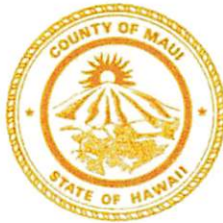


MICHAEL P. VICTORINO
Mayor

LORI TSUHAKE
Director

LINDA R. MUNSELL
Deputy Director



DEPARTMENT OF HOUSING
& HUMAN CONCERNS
COUNTY OF MAUI
2200 MAIN STREET, SUITE 546
WAILUKU, MAUI, HAWAII 96793
PHONE: (808) 270-7805

September 1, 2021

RECEIVED
2021 SEP -3 PM 1:08
OFFICE OF THE
COUNTY CLERK

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, HI 96793

APPROVED FOR TRANSMITTAL

Michael P. Victorino 9/3/21
Mayor Date

For Transmittal to:

Honorable Alice L. Lee, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, HI 96793

Dear Chair Lee and Members:

SUBJECT: LETTER FROM THE COMMISSION ON PERSONS WITH DISABILITIES

I am transmitting the attached letter on behalf of Susan M. Collins, member of the Commission on Persons with Disabilities, requesting the Council's support of the Counseling Compact. Informational documents have also been provided and are attached for your review.

Thank you for your attention to this matter. Should you have any questions, please feel free to call me at Ext. 7805.

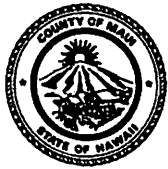
Sincerely,

A handwritten signature in blue ink, appearing to read "Lori Tsuhako".

LORI TSUHAKE, LSW, ACSW
Director of Housing and Human Concerns

Attachment

COUNTY COMMUNICATION NO. 21-454



MAUI COUNTY COMMISSION ON PERSONS WITH DISABILITIES

J. W. CAMERON CENTER 95 MAHALANI ST., ROOM 20 • WAILUKU, HI 96793 • PHONE (808) 270-7755 • FAX 270-7935

September 1, 2021

Chair:

Evalina "Nani"
Watanabe

Vice-Chair:

Kimberly West

Members:

Beverly Stanich

Joseph D'Alessandro

Ricky Sanches

Sarah M. Collins

Susan Lussier

Vacant

Vacant

Council Chair Alice Lee
200 South High Street
Wailuku, Hawaii 96793

Dear Council Chair Lee,

The Commission on Persons with Disabilities would like to respectfully request the consideration of supporting the Counseling Compact.

The Counseling Compact is an interstate compact allowing professional counselors licensed and residing in a compact member state to practice in other compact member states without the need for multiple licenses. The benefits of supporting the Counseling Compact are multifold, and specifically, would increase public access to Professional Counseling services by providing for the mutual recognition of other Member State Licenses.

We strongly believe that in order to further promote the ability and accessibility for persons with disabilities to engage in mental health counseling services, in accordance with Maui County Code Section 2.32.040, your support of this Compact is greatly needed.

Currently, the Counseling Compact has successfully passed through legislatures in Georgia and Maryland and are awaiting their governor's signature. The Compact has also been introduced in Nebraska and Tennessee. Finally, the Compact is being drafted in North Carolina and Delaware. The threshold for Compact enactment requires a core group of ten member states before the legislation can take effect.

In order to provide you with further details and explanations of the Compact, please refer to enclosures Compact Legislation, Summary of Key Provisions, Fact Sheet for State Officials, Infographic, and Universal License Recognition Explainer.

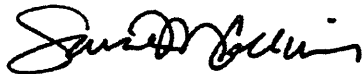
Council Chair Alice Lee

Page 2

September 1, 2021

As the Commission on Persons with Disabilities is an advisory body to the County Administration and to the County Council, the Commission respectfully recommends that the County urge the State of Hawaii Department of Commerce and Consumer Affairs to urge the State of Hawaii to pass legislation in support of the Counseling Compact.

Respectfully,

A handwritten signature in black ink, appearing to read "Sarah M. Collins".

Sarah M. Collins, Commissioner
Commission on Persons with Disabilities

Attachment

cc: Lori Tsuhako, Director, DHHC
James Mariano, Temporarily Assigned Executive on Aging

What is the

COUNSELING COMPACT?

The Counseling Compact is an occupational licensure compact that:



Addresses increasing demand to provide Professional Counseling services.



Authorizes both telehealth and in-person practice across state lines in Counseling Compact states.



