



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1655

Introduced 2/8/2023, by Sen. Jil Tracy - Tom Bennett - Erica Harriss

SYNOPSIS AS INTRODUCED:

New Act

Creates the Counseling Compact Act. Provides that the State of Illinois enters into the Counseling Compact. Specifies that the Compact's purpose is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. Contains other provisions relating to state participation in the Compact. Sets out provisions concerning the privilege to practice, obtaining a new home state license, active duty military personnel, telehealth, adverse actions, Counseling Compact Commission, data systems, rulemaking, oversight, dispute resolution, and enforcement. Contains other provisions concerning the Commission, the Compact, and the procedures governing participating in and construction of the Compact. Effective immediately.

LRB103 25502 AMQ 51851 b

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Counseling Compact Act.

6 Section 5. Counseling Compact. The State of Illinois
7 enters into the Counseling Compact in substantially the
8 following form with all other states joining the Compact:

9 SECTION 1: PURPOSE

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

18 This Compact is designed to achieve the following
19 objectives:

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

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

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

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

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

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

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

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

21 I. Eliminate the necessity for licenses in multiple
22 States; and

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

1 SECTION 2. DEFINITIONS

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

4 A. "Active Duty Military" means full-time duty status in
5 the active uniformed service of the United States, including
6 members of the National Guard and Reserve on active duty
7 orders pursuant to 10 U.S.C. Chapters 1209 and 1211.

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

18 C. "Alternative Program" means a non-disciplinary
19 monitoring or practice remediation process approved by a
20 Professional Counseling Licensing Board to address Impaired
21 Practitioners.

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

26 E. "Counseling Compact Commission" or "Commission" means

1 the national administrative body whose membership consists of
2 all States that have enacted the Compact.

3 F. "Current Significant Investigative Information" means:

4 1. Investigative Information that a Licensing Board,
5 after a preliminary inquiry that includes notification and
6 an opportunity for the Licensed Professional Counselor to
7 respond, if required by State law, has reason to believe
8 is not groundless and, if proved true, would indicate more
9 than a minor infraction; or

10 2. Investigative Information that indicates that the
11 Licensed Professional Counselor represents an immediate
12 threat to public health and safety regardless of whether
13 the Licensed Professional Counselor has been notified and
14 had an opportunity to respond.

15 G. "Data System" means a repository of information about
16 Licensees, including, but not limited to, continuing
17 education, examination, licensure, investigative, Privilege to
18 Practice and Adverse Action information.

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

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

26 J. "Executive Committee" means a group of directors

1 elected or appointed to act on behalf of, and within the powers
2 granted to them by, the Commission.

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

5 L. "Impaired Practitioner" means an individual who has a
6 condition(s) that may impair their ability to practice as a
7 Licensed Professional Counselor without some type of
8 intervention and may include, but are not limited to, alcohol
9 and drug dependence, mental health impairment, and
10 neurological or physical impairments.

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

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

18 O. "Licensed Professional Counselor" means a counselor
19 licensed by a Member State, regardless of the title used by
20 that State, to independently assess, diagnose, and treat
21 behavioral health conditions.

22 P. "Licensee" means an individual who currently holds an
23 authorization from the State to practice as a Licensed
24 Professional Counselor.

25 Q. "Licensing Board" means the agency of a State, or
26 equivalent, that is responsible for the licensing and

1 regulation of Licensed Professional Counselors.

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

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

7 T. "Professional Counseling" means the assessment,
8 diagnosis, and treatment of behavioral health conditions by a
9 Licensed Professional Counselor.

10 U. "Remote State" means a Member State other than the Home
11 State, where a Licensee is exercising or seeking to exercise
12 the Privilege to Practice.

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

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

19 X. "State" means any state, commonwealth, district, or
20 territory of the United States of America that regulates the
21 practice of Professional Counseling.

