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SENATE BILL

**56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

INTRODUCED BY

Antonio Maestas

AN ACT

RELATING TO PROFESSIONAL LICENSURE; ENACTING THE COUNSELING  
COMPACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1. [NEW MATERIAL] COUNSELING COMPACT ENTERED**

INTO.--The Counseling Compact is entered into law and entered  
into with all other jurisdictions legally joining therein in a  
form substantially as follows:

"Counseling Compact

**SECTION 1 -- PURPOSE**

The purpose of this compact is to facilitate the  
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

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1 counseling services. The compact preserves the regulatory  
2 authority of states to protect public health and safety through  
3 the current system of state licensure.

4 This compact is designed to achieve the following  
5 objectives:

6 A. increase public access to professional  
7 counseling services by providing for the mutual recognition of  
8 other member state licenses;

9 B. enhance the states' ability to protect the  
10 public's health and safety;

11 C. encourage the cooperation of member states in  
12 regulating multistate practice for licensed professional  
13 counselors;

14 D. support spouses of relocating active duty  
15 military personnel;

16 E. enhance the exchange of licensure, investigative  
17 and disciplinary information among member states;

18 F. allow for the use of telehealth technology to  
19 facilitate increased access to professional counseling  
20 services;

21 G. support the uniformity of professional  
22 counseling licensure requirements throughout the states to  
23 promote public safety and public health benefits;

24 H. invest all member states with the authority to  
25 hold a licensed professional counselor accountable for meeting

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1 all state practice laws in the state in which the client is  
2 located at the time care is rendered through the mutual  
3 recognition of member state licenses;

4 I. eliminate the necessity for licenses in multiple  
5 states; and

6 J. provide opportunities for interstate practice by  
7 licensed professional counselors who meet uniform licensure  
8 requirements.

9 SECTION 2 -- DEFINITIONS

10 As used in this compact, and except as otherwise provided,  
11 the following definitions shall apply:

12 A. "active duty military" means full-time duty  
13 status in the active uniformed service of the United States,  
14 including members of the national guard and reserve on active  
15 duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211;

16 B. "adverse action" means any administrative,  
17 civil, equitable or criminal action permitted by a state's laws  
18 that is imposed by a licensing board or other authority against  
19 a licensed professional counselor, including actions against an  
20 individual's license or privilege to practice such as  
21 revocation, suspension, probation, monitoring of the licensee,  
22 limitation on the licensee's practice, or any other encumbrance  
23 on licensure affecting a licensed professional counselor's  
24 authorization to practice, including issuance of a cease and  
25 desist action;

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1 C. "alternative program" means a non-disciplinary  
2 monitoring or practice remediation process approved by a  
3 licensing board to address impaired practitioners;

4 D. "continuing competence or education" means a  
5 requirement, as a condition of license renewal, to provide  
6 evidence of participation in, or completion of, educational and  
7 professional activities relevant to practice or area of work;

8 E. "counseling compact commission" or "commission"  
9 means the national administrative body whose membership  
10 consists of all states that have enacted the compact;

11 F. "current significant investigative information"  
12 means:

13 (1) investigative information that a licensing  
14 board, after a preliminary inquiry that includes notification  
15 and an opportunity for the licensed professional counselor to  
16 respond, if required by state law, has reason to believe is not  
17 groundless and, if proved true, would indicate more than a  
18 minor infraction; or

19 (2) investigative information that indicates  
20 that the licensed professional counselor represents an  
21 immediate threat to public health and safety regardless of  
22 whether the licensed professional counselor has been notified  
23 and had an opportunity to respond;

24 G. "data system" means a repository of information  
25 about licensees, including continuing education, examination,

1 licensure, investigative, privilege to practice and adverse  
2 action information;

3 H. "encumbered license" means a license in which an  
4 adverse action restricts the practice of licensed professional  
5 counseling by the licensee and the adverse action has been  
6 reported to the national practitioner data bank;

7 I. "encumbrance" means a revocation or suspension  
8 of, or any limitation on, the full and unrestricted practice of  
9 licensed professional counseling by a licensing board;

10 J. "executive committee" means a group of directors  
11 elected or appointed to act on behalf of, and within the powers  
12 granted to them by, the commission;

13 K. "home state" means the member state that is the  
14 licensee's primary state of residence;

15 L. "impaired practitioner" means an individual who  
16 has a condition that may impair the person's ability to  
17 practice as a licensed professional counselor without some type  
18 of intervention and may include alcohol or drug dependence,  
19 mental health impairment or neurological or physical  
20 impairments;

21 M. "investigative information" means information,  
22 records or documents received or generated by a licensing board  
23 pursuant to an investigation;

24 N. "jurisprudence requirement", if required by a  
25 member state, means the assessment of an individual's knowledge

1 of the laws and rules governing the practice of professional  
2 counseling in a state;

3 O. "licensed professional counselor" means a  
4 counselor licensed by a member state, regardless of the title  
5 used by that state, to independently assess, diagnose and treat  
6 behavioral health conditions;

7 P. "licensee" means an individual who currently  
8 holds an authorization from the state to practice as a licensed  
9 professional counselor;