Is similar in form and function to occupational licensure compacts for nursing, psychology, medicine, physical therapy and emergency medical services.



10 STATES

The Counseling Compact is operational when 10 states enact the legislation for the compact.



Professional Counselors licensed in their home state apply for a privilege to practice under the Counseling Compact—state lines are a barrier no more.

Counseling Compact states communicate and exchange information including verification of licensure and disciplinary sanctions.

Counseling Compact states retain the ability to regulate practice in their states.



BENEFITS



Increasing access to client care.



Facilitating continuity of care when clients relocate or travel.



Certifying that counselors have met acceptable standards of practice.



Promoting cooperation among Counseling Compact states in the areas of licensure and regulation.



Offering a higher degree of consumer protection across state lines.

IMPACTS



Allowing licensed counselors to practice face-to-face or through telehealth across state lines without having to become licensed in additional Counseling Compact states.



Permitting counselors to provide services to populations currently underserved or geographically isolated.



Allowing military personnel and spouses to more easily continue in their profession when relocating.

For more information visit
counselingcompact.org





SUMMARY OF KEY PROVISIONS

SECTION 1: PURPOSE

The purpose of this compact is to facilitate interstate practice of licensed professional counseling with the goal of improving public access to professional counseling services.

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

The compact is designed to:

- Provide for the mutual recognition of other member state licenses.
- Enhance states' abilities to protect the public's health and safety.
- Encourage the cooperation of member states in regulating multistate practice for licensed professional counselors.
- Support active duty military personnel and their spouses.
- Enhance the exchange of licensure, investigative, and disciplinary information among member states.
- Allow for the use of telehealth technology to increase access to counseling services.
- Support the uniformity of professional counseling licensure requirements throughout the states.
- Eliminate the necessity for licenses in multiple states.
- Facilitate interstate practice by licensed professional counselors who meet uniform requirements.

SECTION 2: DEFINITIONS

Establishes the definitions of key terms as used throughout the compact, to alleviate confusion on the part of practitioners and jurisdictions. Defined terms are capitalized throughout the document.

SECTION 3: STATE PARTICIPATION IN THE COMPACT

This section establishes the duties of the compact's member states.

A member state must:

- License and regulate licensed professional counselors.
- Require licensees to pass a nationally recognized exam.
- Require licensees to have a 60-hour master's degree in counseling or 60 hours of graduate coursework in relevant areas.
- Require licensees to complete a supervised postgraduate professional experience.

- Have a mechanism in place for receiving and investigating complaints about licensees.
- Participate fully in the compact commission's licensure data system.
- Notify the commission of any adverse action against or current significant investigative information regarding a licensee.
- Conduct criminal background checks of candidates for an initial privilege to practice.
- Comply with the rules of the commission, the governing body of the compact.
- Grant the privilege to practice professional counseling to a licensee holding a valid, unencumbered license in another member state.
- Provide for the state's commissioner to attend the meetings of the commission.

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

A licensed professional counselor may only utilize the compact if their *home state* joins the compact.

SECTION 4: PRIVILEGE TO PRACTICE

To exercise the privilege to practice professional counseling in a remote state, a licensee must:

- Hold a license in their home state, which must be a member of the compact.
- Have had no encumbrance or restriction against on any license or privilege to practice within the previous two years.
- Meet any jurisprudence requirements of the remote state and pay all applicable fees.
- Report to the commission any adverse action, encumbrance, or restriction imposed on the licensee by a non-member state within 30 days from the date of the action.

A privilege to practice is valid until the expiration date of the practitioner's home state license.

If a licensee's home state license is revoked, the licensee loses the privilege to practice in *all* member states for the next two years.

If a licensee' privilege to practice is revoked by a member state, the licensee *may* lose the privilege to practice in other member states for the next two years.

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

This section creates an alternative pathway to licensure for privilege holders who change their primary state of residence between compact member states.

A licensee who moves from one member state to another member state may obtain a new, expedited home state license in the new state of residence if they hold a privilege to practice in the new state.

The licensee will be required to complete a new FBI fingerprint based criminal background check, any required state-level background check, and any jurisprudence requirements of the new home state.

If a practitioner moves from a non-member state to a member state, or from a member state to a non-member state, the practitioner must apply for a single-state license in the new state, under the new state's licensure requirements.

A licensee may hold more than one single-state license concurrently, but only the license tied to the individual's primary state of residence may serve as the individual's "home state license" for the purposes of the compact.

