIRCUMSTANCE IS HELD INVALID, THE VALIDITY OF THE REMAINDER OF
THIS COMPACT AND THE APPLICABILITY THEREOF TO ANY GOVERNMENT,
AGENCY, PERSON, OR CIRCUMSTANCE SHALL NOT BE AFFECTED THEREBY.
IF THIS COMPACT SHALL BE HELD CONTRARY TO THE CONSTITUTION OF
ANY MEMBER STATE, THE COMPACT SHALL REMAIN IN FULL FORCE AND
EFFECT AS TO THE REMAINING MEMBER STATES AND IN FULL FORCE AND
EFFECT AS TO THE MEMBER STATE AFFECTED AS TO ALL SEVERABLE
MATTERS.

SECTION 15.

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. A LICENSEE PROVIDING PROFESSIONAL COUNSELING SERVICES IN A REMOTE STATE UNDER THE PRIVILEGE TO PRACTICE SHALL ADHERE TO THE LAWS AND REGULATIONS, INCLUDING SCOPE OF PRACTICE, OF THE REMOTE STATE.

B. NOTHING HEREIN PREVENTS THE ENFORCEMENT OF ANY OTHER LAW OF A MEMBER STATE THAT IS NOT INCONSISTENT WITH THE COMPACT.

C. ANY LAWS IN A MEMBER STATE IN CONFLICT WITH THE COMPACT ARE SUPERSEDED TO THE EXTENT OF THE CONFLICT.

D. ANY LAWFUL ACTIONS OF THE COMMISSION, INCLUDING ALL RULES AND BYLAWS PROPERLY PROMULGATED BY THE COMMISSION, ARE BINDING UPON THE MEMBER STATES.

E. ALL PERMISSIBLE AGREEMENTS BETWEEN THE COMMISSION AND THE MEMBER STATES ARE BINDING IN ACCORDANCE WITH THEIR TERMS.

F. IN THE EVENT ANY PROVISION OF THE COMPACT EXCEEDS THE CONSTITUTIONAL LIMITS IMPOSED ON THE LEGISLATURE OF ANY MEMBER STATE, THE PROVISION SHALL BE INEFFECTIVE TO THE EXTENT OF THE CONFLICT WITH THE CONSTITUTIONAL PROVISION IN QUESTION IN THAT MEMBER STATE.

24-60-4303. Construction of terms. (1) AS USED IN THIS PART 43, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "LICENSE" MEANS A LICENSE ISSUED PURSUANT TO SECTION 12-245-604.
(b) "LICENSED", "LICENSING", AND "LICENSURE" HAVE MEANINGS THAT CORRESPOND TO THE DEFINITION ESTABLISHED IN SUBSECTION (1)(a) OF THIS SECTION.

(c) "LICENSING BOARD" MEANS, WITH RESPECT TO COLORADO, THE STATE BOARD OF LICENSED PROFESSIONAL COUNSELOR EXAMINERS CREATED IN SECTION 12-245-602.

24-60-4304. Notice to revisor of statutes - effective date of compact. This Part 43 will take effect on the date the compact is enacted into law in the Tenth Compact State. The Director of the Division of Professions and Occupations in the Department of Regulatory Agencies shall notify the Revisor of Statutes in writing when the condition specified in this section has occurred by e-mailing the notice to revisorofstatutes.ga@state.co.us. This Part 43 takes effect upon the date identified in the notice that the compact is enacted into law in the Tenth Compact State.

SECTION 2. In Colorado Revised Statutes, add 12-245-607 as follows:

12-245-607. Interstate compact - powers and duties of the board - rules - definitions. (1) AS USED IN THIS SECTION:

(a) "ADVERSE ACTION" HAS THE MEANING ESTABLISHED IN SECTION 24-60-4302.

(b) "COMMISSION" MEANS THE COUNSELING COMPACT COMMISSION ESTABLISHED IN SECTION 24-60-4302.