10 Q. "licensing board" means the agency of a state,  
11 or equivalent, that is responsible for the licensing and  
12 regulation of licensed professional counselors;

13 R. "member state" means a state that has enacted  
14 the compact;

15 S. "privilege to practice" means a legal  
16 authorization, which is equivalent to a license, permitting the  
17 practice of professional counseling in a remote state;

18 T. "professional counseling" means the assessment,  
19 diagnosis and treatment of behavioral health conditions by a  
20 licensed professional counselor;

21 U. "remote state" means a member state other than  
22 the home state, where a licensee is exercising or seeking to  
23 exercise the privilege to practice;

24 V. "rule" means a regulation promulgated by the  
25 commission that has the force of law;

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1           W. "single state license" means a licensed  
2 professional counselor license issued by a member state that  
3 authorizes practice only within the issuing state and does not  
4 include a privilege to practice in any other member state;

5           X. "state" means any state, commonwealth, district,  
6 or territory of the United States that regulates the practice  
7 of professional counseling;

8           Y. "telehealth" means the application of  
9 telecommunication technology to deliver professional counseling  
10 services remotely to assess, diagnose and treat behavioral  
11 health conditions; and

12           Z. "unencumbered license" means a license that  
13 authorizes a licensed professional counselor to engage in the  
14 full and unrestricted practice of professional counseling.

15           SECTION 3 -- STATE PARTICIPATION IN THE COMPACT

16           A. To participate in the compact, a state must  
17 currently:

18                   (1) license and regulate licensed professional  
19 counselors;

20                   (2) require licensees to pass a nationally  
21 recognized exam approved by the commission; and

22                   (3) require licensees to have a sixty  
23 semester-hour or ninety quarter-hour master's degree in  
24 counseling or sixty semester-hours or ninety quarter-hours of  
25 graduate course work, including the following topic areas:

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- 1 (a) professional counseling orientation  
2 and ethical practice;  
3 (b) social and cultural diversity;  
4 (c) human growth and development;  
5 (d) career development;  
6 (e) counseling and helping  
7 relationships;  
8 (f) group counseling and group work;  
9 (g) diagnosis and treatment; assessment  
10 and testing;  
11 (h) research and program evaluation; and  
12 (i) other areas as determined by the  
13 commission;
- 14 (4) require licensees to complete a supervised  
15 postgraduate professional experience as defined by the  
16 commission; and
- 17 (5) have a mechanism in place for receiving  
18 and investigating complaints about licensees.
- 19 B. A member state shall:
- 20 (1) participate fully in the commission's data  
21 system, including using the commission's unique identifier as  
22 defined in rules;
- 23 (2) notify the commission, in compliance with  
24 the terms of the compact and rules, of any adverse action or  
25 the availability of investigative information regarding a



1 licensee;

2 (3) implement or utilize procedures for  
3 considering the criminal history records of applicants for an  
4 initial privilege to practice, including the submission of  
5 fingerprints or other biometric-based information by applicants  
6 for the purpose of obtaining an applicant's criminal history  
7 record information from the federal bureau of investigation and  
8 the agency responsible for retaining that state's criminal  
9 records, including:

10 (a) a criminal background check  
11 requirement, within a time frame established by rule, by  
12 receiving the results of the federal bureau of investigation  
13 record search and shall use the results in making licensure  
14 decisions; and

15 (b) a requirement that communication  
16 between a member state, the commission and among member states  
17 regarding the verification of eligibility for licensure through  
18 the compact shall not include any information received from the  
19 federal bureau of investigation relating to a federal criminal  
20 records check performed by a member state under Public Law  
21 92-544;

22 (4) comply with the rules of the commission;

23 (5) require an applicant to obtain or retain a  
24 license in the home state and meet the home state's  
25 qualifications for licensure or renewal of licensure, as well

1 as all other applicable state laws;

2 (6) grant the privilege to practice to a  
3 licensee holding a valid unencumbered license in another member  
4 state in accordance with the terms of the compact and rules;  
5 and

6 (7) provide for the attendance of the state's  
7 commissioner to the counseling compact commission meetings.

8 C. Member states may charge a fee for granting the  
9 privilege to practice.

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

16 E. Nothing in this compact shall affect the  
17 requirements established by a member state for the issuance of  
18 a single state license.

19 F. A license issued to a licensed professional  
20 counselor by a home state to a resident in that state shall be  
21 recognized by each member state as authorizing a licensed  
22 professional counselor to practice professional counseling,  
23 under a privilege to practice, in each member state.

24 SECTION 4 -- PRIVILEGE TO PRACTICE

25 A. To exercise the privilege to practice under the

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1 terms and provisions of the compact, the licensee shall:

2 (1) hold a license in the home state;

3 (2) have a valid United States social security  
4 number or national practitioner identifier;

5 (3) be eligible for a privilege to practice in  
6 any member state in accordance with Subsections D, G and H of  
7 this section;

8 (4) have not had any encumbrance or  
9 restriction against any license or privilege to practice within  
10 the previous two years;

11 (5) notify the commission that the licensee is  
12 seeking the privilege to practice within a remote state;

13 (6) pay any applicable fees, including any  
14 state fee, for the privilege to practice;

15 (7) meet any continuing competence or  
16 education requirements established by the home state;

17 (8) meet any jurisprudence requirements  
18 established by the remote state in which the licensee is  
19 seeking a privilege to practice; and

20 (9) report to the commission any adverse  
21 action, encumbrance or restriction on license taken by any  
22 nonmember state within thirty days from the date the action is  
23 taken.