Nothing in the compact affects a member state's requirements for issuance of a single-state license.

SECTION 6: ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

This section allows an active duty servicemember, or their spouse, to designate a home state where the individual has a current license in good standing. This state then serves as the individual's home state for the duration of the servicemember's active duty.

SECTION 7: COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

This section establishes that privilege to practice under the compact shall include provision of telehealth services to patients in remote states. Licensees providing telehealth services in a remote state must adhere to the laws and regulations, including scope of practice, of the remote state.

SECTION 8: ADVERSE ACTIONS

This section clarifies that *only* a practitioner's home state may take adverse action against a *home state* license.

However, remote states may take adverse action against a counselor's privilege to practice and may issue enforceable subpoenas for witnesses and evidence from other member states.

Home states must take reported adverse action from any member state into account, in accordance with the home state's laws.

Member states may initiate joint investigations of licensees and are required to share investigative materials in furtherance of any joint or single-state investigation of a licensee. Member states must report any adverse action to the compact data system, which then promptly alerts the home state of this adverse action. Any member state may take adverse action based on the factual findings of a remote state.

If a licensee changes their home state during an active investigation by their former home state, the former home state completes the investigation, takes appropriate action under its laws, and then reports its findings to the compact commission's data system.

Member states retain the right to require a licensee to participate in an alternative program for mental health-related concerns in lieu of adverse action.

SECTION 9: ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

This section outlines the composition and powers of the compact commission and executive committee. The compact is not a waiver of sovereign immunity.

- Each member state is entitled to exactly one delegate selected by that state's licensing board from among the board's members and/or employees.
- Each delegate has one (1) vote on commission affairs.
- The commission is directed to establish a term of office for delegates and may establish term limits.
- The commission may establish and maintain a code of ethics, bylaws, rules, a budget and financial records in order to carry out the compact.
- The commission shall elect an executive committee composed of up to eleven members: seven members of the commission and up to four ex-officio, nonvoting members from four recognized national professional counselor organizations.
- All commission meetings shall be open to the public unless confidential or privileged information must be discussed.
- Commission members and employees are immune from liability related to their positions except in cases of wanton misconduct.

SECTION 10: DATA SYSTEM

This section requires the sharing of licensure information by all compact states. A member state shall submit a uniform dataset to the data system on all counselors to whom this compact is applicable as required by the rules of the commission. This database will allow for the expedited sharing of adverse action or significant investigative information against professional counselors utilizing the compact.

Adverse action information pertaining to a licensee in any member state will be available to any other member state, except that any submitted information that subsequently must be expunged from the submitting state's records will also be removed from the data system.

Member states may designate information submitted to the data system that may not be shared with the public without the express permission of the state in question.

Investigative information pertaining to a licensee in a member state shall not be available to non-member states.

SECTION 11: RULEMAKING

- Rules carry the force of law in all member states.
- A simple majority of member state legislatures may veto a rule of the commission.
- Changes to the rules require a 30-day notice of proposed rulemaking, with an opportunity for a public hearing if one is requested by 25 people or by a government agency.
- If the commission issues a rule that exceeds its authority under the compact, such a rule shall be void and have no force or effect.

SECTION 12: OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

Ensures compliance with the compact by member states. The procedures to be followed in the event of a failure by a member state to comply with the compact include:

- A period of technical assistance in remedying the situation
- Dispute resolution processes; and
- Termination from the compact in the event no other means of compliance has been successful.

The commission shall attempt to resolve any compact-related disputes that may arise between states.

SECTION 13: DATE OF IMPLEMENTATION, WITHDRAWAL, AND AMENDMENT

The compact takes effect on the date of enactment by the tenth state.

States that join after this date are subject to the rules of the commission as they exist on the date when the compact becomes law in that state.

Member states may enact a law to repeal their membership in the compact. A state's withdrawal takes effect 6 months after enactment of such a law.

The member states may amend the compact, but changes do not take effect until enacted into the laws of all member states.

SECTION 14: CONSTRUCTION AND SEVERABILITY

The compact is to be liberally construed so as to effectuate its purposes.

The compact's provisions are severable, meaning that:

- If a provision of the compact is declared to conflict with the United States Constitution, all other provisions remain valid for all member states, and
- If a provision is held contrary to a member state's constitution, the compact retains its full force in all other states, and all other provisions remain valid in the affected state.