(c) "COMPACT" MEANS THE INTERSTATE LICENSED PROFESSIONAL COUNSELORS COMPACT AUTHORIZED IN PART 43 OF ARTICLE 60 OF TITLE 24.

(d) "DATA SYSTEM" HAS THE MEANING ESTABLISHED IN SECTION
24-60-4302.

(e) "INVESTIGATIVE INFORMATION" HAS THE MEANING ESTABLISHED IN SECTION 24-60-4302.

(f) "MEMBER STATE" MEANS A STATE THAT HAS ENACTED THE COMPACT.

(g) "PRIVILEGE TO PRACTICE" HAS THE MEANING ESTABLISHED IN SECTION 24-60-4302.

(h) "TELEHEALTH" HAS THE MEANING ESTABLISHED IN SECTION 24-60-4302 WITH REGARD TO DELIVERING PROFESSIONAL COUNSELING SERVICES.

(2) IN ADDITION TO ANY POWERS AND DUTIES SPECIFIED IN THE COMPACT FOR MEMBER STATES, THE BOARD HAS THE FOLLOWING POWERS AND DUTIES WITH REGARD TO THE COMPACT:

(a) TO FACILITATE COLORADO'S PARTICIPATION IN THE COMPACT;

(b) TO COMPLY WITH THE RULES OF THE COMMISSION;

(c) TO PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24 AS NECESSARY FOR THE IMPLEMENTATION, ADMINISTRATION, AND ENFORCEMENT OF THE COMPACT;

(d) TO APPOINT A PERSON TO SERVE AS A DELEGATE ON AND ATTEND MEETINGS OF THE COMMISSION IN ACCORDANCE WITH THE TERMS OF THE COMPACT;

(e) TO REGULATE TELEHEALTH IN ACCORDANCE WITH THE COMPACT;

(f) TO NOTIFY THE COMMISSION, IN COMPLIANCE WITH THE TERMS OF THE COMPACT AND COMMISSION RULES, OF ANY ADVERSE ACTION OR THE AVAILABILITY OF INVESTIGATIVE INFORMATION REGARDING A LICENSED PROFESSIONAL COUNSELOR;
(g) To require a licensee from a member state applying for a privilege to practice under the compact to have the applicant's fingerprints taken by a local law enforcement agency or any third party approved by the Colorado Bureau of Investigation for the purpose of obtaining a fingerprint-based criminal history record check. The applicant is required to submit payment for the fingerprints and for the actual costs of the record check at the time the fingerprints are submitted to the Colorado Bureau of Investigation. Upon receipt of the fingerprints and receipt of the payment for costs, the Colorado Bureau of Investigation shall conduct a state and national fingerprint-based criminal history record check utilizing records of the Colorado Bureau of Investigation and the Federal Bureau of Investigation and shall forward the results of the record check to the board. The board shall use the information resulting from the record check to investigate and determine whether an applicant is qualified to hold a privilege to practice pursuant to the compact. The board may verify the information an applicant is required to submit. The results of the record check are confidential. The board shall not release the results of the record check to the public, the commission, a member state, or other state licensing boards.

(h) To grant the privilege to practice to a licensee of a member state of the compact in accordance with the terms of the compact and to charge a fee to individuals applying for the privilege to practice;

(i) To participate fully in the data system consistent with
THE COMPACT REQUIREMENTS AND THE RULES OF THE COMMISSION; AND

(j) To approve payment of assessments levied by the
commission to cover the cost of operations and activities of the
commission and its staff.

SECTION 3. Act subject to petition - effective date. This act
takes effect at 12:01 a.m. on the day following the expiration of the
ninety-day period after final adjournment of the general assembly; except
that, if a referendum petition is filed pursuant to section 1(3) of article V
of the state constitution against this act or an item, section, or part of this
act within such period, then the act, item, section, or part will not take
effect unless approved by the people at the general election to be held in
November 2022 and, in such case, will take effect on the date of the
official declaration of the vote thereon by the governor.