24 B. The privilege to practice is valid until the  
25 expiration date of the home state license. The licensee must

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1 comply with the requirements of Subsection A of this section to  
2 maintain the privilege to practice in the remote state.

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

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

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

19 (1) the home state license is no longer  
20 encumbered; and

21 (2) the licensee has not had any encumbrance  
22 or restriction against any license or privilege to practice  
23 within the previous two years.

24 F. Once an encumbered license in the home state is  
25 restored to good standing, the licensee shall meet the

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1 requirements of Subsection A of this section in order to obtain  
2 a privilege to practice in any remote state.

3 G. If a licensee's privilege to practice in any  
4 remote state is removed, the individual may lose the privilege  
5 to practice in all other remote states until the following  
6 occur:

7 (1) the specific period of time for which the  
8 privilege to practice was removed has ended;

9 (2) all fines have been paid; and

10 (3) the licensee has not had any encumbrance  
11 or restriction against any license or privilege to practice  
12 within the previous two years.

13 H. Once the requirements of Subsection G of this  
14 section have been met, the licensee shall meet the requirements  
15 in Subsection A of this section in order to obtain a privilege  
16 to practice in a remote state.

17 SECTION 5 -- OBTAINING A NEW HOME STATE LICENSE BASED ON A  
18 PRIVILEGE TO PRACTICE

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

22 B. If a licensed professional counselor's primary  
23 state of residence changes due to moving between two member  
24 states:

25 (1) the licensed professional counselor shall

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1 file an application for obtaining a new home state license  
2 based on a privilege to practice; pay all applicable fees; and  
3 notify the current and new home state in accordance with  
4 applicable rules adopted by the commission;

5 (2) upon receipt of an application for  
6 obtaining a new home state license by virtue of a privilege to  
7 practice, the new home state shall verify that the licensed  
8 professional counselor meets the pertinent criteria outlined in  
9 Section 4 of this compact via the data system, without need for  
10 primary source verification except for:

11 (a) a federal bureau of investigation  
12 fingerprint-based criminal background check if not previously  
13 performed or updated pursuant to applicable rules adopted by  
14 the commission in accordance with Public Law 92-544;

15 (b) other criminal background checks as  
16 required by the new home state; and

17 (c) completion of any requisite  
18 jurisprudence requirements of the new home state;

19 (3) the former home state shall convert the  
20 former home state license into a privilege to practice once the  
21 new home state has activated the new home state license in  
22 accordance with applicable rules adopted by the commission;

23 (4) notwithstanding any other provision of  
24 this compact, if the licensed professional counselor cannot  
25 meet the criteria established in Section 4 of this compact, the

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1 new home state may apply its requirements for issuing a new  
2 single state license; and

3 (5) the licensed professional counselor shall  
4 pay all applicable fees to the new home state in order to be  
5 issued a new home state license.

6 C. If a licensed professional counselor changes  
7 primary state of residence by moving from a member state to a  
8 nonmember state, or from a nonmember state to a member state,  
9 the state criteria shall apply for issuance of a single state  
10 license in the new state.

11 D. Nothing in this compact shall interfere with a  
12 licensee's ability to hold a single state license in multiple  
13 states, however for the purposes of this compact, a licensee  
14 shall have only one home state license.

15 E. Nothing in this compact shall affect the  
16 requirements established by a member state for the issuance of  
17 a single state license.

18 SECTION 6 -- ACTIVE DUTY MILITARY MEMBERS OR THEIR SPOUSES

19 An active duty military member, or the member's spouse,  
20 shall designate a home state where the member or member's  
21 spouse has a current license in good standing. The member or  
22 member's spouse may retain the home state designation during  
23 the period the member is on active duty. Subsequent to  
24 designating a home state, the member or member's spouse shall  
25 only change the member's or member's spouse's home state

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1 through application for licensure in the new state, or through  
2 the process outlined in Section 5 of this compact.

3 SECTION 7 -- COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

4 A. Member states shall recognize the right of a  
5 licensed professional counselor, licensed by a home state in  
6 accordance with Section 3 of this compact and under rules  
7 promulgated by the commission, to practice professional  
8 counseling in any member state via telehealth under a privilege  
9 to practice as provided in the compact and rules promulgated by  
10 the commission.

11 B. A licensee providing professional counseling  
12 services in a remote state under the privilege to practice  
13 shall adhere to the laws and regulations of the remote state.