22 Y. "Telehealth" means the application of telecommunication
23 technology to deliver Professional Counseling services
24 remotely to assess, diagnose, and treat behavioral health
25 conditions.

26 Z. "Unencumbered License" means a license that authorizes

1 a Licensed Professional Counselor to engage in the full and
2 unrestricted practice of Professional Counseling.

3 SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

5 1. License and regulate Licensed Professional
6 Counselors;

7 2. Require Licensees to pass a nationally recognized
8 exam approved by the Commission;

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

13 a. Professional Counseling Orientation and Ethical
14 Practice;

15 b. Social and Cultural Diversity;

16 c. Human Growth and Development;

17 d. Career Development;

18 e. Counseling and Helping Relationships;

19 f. Group Counseling and Group Work;

20 g. Diagnosis and Treatment; Assessment and
21 Testing;

22 h. Research and Program Evaluation; and

23 i. Other areas as determined by the Commission.

24 4. Require Licensees to complete a supervised
25 postgraduate professional experience as defined by the

1 Commission;

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

4 B. A Member State shall:

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

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

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

20 a. A member state must fully implement a criminal
21 background check requirement, within a time frame
22 established by rule, by receiving the results of the
23 Federal Bureau of Investigation record search and
24 shall use the results in making licensure decisions.

25 b. Communication between a Member State, the
26 Commission and among Member States regarding the

1 verification of eligibility for licensure through the
2 Compact shall not include any information received
3 from the Federal Bureau of Investigation relating to a
4 federal criminal records check performed by a Member
5 State under Public Law 92-544.

6 4. Comply with the Rules of the Commission;

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

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

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

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

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

26 E. Nothing in this Compact shall affect the requirements

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

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

8 SECTION 4. PRIVILEGE TO PRACTICE

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

- 11 1. Hold a license in the Home State;
- 12 2. Have a valid United States Social Security Number
13 or National Practitioner Identifier;
- 14 3. Be eligible for a Privilege to Practice in any
15 Member State in accordance with Section 4(D), (G) and (H);
- 16 4. Have not had any Encumbrance or restriction against
17 any license or Privilege to Practice within the previous
18 two (2) years;
- 19 5. Notify the Commission that the Licensee is seeking
20 the Privilege to Practice within a Remote State(s);
- 21 6. Pay any applicable fees, including any State fee,
22 for the Privilege to Practice;
- 23 7. Meet any Continuing Competence/Education
24 requirements established by the Home State;
- 25 8. Meet any Jurisprudence Requirements established by

1 the Remote State(s) in which the Licensee is seeking a
2 Privilege to Practice; and

3 9. Report to the Commission any Adverse Action,
4 Encumbrance, or restriction on a license taken by any
5 non-Member State within 30 days from the date the action
6 is taken.

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

11 C. A Licensee providing Professional Counseling in a
12 Remote State under the Privilege to Practice shall adhere to
13 the laws and regulations of the Remote State.

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

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

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

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

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

- 12 1. The specific period of time for which the Privilege
- 13 to Practice was removed has ended;
- 14 2. All fines have been paid; and
- 15 3. Have not had any Encumbrance or restriction against
- 16 any license or Privilege to Practice within the previous
- 17 two (2) years.

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

21 SECTION 5: OBTAINING A NEW HOME STATE LICENSE BASED ON A
22 PRIVILEGE TO PRACTICE

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

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

3 1. The Licensed Professional Counselor shall file an
4 application for obtaining a new Home State license based
5 on a Privilege to Practice, pay all applicable fees, and
6 notify the current and new Home State in accordance with
7 applicable Rules adopted by the Commission.

8 2. Upon receipt of an application for obtaining a new
9 Home State license by virtue of a Privilege to Practice,
10 the new Home State shall verify that the Licensed
11 Professional Counselor meets the pertinent criteria
12 outlined in Section 4 via the Data System without need for
13 primary source verification except for:

14 a. a Federal Bureau of Investigation fingerprint
15 based criminal background check if not previously
16 performed or updated pursuant to applicable rules
17 adopted by the Commission in accordance with Public
18 Law 92-544;

19 b. other criminal background check as required by
20 the new Home State; and

21 c. completion of any requisite Jurisprudence
22 Requirements of the new Home State.