SECTION 15: BINDING EFFECT OF COMPACT AND OTHER LAWS

Reiterates that licensees must adhere to the laws and regulations, including scope of practice, of the state in which they are practicing.

Reiterates that all rules and bylaws of the commission are binding on member states.

According to legal precedent, in the event of a conflict between a law of a member state and the compact, the state law is superseded to the extent of the conflict.



FACT SHEET: STATES AND THE COUNSELING COMPACT

The **Counseling Compact** will allow qualified professional counselors to practice in *all states that join the compact*. This will remove the need for counselors to obtain a separate license in each state in which they want to practice.

THE BASICS

- The Counseling Compact is an *interstate compact* — a constitutionally authorized, legally binding contract between states.
- The Counseling Compact is the same in form and function as other occupational licensure compacts like the Nurse Licensure Compact, the EMS Compact, the Physical Therapy Compact, and the Interstate Medical Licensure Compact.
- The Counseling Compact authorizes interstate practice, both in-person and through telehealth, by professional counselors who hold a valid, unrestricted home state license in a Compact member state.
- The practice of professional counseling takes place in the state in which the client is located at the time of the counselor-client encounter. Counselors must observe the laws and rules of the state in which they are practicing.
- The Counseling Compact takes effect upon its enactment by ten states.
- The National Center for Interstate Compacts at the Council of State Governments facilitated the development of the Counseling Compact and is providing technical assistance to states as they consider the Compact.

BENEFITS

- Preserves and strengthens state licensure systems
- Enhances public safety through a shared interstate database of licensure and disciplinary information, allowing for rapid verification of license status
- Improves access to professional counseling services
- Increases market opportunities for professional counselors by authorizing practice in member states, including via telehealth
- Enhances mobility for professional counselors
- Supports relocating military spouses
- Improves continuity of care when clients travel or relocate
- Ensures cooperation among compact member states in regulating the practice of professional counseling

DISPELLING THE MYTHS

- As with the existing licensure compacts, the Counseling Compact has no impact on a state's scope of practice — this is *not* a takeover of state regulatory authority.
- As with existing licensure compacts, the Counseling Compact leaves state-specific licensure requirements in place — this is *not* a takeover of state licensing systems.
- The Counseling Compact enhances states' authority to protect the public and regulate the counseling profession.
- The Counseling Compact will have no significant fiscal implications for states.



INTERSTATE COMPACTS VS. UNIVERSAL LICENSE RECOGNITION

As states work toward greater professional licensure portability, two key policy tools are at their disposal. This fact sheet explains these two methods and how they can work together to facilitate interstate practice.

Interstate Compacts: Borderless Practice in all Member States

The Counseling Compact is an example of an **occupational licensure interstate compact** – a binding agreement among states to adopt a set of uniform licensure standards for a particular profession and to recognize valid licenses for that profession issued by any state that has enacted the agreement.

The engine of a licensure compact is a shared interstate data system that allows for rapid verification of eligibility to practice. Compacts allow practitioners to obtain a “privilege to practice” in another member state in minutes, with no need to submit materials such as test scores or academic transcripts except for a jurisprudence exam if required by the new state.

The Counseling Compact, once legislatively enacted, will allow counselors licensed and based in a member state to practice full time in other member states both in person and via telehealth. Continuing education is required *only* for the home state license.

The Counseling Compact and its licensure data system will be overseen by a public Commission comprised of delegates from each member state. The Commission is empowered to issue appropriate Rules to ensure a responsive, adaptive, and sustainable Compact. Member states are bound contractually to the terms of the Compact and Rules, making the Compact a durable long-term solution to the issue of interstate license portability.

Universal License Recognition Laws: Reducing Barriers to Entry Only

Universal license recognition laws, also known as universal reciprocity, establish a state’s intention to recognize *all* valid occupational and professional licenses from *all* states. These laws apply to all or most professions regulated by a state, are generally implemented on a case-by-case basis by state licensure boards and agencies, and may still require submission of documents and a standard waiting period for review.

Universal recognition laws are sound policy, but they do not allow practitioners based within the enacting state to practice in *other* states, and they do not allow for near-instant verification of licensure eligibility through a data system.

Additionally, universal recognition laws do not require states to commit contractually to a set of uniform requirements for licensure. These laws are enforced at the discretion of the enacting state, leaving room for significant differences in each state’s reciprocity standards.

Furthermore, without the formal structure of a Commission and data system, universal recognition laws cannot ensure effective communication and data sharing among states, potentially jeopardizing public protection.