14 SECTION 8 -- ADVERSE ACTIONS

15 A. In addition to the other powers conferred by  
16 state law:

17 (1) a remote state shall have the authority,  
18 in accordance with existing state due process law, to take  
19 adverse action against a licensed professional counselor's  
20 privilege to practice within that member state;

21 (2) a remote state shall have the authority,  
22 in accordance with existing state due process law, to issue  
23 subpoenas for both hearings and investigations that require the  
24 attendance and testimony of witnesses as well as the production  
25 of evidence. Subpoenas issued by a licensing board in a member



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

10 (3) the home state shall have the sole power  
11 to take adverse action against a licensed professional  
12 counselor's license issued by the home state.

13 B. For purposes of taking adverse action, the home  
14 state shall give the same priority and effect to reported  
15 conduct received from a member state as it would if the conduct  
16 had occurred within the home state. In so doing, the home  
17 state shall apply its own state laws to determine appropriate  
18 action.

19 C. The home state shall complete any pending  
20 investigations of a licensed professional counselor who changes  
21 the primary state of residence during the course of the  
22 investigations. The home state shall also have the authority  
23 to take appropriate action and shall promptly report the  
24 conclusions of the investigations to the administrator of the  
25 data system. The administrator of the coordinated licensure

1 information system shall promptly notify the new home state of  
2 any adverse actions.

3 D. A member state, if otherwise permitted by state  
4 law, may recover from the affected licensed professional  
5 counselor the costs of investigations and dispositions of cases  
6 resulting from any adverse action taken against that licensed  
7 professional counselor.

8 E. A member state may take adverse action based on  
9 the factual findings of the remote state; provided that the  
10 member state follows its own procedures for taking the adverse  
11 action.

12 F. Joint investigations shall be conducted as  
13 follows:

14 (1) in addition to the authority granted to a  
15 member state by its respective professional counseling practice  
16 act or other applicable state law, any member state may  
17 participate with other member states in joint investigations of  
18 licensees; and

19 (2) member states shall share any  
20 investigative, litigation or compliance materials in  
21 furtherance of any joint or individual investigation initiated  
22 under the compact.

23 G. If adverse action is taken by the home state  
24 against the license of a licensed professional counselor, the  
25 licensed professional counselor's privilege to practice in all

1 other member states shall be deactivated until all encumbrances  
2 have been removed from the state license. All home state  
3 disciplinary orders that impose adverse action against the  
4 license of a licensed professional counselor shall include a  
5 statement that the licensed professional counselor's privilege  
6 to practice is deactivated in all member states during the  
7 pendency of the order.

8 H. If a member state takes adverse action, it shall  
9 promptly notify the administrator of the data system. The  
10 administrator of the data system shall promptly notify the home  
11 state of any adverse actions by remote states.

12 I. Nothing in this compact shall override a member  
13 state's decision that participation in an alternative program  
14 may be used in lieu of adverse action.

15 SECTION 9 -- ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

16 A. The compact member states shall create and  
17 establish a joint public agency known as the "counseling  
18 compact commission" as follows:

19 (1) the counseling compact commission shall be  
20 an instrumentality of the compact states;

21 (2) venue is proper and judicial proceedings  
22 by or against the commission shall be brought solely and  
23 exclusively in a court of competent jurisdiction where the  
24 principal office of the commission is located. The counseling  
25 compact commission may waive venue and jurisdictional defenses

1 to the extent it adopts or consents to participate in  
2 alternative dispute resolution proceedings; and

3 (3) nothing in this compact shall be construed  
4 to be a waiver of sovereign immunity.

5 B. Membership, voting and meetings shall be  
6 conducted as follows:

7 (1) each member state shall have one delegate  
8 selected by that member state's licensing board;

9 (2) a delegate shall:

10 (a) be a current member of the licensing  
11 board at the time of appointment, who is a licensed  
12 professional counselor or public member; or

13 (b) an administrator of the licensing  
14 board;

15 (3) a delegate may be removed or suspended  
16 from office as provided by the law of the state from which the  
17 delegate is appointed;

18 (4) a vacancy occurring on the commission  
19 shall be filled by the member state licensing board within  
20 sixty days;

21 (5) a delegate shall be entitled to one vote  
22 with regard to the promulgation of rules and creation of bylaws  
23 and have an opportunity to participate in the business and  
24 affairs of the commission;

25 (6) a delegate shall vote in person or by

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1 other means as provided in the bylaws, including participation  
2 in meetings by telephone or other means of communication;

3 (7) the commission shall meet at least once  
4 during each calendar year, with additional meetings to be held  
5 as set forth in the bylaws; and

6 (8) the commission shall by rule establish a  
7 term of office for delegates and may by rule establish term  
8 limits.