23 3. The former Home State shall convert the former Home
24 State license into a Privilege to Practice once the new
25 Home State has activated the new Home State license in
26 accordance with applicable Rules adopted by the

1 Commission.

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

7 5. The Licensed Professional Counselor shall pay all
8 applicable fees to the new Home State in order to be issued
9 a new Home State license.

10 C. If a Licensed Professional Counselor changes Primary
11 State of Residence by moving from a Member State to a
12 non-Member State, or from a non-Member State to a Member
13 State, the State criteria shall apply for issuance of a Single
14 State License in the new State.

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

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

22 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

23 Active Duty Military personnel, or their spouse, shall
24 designate a Home State where the individual has a current
25 license in good standing. The individual may retain the Home

1 State designation during the period the service member is on
2 active duty. Subsequent to designating a Home State, the
3 individual shall only change their Home State through
4 application for licensure in the new State, or through the
5 process outlined in Section 5.

6 SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

7 A. Member States shall recognize the right of a Licensed
8 Professional Counselor, licensed by a Home State in accordance
9 with Section 3 and under Rules promulgated by the Commission,
10 to practice Professional Counseling in any Member State via
11 Telehealth under a Privilege to Practice as provided in the
12 Compact and Rules promulgated by the Commission.

13 B. A Licensee providing Professional Counseling services
14 in a Remote State under the Privilege to Practice shall adhere
15 to the laws and regulations of the Remote State.

16 SECTION 8. ADVERSE ACTIONS

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

20 1. Take Adverse Action against a Licensed Professional
21 Counselor's Privilege to Practice within that Member
22 State, and

23 2. Issue subpoenas for both hearings and
24 investigations that require the attendance and testimony

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

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

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

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

1 Data System. The administrator of the coordinated licensure
2 information system shall promptly notify the new Home State of
3 any Adverse Actions.

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

9 E. A Member State may take Adverse Action based on the
10 factual findings of the Remote State, provided that the Member
11 State follows its own procedures for taking the Adverse
12 Action.

13 F. Joint Investigations:

14 1. In addition to the authority granted to a Member
15 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
18 investigations of Licensees.

19 2. Member States shall share any investigative,
20 litigation, or compliance materials in furtherance of any
21 joint or individual investigation initiated under the
22 Compact.

23 G. If Adverse Action is taken by the Home State against the
24 license of a Licensed Professional Counselor, the Licensed
25 Professional Counselor's Privilege to Practice in all other
26 Member States shall be deactivated until all Encumbrances have

1 been removed from the State license. All Home State
2 disciplinary orders that impose Adverse Action against the
3 license of a Licensed Professional Counselor shall include a
4 Statement that the Licensed Professional Counselor's Privilege
5 to Practice is deactivated in all Member States during the
6 pendency of the order.

7 H. If a Member State takes Adverse Action, it shall
8 promptly notify the administrator of the Data System. The
9 administrator of the Data System shall promptly notify the
10 Home State of any Adverse Actions by Remote States.

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

14 SECTION 9. ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

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

18 1. The Commission is an instrumentality of the Compact
19 States.

20 2. Venue is proper and judicial proceedings by or
21 against the Commission shall be brought solely and
22 exclusively in a court of competent jurisdiction where the
23 principal office of the Commission is located. The
24 Commission may waive venue and jurisdictional defenses to
25 the extent it adopts or consents to participate in

1 alternative dispute resolution proceedings.

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

4 B. Membership, Voting, and Meetings

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

8 2. The delegate shall be either:

9 a. A current member of the Licensing Board at the
10 time of appointment, who is a Licensed Professional
11 Counselor or public member; or

12 b. An administrator of the Licensing Board.