Can these policies coexist?

Absolutely! There are several reasons for states to pursue both licensure compacts and universal recognition laws.

- A compact is most effective when enacted by all (or nearly all) states. Until that point, universal license recognition laws reduce barriers for practitioners from nonmember states.
- Not everyone is eligible for a compact. Individuals who do not qualify for a compact at their current practice level may still be able to obtain a license by endorsement in another state.
- If a state's universal licensure recognition law is written such that it does not confer eligibility for an interstate compact, there is no conflict between these two policy tools.

Why the Counseling Compact is the gold standard for licensure portability:

Long-term reform of how states license, communicate, and share licensure data requires an enduring and adaptable legislative solution.

The Counseling Compact binds member states to a cooperative system of interstate licensure that removes barriers to practice without sacrificing public protection.

The Commission's rulemaking authority ensures swift adaptation to changes in the profession, securing the long-term viability of the Compact as a comprehensive solution to the challenges of license portability.

For more information on the Counseling Compact, please visit www.CounselingCompact.org.

For a closer look at interstate compacts and universal license recognition, please [click here](#).



COUNSELING COMPACT MODEL LEGISLATION

SECTION 1: PURPOSE

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

This Compact is designed to achieve the following objectives:

- A. Increase public access to Professional Counseling services by providing for the mutual recognition of other Member State licenses;
- B. Enhance the States' ability to protect the public's health and safety;
- C. Encourage the cooperation of Member States in regulating multistate practice for Licensed Professional Counselors;
- D. Support spouses of relocating Active Duty Military personnel;
- E. Enhance the exchange of licensure, investigative, and disciplinary information among Member States;
- F. Allow for the use of Telehealth technology to facilitate increased access to Professional Counseling services;
- G. Support the uniformity of Professional Counseling licensure requirements throughout the States to promote public safety and public health benefits;
- H. Invest all Member States with the authority to hold a Licensed Professional Counselor accountable for meeting all State practice laws in the State in which the client is located at the time care is rendered through the mutual recognition of Member State licenses;
- I. Eliminate the necessity for licenses in multiple States; and
- J. Provide opportunities for interstate practice by Licensed Professional Counselors who meet uniform licensure requirements.

SECTION 2. DEFINITIONS

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

- A. **“Active Duty Military”** means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.
- B. **“Adverse Action”** means any administrative, civil, equitable or criminal action permitted by a State’s laws which is imposed by a licensing board or other authority against a Licensed Professional Counselor, including actions against an individual’s license or Privilege to Practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee’s practice, or any other Encumbrance on licensure affecting a Licensed Professional Counselor’s authorization to practice, including issuance of a cease and desist action.
- C. **“Alternative Program”** means a non-disciplinary monitoring or practice remediation process approved by a Professional Counseling Licensing Board to address Impaired Practitioners.
- D. **“Continuing Competence/Education”** means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.
- E. **“Counseling Compact Commission” or “Commission”** means the national administrative body whose membership consists of all States that have enacted the Compact.
- F. **“Current Significant Investigative Information”** means:
 - 1. Investigative Information that a Licensing Board, after a preliminary inquiry that includes notification and an opportunity for the Licensed Professional Counselor to respond, if required by State law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
 - 2. Investigative Information that indicates that the Licensed Professional Counselor represents an immediate threat to public health and safety regardless of whether

- 56 the Licensed Professional Counselor has been notified and had an opportunity to
57 respond.
- 58 G. **“Data System”** means a repository of information about Licensees, including, but not
59 limited to, continuing education, examination, licensure, investigative, Privilege to Practice
60 and Adverse Action information.
- 61 H. **“Encumbered License”** means a license in which an Adverse Action restricts the
62 practice of licensed Professional Counseling by the Licensee and said Adverse Action has
63 been reported to the National Practitioners Data Bank (NPDB).
- 64 I. **“Encumbrance”** means a revocation or suspension of, or any limitation on, the full and
65 unrestricted practice of Licensed Professional Counseling by a Licensing Board.
- 66 J. **“Executive Committee”** means a group of directors elected or appointed to act on behalf
67 of, and within the powers granted to them by, the Commission.
- 68 K. **“Home State”** means the Member State that is the Licensee’s primary State of residence.
- 69 L. **“Impaired Practitioner”** means an individual who has a condition(s) that may impair their
70 ability to practice as a Licensed Professional Counselor without some type of intervention
71 and may include, but are not limited to, alcohol and drug dependence, mental health
72 impairment, and neurological or physical impairments.
- 73 M. **“Investigative Information”** means information, records, and documents received or
74 generated by a Professional Counseling Licensing Board pursuant to an investigation.
- 75 N. **“Jurisprudence Requirement”** if required by a Member State, means the assessment of
76 an individual’s knowledge of the laws and Rules governing the practice of Professional
77 Counseling in a State.
- 78 O. **“Licensed Professional Counselor”** means a counselor licensed by a Member State,
79 regardless of the title used by that State, to independently assess, diagnose, and treat
80 behavioral health conditions.
- 81 P. **“Licensee”** means an individual who currently holds an authorization from the State to
82 practice as a Licensed Professional Counselor.
- 83 Q. **“Licensing Board”** means the agency of a State, or equivalent, that is responsible for the
84 licensing and regulation of Licensed Professional Counselors.