9 C. The commission shall have the following powers  
10 and duties:

11 (1) establish the fiscal year of the  
12 commission;

13 (2) establish bylaws;

14 (3) maintain its financial records in  
15 accordance with the bylaws;

16 (4) meet and take such actions as are  
17 consistent with the provisions of this compact and the bylaws;

18 (5) promulgate rules, which shall be binding  
19 to the extent and in the manner provided for in the compact;

20 (6) bring and prosecute legal proceedings or  
21 actions in the name of the commission; provided that the  
22 standing of any licensing board to sue or be sued under  
23 applicable law shall not be affected;

24 (7) purchase and maintain insurance and bonds;

25 (8) borrow, accept or contract for services of

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1 personnel, including employees of a member state;

2 (9) hire employees; elect or appoint officers;  
3 fix compensation; define duties; grant such individuals  
4 appropriate authority to carry out the purposes of the compact;  
5 and establish the commission's personnel policies and programs  
6 relating to conflicts of interest, qualifications of personnel  
7 and other related personnel matters;

8 (10) accept any and all appropriate donations  
9 and grants of money, equipment, supplies, materials and  
10 services and receive, utilize and dispose of the same; provided  
11 that at all times the commission shall avoid any appearance of  
12 impropriety or conflict of interest;

13 (11) lease, purchase, accept appropriate gifts  
14 or donations of, or otherwise own, hold, improve or use, any  
15 property, real, personal or mixed; provided that at all times  
16 the commission shall avoid any appearance of impropriety;

17 (12) sell, convey, mortgage, pledge, lease,  
18 exchange, abandon or otherwise dispose of any property, real,  
19 personal or mixed;

20 (13) establish a budget and make expenditures;

21 (14) borrow money;

22 (15) appoint committees, including standing  
23 committees composed of members, state regulators, state  
24 legislators or their representatives, consumer representatives  
25 and other interested persons as designated in this compact and

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1 the bylaws;

2 (16) provide and receive information from, and  
3 cooperate with, law enforcement agencies;

4 (17) establish and elect an executive  
5 committee; and

6 (18) perform such other functions as necessary  
7 or appropriate to achieve the purposes of this compact  
8 consistent with the state regulation of professional counseling  
9 licensure and practice.

10 D. The executive committee shall:

11 (1) have the power to act on behalf of the  
12 commission according to the terms of this compact;

13 (2) be composed of up to eleven members,  
14 including:

15 (a) an even number of voting members who  
16 are elected by the commission from the current membership of  
17 the commission;

18 (b) up to four ex-officio, nonvoting  
19 members from four recognized national professional counselor  
20 organizations; and

21 (c) ex-officio members shall be selected  
22 by their respective organizations;

23 (3) the commission may remove a member of the  
24 executive committee as provided in the bylaws;

25 (4) meet at least annually; and

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1 (5) have the following duties and  
2 responsibilities:

3 (a) recommend changes to the commission  
4 regarding the rules or bylaws, changes to this compact  
5 legislation, fees paid by compact member states such as annual  
6 dues and any commission compact fee charged to licensees for  
7 the privilege to practice;

8 (b) ensure compact administration  
9 services are appropriately provided, contractual or otherwise;

10 (c) prepare and recommend the budget;

11 (d) maintain financial records on behalf  
12 of the commission;

13 (e) monitor compact compliance of member  
14 states and provide compliance reports to the commission;

15 (f) establish additional committees as  
16 necessary; and

17 (g) perform additional duties as  
18 provided in rules or bylaws.

19 E. Meetings of the commission, the executive  
20 committee or other committees:

21 (1) shall be open to the public, and public  
22 notice of meetings shall be given in the same manner as  
23 required under the rulemaking provisions in Section 11 of this  
24 compact; and

25 (2) may convene in a closed, nonpublic meeting



1 if any of the following matters will be discussed:

2 (a) the noncompliance of a member state  
3 with its obligations under the compact;

4 (b) the employment, compensation,  
5 discipline or other matters, practices or procedures related to  
6 specific employees or other matters related to the commission's  
7 internal personnel practices and procedures;

8 (c) current, threatened or reasonably  
9 anticipated litigation;

10 (d) negotiation of contracts for the  
11 purchase, lease or sale of goods, services or real estate;

12 (e) accusations of a crime or formal  
13 censure of a person;

14 (f) disclosure of trade secrets or  
15 commercial or financial information that is privileged or  
16 confidential;

17 (g) disclosure of information of a  
18 personal nature where disclosure would constitute a clearly  
19 unwarranted invasion of personal privacy;

20 (h) disclosure of investigative records  
21 compiled for law enforcement purposes;

22 (i) disclosure of information related to  
23 any investigative reports prepared by or on behalf of or for  
24 use of the commission or other committee charged with  
25 responsibility of investigation or determination of compliance

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1 issues pursuant to the compact; or

2 (j) matters specifically exempted from  
3 disclosure by federal or member state statute;

4 (3) if fully or partially closed pursuant to  
5 Paragraph (2) of this subsection, the commission's legal  
6 counsel or designee shall reference each relevant exempting  
7 provision and certify that the meeting may be closed; and

8 (4) shall be memorialized with minutes that  
9 fully and clearly describe all matters discussed in a meeting  
10 and provide a full and accurate summary of action taken and  
11 reasons for taking action, including a description of the views  
12 expressed; and identify all documents considered in connection  
13 with an action taken; provided that all minutes and documents  
14 of a closed meeting shall remain under seal, subject to release  
15 by a majority vote of the commission or order of a court of  
16 competent jurisdiction.