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

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

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

22 6. A delegate shall vote in person or by such other
23 means as provided in the bylaws. The bylaws may provide
24 for delegates' participation in meetings by telephone or
25 other means of communication.

26 7. The Commission shall meet at least once during each

1 calendar year. Additional meetings shall be held as set
2 forth in the bylaws.

3 8. The Commission shall by Rule establish a term of
4 office for delegates and may by Rule establish term
5 limits.

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

8 1. Establish the fiscal year of the Commission;

9 2. Establish bylaws;

10 3. Maintain its financial records in accordance with
11 the bylaws;

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

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

16 6. Bring and prosecute legal proceedings or actions in
17 the name of the Commission, provided that the standing of
18 any State Licensing Board to sue or be sued under
19 applicable law shall not be affected;

20 7. Purchase and maintain insurance and bonds;

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

24 9. Hire employees, elect or appoint officers, fix
25 compensation, define duties, grant such individuals
26 appropriate authority to carry out the purposes of the

1 Compact, and establish the Commission's personnel policies
2 and programs relating to conflicts of interest,
3 qualifications of personnel, and other related personnel
4 matters;

5 10. Accept any and all appropriate donations and
6 grants of money, equipment, supplies, materials, and
7 services, and to receive, utilize, and dispose of the
8 same; provided that at all times the Commission shall
9 avoid any appearance of impropriety or conflict of
10 interest;

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

16 12. Sell, convey, mortgage, pledge, lease, exchange,
17 abandon, or otherwise dispose of any property real,
18 personal, or mixed;

19 13. Establish a budget and make expenditures;

20 14. Borrow money;

21 15. Appoint committees, including standing committees
22 composed of members, State regulators, State legislators
23 or their representatives, and consumer representatives,
24 and such other interested persons as may be designated in
25 this Compact and the bylaws;

26 16. Provide and receive information from, and

1 cooperate with, law enforcement agencies;

2 17. Establish and elect an Executive Committee; and

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

7 D. The Executive Committee

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

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

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

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

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

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

23 4. The Executive Committee shall meet at least
24 annually.

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

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

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

8 c. Prepare and recommend the budget;

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

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

13 f. Establish additional committees as necessary;
14 and

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

16 E. Meetings of the Commission

17 1. All meetings shall be open to the public, and
18 public notice of meetings shall be given in the same
19 manner as required under the Rulemaking provisions in
20 Section 11.

21 2. The Commission or the Executive Committee or other
22 committees of the Commission may convene in a closed,
23 non-public meeting if the Commission or Executive
24 Committee or other committees of the Commission must
25 discuss:

26 a. Non-compliance of a Member State with its

1 obligations under the Compact;

2 b. The employment, compensation, discipline or
3 other matters, practices or procedures related to
4 specific employees or other matters related to the
5 Commission's internal personnel practices and
6 procedures;

7 c. Current, threatened, or reasonably anticipated
8 litigation;

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

11 e. Accusing any person of a crime or formally
12 censuring any person;

13 f. Disclosure of trade secrets or commercial or
14 financial information that is privileged or
15 confidential;

16 g. Disclosure of information of a personal nature
17 where disclosure would constitute a clearly
18 unwarranted invasion of personal privacy;

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

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

26 j. Matters specifically exempted from disclosure

1 by federal or Member State statute.

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

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

16 F. Financing of the Commission

17 1. The Commission shall pay, or provide for the
18 payment of, the reasonable expenses of its establishment,
19 organization, and ongoing activities.

20 2. The Commission may accept any and all appropriate
21 revenue sources, donations, and grants of money,
22 equipment, supplies, materials, and services.

23 3. The Commission may levy on and collect an annual
24 assessment from each Member State or impose fees on other
25 parties to cover the cost of the operations and activities
26 of the Commission and its staff, which must be in a total

1 amount sufficient to cover its annual budget as approved
2 each year for which revenue is not provided by other
3 sources. The aggregate annual assessment amount shall be
4 allocated based upon a formula to be determined by the
5 Commission, which shall promulgate a Rule binding upon all
6 Member States.