17 F. Financing of the commission shall be carried out  
18 as follows:

19 (1) the commission shall pay, or provide for  
20 the payment of, the reasonable expenses of its establishment,  
21 organization and ongoing activities;

22 (2) the commission may accept any and all  
23 appropriate revenue sources, donations and grants of money,  
24 equipment, supplies, materials and services;

25 (3) the commission may levy on and collect an

.226478.1

1 annual assessment from each member state or impose fees on  
2 other parties to cover the cost of the operations and  
3 activities of the commission and its staff, in an amount  
4 sufficient to cover its annual budget as approved each year for  
5 which revenue is not provided by other sources. The aggregate  
6 annual assessment amount shall be allocated based upon a  
7 formula to be determined by the commission by rule, which shall  
8 be binding upon all member states;

9 (4) the commission shall not incur obligations  
10 prior to securing the funds adequate to meet the obligations or  
11 pledge the credit of any of the member states, absent the  
12 authority of the member state; and

13 (5) the commission shall keep accurate  
14 accounts of all receipts and disbursements. The receipts and  
15 disbursements of the commission shall be subject to the audit  
16 and accounting procedures established under its bylaws.  
17 However, all receipts and disbursements of funds handled by the  
18 commission shall be audited yearly by a certified or licensed  
19 public accountant, and the report of the audit shall be  
20 included in and become part of the annual report of the  
21 commission.

22 G. Qualified immunity, defense and indemnification  
23 shall apply as follows:

24 (1) the members, officers, executive director,  
25 employees and representatives of the commission shall be immune

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1 from suit and liability, either personally or in their official  
2 capacity, for any claim for damage to or loss of property or  
3 personal injury or other civil liability caused by or arising  
4 out of any actual or alleged act, error or omission that  
5 occurred, or that the person against whom the claim is made had  
6 a reasonable basis for believing occurred within the scope of  
7 commission employment, duties or responsibilities; provided  
8 that nothing in this paragraph shall be construed to protect  
9 any such person from suit or liability for any damage, loss,  
10 injury or liability caused by the intentional or willful or  
11 wanton misconduct of that person;

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

25 (3) the commission shall indemnify and hold

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1 harmless any member, officer, executive director, employee or  
2 representative of the commission for the amount of any  
3 settlement or judgment obtained against that person arising out  
4 of any actual or alleged act, error or omission that occurred  
5 within the scope of commission, employment, duties or  
6 responsibilities, or that such person had a reasonable basis  
7 for believing occurred within the scope of commission  
8 employment, duties or responsibilities; provided that the  
9 actual or alleged act, error or omission did not result from  
10 the intentional or willful or wanton misconduct of that person.

11 SECTION 10 -- DATA SYSTEM

12 A. The commission shall provide for the  
13 development, maintenance, operation and utilization of a  
14 coordinated database and reporting system containing licensure,  
15 adverse action and investigative information on all licensees  
16 in member states.

17 B. Unless prohibited by state law, a member state  
18 shall submit a uniform data set to the data system on all  
19 individuals to whom this compact is applicable as required by  
20 the rules of the commission, including:

- 21 (1) identifying information;  
22 (2) licensure data;  
23 (3) adverse actions against a license or  
24 privilege to practice;  
25 (4) non-confidential information related to

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1 alternative program participation;

2 (5) any denial of application for licensure  
3 and the reasons for such denial;

4 (6) current significant investigative  
5 information; or

6 (7) other information that may facilitate the  
7 administration of this compact, as determined by the rules of  
8 the commission.

9 C. Investigative information pertaining to a  
10 licensee in a member state is only available to other member  
11 states.

12 D. The commission shall promptly notify all member  
13 states of an adverse action taken against a licensee or an  
14 individual applying for a license. Adverse action information  
15 pertaining to a licensee in a member state is available to any  
16 other member state.

17 E. Member states contributing information to the  
18 data system may designate information that may not be shared  
19 with the public without the express permission of the  
20 contributing state.

21 F. Any information submitted to the data system  
22 that is subsequently required to be expunged by the laws of the  
23 member state contributing the information shall be removed from  
24 the data system.

25 SECTION 11 -- RULEMAKING

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1           A. The commission shall promulgate reasonable rules  
2 in order to effectively and efficiently achieve the purpose of  
3 the compact. If the commission exercises its rulemaking  
4 authority in a manner that is beyond the scope of the purposes  
5 of the compact or the powers granted pursuant to the compact,  
6 then such an action by the commission shall be invalid and have  
7 no force or effect.

8           B. The commission shall exercise its rulemaking  
9 powers pursuant to the criteria set forth in this section and  
10 the rules adopted pursuant to the compact. Rules and  
11 amendments shall become binding as of the date specified in  
12 each rule or amendment.

13           C. If a majority of the legislatures of the member  
14 states rejects a rule, by enactment of a statute or resolution  
15 in the same manner used to adopt the compact within four years  
16 of the date of adoption of the rule, then such rule shall have  
17 no further force and effect in any member state.

18           D. Rules or amendments to the rules shall be  
19 adopted at a regular or special meeting of the commission.

20           E. Prior to promulgation and adoption of a final  
21 rule by the commission, and at least thirty days in advance of  
22 the meeting at which the rule will be considered and voted  
23 upon, the commission shall file a notice of proposed  
24 rulemaking:

25                   (1) on the website of the commission or other

.226478.1

1 publicly accessible platform; and

2 (2) on the website of each member state  
3 licensing board, other publicly accessible platform or the  
4 publication in which each state would otherwise publish  
5 proposed rules.

6 F. The notice of proposed rulemaking shall include:

7 (1) the proposed time, date and location of  
8 the meeting in which the rule will be considered and voted  
9 upon;

10 (2) the text of the proposed rule or amendment  
11 and the reason for the proposed rule;

12 (3) a request for comments on the proposed  
13 rule from any interested person; and

14 (4) the manner in which interested persons may  
15 submit notice to the commission of their intention to attend  
16 the public hearing and any written comments.

17 G. Prior to adoption of a proposed rule, the  
18 commission shall allow persons to submit written data, facts,  
19 opinions and arguments, which shall be made available to the  
20 public.

21 H. The commission shall grant an opportunity for a  
22 public hearing before it adopts a rule or amendment if a  
23 hearing is requested by:

24 (1) at least twenty-five persons;

25 (2) a state or federal governmental



1 subdivision or agency; or

2 (3) an association having at least twenty-five  
3 members.

4 I. If a hearing is held on the proposed rule or  
5 amendment, the commission shall publish the place, time and  
6 date of the scheduled public hearing. If the hearing is held  
7 via electronic means, the commission shall publish the  
8 mechanism for access to the electronic hearing to ensure the  
9 following:

10 (1) all persons wishing to be heard at the  
11 hearing shall notify the executive director of the commission  
12 or other designated member in writing of their desire to appear  
13 and testify at the hearing not less than five business days  
14 before the scheduled date of the hearing;

15 (2) hearings shall be conducted in a manner  
16 providing each person who wishes to comment a fair and  
17 reasonable opportunity to comment orally or in writing;

18 (3) all hearings will be recorded, and a copy  
19 of the recording will be made available on request; and

20 (4) nothing in this section shall be construed  
21 as requiring a separate hearing on each rule, and rules may be  
22 grouped for the convenience of the commission at hearings  
23 required by this section.

24 J. Following the scheduled hearing date, or by the  
25 close of business on the scheduled hearing date if the hearing

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1 was not held, the commission shall consider all written and  
2 oral comments received.

3 K. If no written notice of intent to attend the  
4 public hearing by interested parties is received, the  
5 commission may proceed with promulgation of the proposed rule  
6 without a public hearing.

7 L. The commission shall, by majority vote of all  
8 members, take final action on the proposed rule and shall  
9 determine the effective date of the rule, if any, based on the  
10 rulemaking record and the full text of the rule.

11 M. Upon determination that an emergency exists, the  
12 commission may consider and adopt an emergency rule without  
13 prior notice, opportunity for comment or hearing; provided that  
14 the usual rulemaking procedures provided in the compact and in  
15 this section shall be retroactively applied to the rule as soon  
16 as reasonably possible and later than ninety days after the  
17 effective date of the rule. For the purposes of this  
18 provision, an emergency rule is one that must be adopted  
19 immediately in order to:

20 (1) meet an imminent threat to public health,  
21 safety or welfare;

22 (2) prevent a loss of commission or member  
23 state funds;

24 (3) meet a deadline for the promulgation of an  
25 administrative rule that is established by federal law or rule;

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1 or

2 (4) protect public health and safety.

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

17 SECTION 12 -- COMPACT OVERSIGHT, DISPUTE RESOLUTION AND  
18 ENFORCEMENT

19 A. Compact oversight shall be carried out as  
20 follows:

21 (1) the executive, legislative and judicial  
22 branches of state government in each member state shall enforce  
23 this compact and take all necessary and appropriate actions  
24 necessary to effectuate the compact's purposes and intent. The  
25 provisions of this compact and the rules promulgated hereunder

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1 shall have standing as statutory law;

2 (2) all courts shall take judicial notice of  
3 the compact and the rules in any judicial or administrative  
4 proceeding that may affect the powers, responsibilities or  
5 actions of the commission in a member state pertaining to the  
6 subject matter of this compact; and

7 (3) the commission shall be entitled to  
8 receive service of process in such proceedings and shall have  
9 standing to intervene in such a proceeding for all purposes.  
10 Failure to provide service of process to the commission shall  
11 render a judgment or order void as to the commission, this  
12 compact or promulgated rules.

13 B. Default, technical assistance and member state  
14 termination shall be managed as follows:

15 (1) if the commission determines that a member  
16 state has defaulted in the performance of its obligations or  
17 responsibilities under this compact or the promulgated rules,  
18 the commission shall provide:

19 (a) written notice to the defaulting  
20 member state and other member states of the nature of the  
21 default, the proposed means of curing the default or any other  
22 action to be taken by the commission; and

23 (b) remedial training and specific  
24 technical assistance regarding the default.