7 4. The Commission shall not incur obligations of any
8 kind prior to securing the funds adequate to meet the
9 same; nor shall the Commission pledge the credit of any of
10 the Member States, except by and with the authority of the
11 Member State.

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

21 G. Qualified Immunity, Defense, and Indemnification

22 1. The members, officers, executive director,
23 employees and representatives of the Commission shall be
24 immune from suit and liability, either personally or in
25 their official capacity, for any claim for damage to or
26 loss of property or personal injury or other civil

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

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

25 3. The Commission shall indemnify and hold harmless
26 any member, officer, executive director, employee, or

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

11 SECTION 10. DATA SYSTEM

12 A. The Commission shall provide for the development,
13 maintenance, operation, and utilization of a coordinated
14 database and reporting system containing licensure, Adverse
15 Action, and Investigative Information on all licensed
16 individuals in Member States.

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

- 22 1. Identifying information;
- 23 2. Licensure data;
- 24 3. Adverse Actions against a license or Privilege to
25 Practice;

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

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

5 6. Current Significant Investigative Information; and

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

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

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

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

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

25 SECTION 11. RULEMAKING

1 A. The Commission shall promulgate reasonable Rules in
2 order to effectively and efficiently achieve the purpose of
3 the Compact. Notwithstanding the foregoing, in the event the
4 Commission exercises its Rulemaking authority in a manner that
5 is beyond the scope of the purposes of the Compact, or the
6 powers granted hereunder, then such an action by the
7 Commission shall be invalid and have no force or effect.

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

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

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

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

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

26 2. On the website of each Member State Professional

1 Counseling Licensing Board or other publicly accessible
2 platform or the publication in which each State would
3 otherwise publish proposed Rules.

4 F. The Notice of Proposed Rulemaking shall include:

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

8 2. The text of the proposed Rule or amendment and the
9 reason for the proposed Rule;

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

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

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

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

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

22 2. A State or federal governmental subdivision or
23 agency; or

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

26 I. If a hearing is held on the proposed Rule or amendment,

1 the Commission shall publish the place, time, and date of the
2 scheduled public hearing. If the hearing is held via
3 electronic means, the Commission shall publish the mechanism
4 for access to the electronic hearing.

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

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

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

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

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

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

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

5 M. Upon determination that an emergency exists, the
6 Commission may consider and adopt an emergency Rule without
7 prior notice, opportunity for comment, or hearing, provided
8 that the usual Rulemaking procedures provided in the Compact
9 and in this section shall be retroactively applied to the Rule
10 as soon as reasonably possible, in no event later than ninety
11 (90) days after the effective date of the Rule. For the
12 purposes of this provision, an emergency Rule is one that must
13 be adopted immediately in order to:

- 14 1. Meet an imminent threat to public health, safety,
15 or welfare;
- 16 2. Prevent a loss of Commission or Member State funds;
- 17 3. Meet a deadline for the promulgation of an
18 administrative Rule that is established by federal law or
19 Rule; or
- 20 4. Protect public health and safety.

21 N. The Commission or an authorized committee of the
22 Commission may direct revisions to a previously adopted Rule
23 or amendment for purposes of correcting typographical errors,
24 errors in format, errors in consistency, or grammatical
25 errors. Public notice of any revision shall be posted on the
26 website of the Commission. The revisions shall be subject to

1 challenge by any person for a period of thirty (30) days after
2 posting. The revision may be challenged only on grounds that
3 the revision results in a material change to a Rule. A
4 challenge shall be made in writing and delivered to the chair
5 of the Commission prior to the end of the notice period. If no
6 challenge is made, the revision will take effect without
7 further action. If the revision is challenged, the revision
8 may not take effect without the approval of the Commission.