25 C. If a member state is in default of the compact

1 and fails to cure the default, the defaulting member state may  
2 be terminated from the compact upon an affirmative vote of a  
3 majority of the member states, and all rights, privileges and  
4 benefits conferred by this compact may be terminated on the  
5 effective date of termination. A cure of the default does not  
6 relieve the defaulting member state of obligations or  
7 liabilities incurred during the period of default.

8 D. Termination of compact membership shall be  
9 imposed only after all other means of securing compliance have  
10 been exhausted. Notice of intent to suspend or terminate shall  
11 be given by the commission to the governor, the majority and  
12 minority leaders of the defaulting member state's legislature  
13 and each of the member states.

14 E. A state that has been terminated from the  
15 compact is responsible for all assessments, obligations and  
16 liabilities incurred through the effective date of termination,  
17 including obligations that extend beyond the effective date of  
18 termination.

19 F. The commission shall not bear any costs related  
20 to a state that is found to be in default or that has been  
21 terminated from the compact, unless agreed upon in writing  
22 between the commission and the defaulting state.

23 G. The defaulting state may appeal the action of  
24 the commission by petitioning the United States district court  
25 for the District of Columbia or the federal district where the

1 commission has its principal offices. The prevailing party  
2 shall be awarded all costs of such litigation, including  
3 reasonable attorney fees.

4 H. Dispute resolution shall be conducted as  
5 follows:

6 (1) upon request by a member state, the  
7 commission shall attempt to resolve disputes related to the  
8 compact that arise among member states and between member and  
9 nonmember states; and

10 (2) the commission shall promulgate a rule  
11 providing for both mediation and binding dispute resolution for  
12 disputes as appropriate.

13 I. Enforcement shall be carried out as follows:

14 (1) the commission, in the reasonable exercise  
15 of its discretion, shall enforce the provisions and rules of  
16 this compact;

17 (2) by majority vote, the commission may  
18 initiate legal action in the United States district court for  
19 the District of Columbia or the federal district where the  
20 commission has its principal offices against a member state in  
21 default to enforce compliance with the provisions of the  
22 compact and its promulgated rules and bylaws. The relief  
23 sought may include both injunctive relief and damages. In the  
24 event judicial enforcement is necessary, the prevailing party  
25 shall be awarded all costs of such litigation, including

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1 reasonable attorney fees; and

2 (3) the remedies in this subsection shall not  
3 be the exclusive remedies of the commission, and the commission  
4 may pursue any other remedies available under federal or state  
5 law.

6 SECTION 13 -- DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT  
7 COMMISSION AND ASSOCIATED RULES, WITHDRAWAL AND AMENDMENT

8 A. The compact shall come into effect on the date  
9 on which the compact statute is enacted into law by the tenth  
10 member state. The provisions, which become effective at that  
11 time, shall be limited to the powers granted to the commission  
12 relating to assembly and the promulgation of rules.

13 Thereafter, the commission shall meet and exercise rulemaking  
14 powers necessary for the implementation and administration of  
15 the compact.

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

22 C. To withdraw from this compact, a member state  
23 shall enact a statute repealing this statute, and withdrawal:

24 (1) shall take effect six months after the  
25 enactment of the repealing statute; and

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

6 D. Nothing contained in this compact shall be  
7 construed to invalidate or prevent any professional counseling  
8 licensure agreement or other cooperative arrangement between a  
9 member state and a nonmember state that does not conflict with  
10 the provisions of this compact.

11 E. This compact may be amended by the member  
12 states. The amendment shall become effective and binding upon  
13 a member state when it is enacted into the laws of all member  
14 states.

15 SECTION 14 -- CONSTRUCTION AND SEVERABILITY

16 This compact shall be liberally construed to effectuate  
17 its purposes. The provisions of this compact shall be  
18 severable, and if any part of this compact is declared to be  
19 contrary to the constitution of any member state or of the  
20 United States or its applicability to any government, agency,  
21 person or circumstance is held invalid, the validity of the  
22 remainder of this compact and its applicability to any  
23 government, agency, person or circumstance shall not be  
24 affected. If this compact is held contrary to the constitution  
25 of any member state, the compact shall remain in full force and

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1 effect as to the remaining member states and in full force and  
2 effect as to the member state affected as to all severable  
3 matters.

4 SECTION 15 -- BINDING EFFECT OF COMPACT AND OTHER LAWS

5 A. A licensee providing professional counseling  
6 services in a remote state under the privilege to practice  
7 shall adhere to the laws and regulations, including scope of  
8 practice, of the remote state.

9 B. Nothing in this compact prevents the enforcement  
10 of any other law of a member state that is consistent with the  
11 compact.

12 C. Any laws in a member state in conflict with the  
13 compact are superseded to the extent of the conflict.

14 D. Any lawful actions of the commission, including  
15 all rules and bylaws properly promulgated by the commission,  
16 are binding upon the member states.

17 E. All permissible agreements between the  
18 commission and the member states are binding in accordance with  
19 their terms.

20 F. In the event any provision of the compact  
21 exceeds the constitutional limits imposed on the legislature of  
22 any member state, the provision shall be ineffective to the  
23 extent of the conflict with the constitutional provision in  
24 question in that member state."