9 SECTION 12. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

10 A. Oversight

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

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

23 3. The Commission shall be entitled to receive service
24 of process in any such proceeding and shall have standing
25 to intervene in such a proceeding for all purposes.

1 Failure to provide service of process to the Commission
2 shall render a judgment or order void as to the
3 Commission, this Compact, or promulgated Rules.

4 B. Default, Technical Assistance, and Termination

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

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

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

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

23 D. Termination of membership in the Compact shall be
24 imposed only after all other means of securing compliance have
25 been exhausted. Notice of intent to suspend or terminate shall
26 be given by the Commission to the governor, the majority and

1 minority leaders of the defaulting State's legislature, and
2 each of the Member States.

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

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

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

17 H. Dispute Resolution

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

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

25 I. Enforcement

26 1. The Commission, in the reasonable exercise of its

1 discretion, shall enforce the provisions and Rules of this
2 Compact.

3 2. By majority vote, the Commission may initiate legal
4 action in the United States District Court for the
5 District of Columbia or the federal district where the
6 Commission has its principal offices against a Member
7 State in default to enforce compliance with the provisions
8 of the Compact and its promulgated Rules and bylaws. The
9 relief sought may include both injunctive relief and
10 damages. In the event judicial enforcement is necessary,
11 the prevailing member shall be awarded all costs of such
12 litigation, including reasonable attorney's fees.

13 3. The remedies herein shall not be the exclusive
14 remedies of the Commission. The Commission may pursue any
15 other remedies available under federal or State law.

16 SECTION 13. DATE OF IMPLEMENTATION OF THE COUNSELING
17 COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND
18 AMENDMENT

19 A. The Compact shall come into effect on the date on which
20 the Compact statute is enacted into law in the tenth Member
21 State. The provisions, which become effective at that time,
22 shall be limited to the powers granted to the Commission
23 relating to assembly and the promulgation of Rules.
24 Thereafter, the Commission shall meet and exercise Rulemaking
25 powers necessary to the implementation and administration of

1 the Compact.

2 B. Any State that joins the Compact subsequent to the
3 Commission's initial adoption of the Rules shall be subject to
4 the Rules as they exist on the date on which the Compact
5 becomes law in that State. Any Rule that has been previously
6 adopted by the Commission shall have the full force and effect
7 of law on the day the Compact becomes law in that State.

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

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

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

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

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

1 SECTION 14. CONSTRUCTION AND SEVERABILITY

2 This Compact shall be liberally construed so as to
3 effectuate the purposes thereof. The provisions of this
4 Compact shall be severable and if any phrase, clause, sentence
5 or provision of this Compact is declared to be contrary to the
6 constitution of any Member State or of the United States or the
7 applicability thereof to any government, agency, person or
8 circumstance is held invalid, the validity of the remainder of
9 this Compact and the applicability thereof to any government,
10 agency, person or circumstance shall not be affected thereby.
11 If this Compact shall be held contrary to the constitution of
12 any Member State, the Compact shall remain in full force and
13 effect as to the remaining Member States and in full force and
14 effect as to the Member State affected as to all severable
15 matters.

16 SECTION 15. BINDING EFFECT OF COMPACT AND OTHER LAWS

17 A. A Licensee providing Professional Counseling services
18 in a Remote State under the Privilege to Practice shall adhere
19 to the laws and regulations, including scope of practice, of
20 the Remote State.

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

24 C. Any laws in a Member State in conflict with the Compact

1 are superseded to the extent of the conflict.

2 D. Any lawful actions of the Commission, including all
3 Rules and bylaws properly promulgated by the Commission, are
4 binding upon the Member States.

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

7 F. In the event any provision of the Compact exceeds the
8 constitutional limits imposed on the legislature of any Member
9 State, the provision shall be ineffective to the extent of the
10 conflict with the constitutional provision in question in that
11 Member State.

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.