- 85 R. **“Member State”** means a State that has enacted the Compact.
- 86 S. **“Privilege to Practice”** means a legal authorization, which is equivalent to a license,
87 permitting the practice of Professional Counseling in a Remote State.
- 88 T. **“Professional Counseling”** means the assessment, diagnosis, and treatment of
89 behavioral health conditions by a Licensed Professional Counselor.
- 90 U. **“Remote State”** means a Member State other than the Home State, where a Licensee is
91 exercising or seeking to exercise the Privilege to Practice.
- 92 V. **“Rule”** means a regulation promulgated by the Commission that has the force of law.
- 93 W. **“Single State License”** means a Licensed Professional Counselor license issued by a
94 Member State that authorizes practice only within the issuing State and does not include a
95 Privilege to Practice in any other Member State.
- 96 X. **“State”** means any state, commonwealth, district, or territory of the United States of
97 America that regulates the practice of Professional Counseling.
- 98 Y. **“Telehealth”** means the application of telecommunication technology to deliver
99 Professional Counseling services remotely to assess, diagnose, and treat behavioral
100 health conditions.
- 101 Z. **“Unencumbered License”** means a license that authorizes a Licensed Professional
102 Counselor to engage in the full and unrestricted practice of Professional Counseling.

103 **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

- 104 A. To Participate in the Compact, a State must currently:
- 105 1. License and regulate Licensed Professional Counselors;
- 106 2. Require Licensees to pass a nationally recognized exam approved by the
107 Commission;
- 108 3. Require Licensees to have a 60 semester-hour (or 90 quarter-hour) master's
109 degree in counseling or 60 semester-hours (or 90 quarter-hours) of graduate
110 course work including the following topic areas:
- 111 a. Professional Counseling Orientation and Ethical Practice;

- 112 b. Social and Cultural Diversity;
- 113 c. Human Growth and Development;
- 114 d. Career Development;
- 115 e. Counseling and Helping Relationships;
- 116 f. Group Counseling and Group Work;
- 117 g. Diagnosis and Treatment; Assessment and Testing;
- 118 h. Research and Program Evaluation; and
- 119 i. Other areas as determined by the Commission.
- 120 4. Require Licensees to complete a supervised postgraduate professional experience
- 121 as defined by the Commission;
- 122 5. Have a mechanism in place for receiving and investigating complaints about
- 123 Licensees.
- 124 B. A Member State shall:
- 125 1. Participate fully in the Commission's Data System, including using the
- 126 Commission's unique identifier as defined in Rules;
- 127 2. Notify the Commission, in compliance with the terms of the Compact and Rules, of
- 128 any Adverse Action or the availability of Investigative Information regarding a
- 129 Licensee;
- 130 3. Implement or utilize procedures for considering the criminal history records of
- 131 applicants for an initial Privilege to Practice. These procedures shall include the
- 132 submission of fingerprints or other biometric-based information by applicants for
- 133 the purpose of obtaining an applicant's criminal history record information from the
- 134 Federal Bureau of Investigation and the agency responsible for retaining that
- 135 State's criminal records;
- 136 a. A member state must fully implement a criminal background check
- 137 requirement, within a time frame established by rule, by receiving the
- 138 results of the Federal Bureau of Investigation record search and shall use

- 139 the results in making licensure decisions.
- 140 b. Communication between a Member State, the Commission and among
141 Member States regarding the verification of eligibility for licensure through
142 the Compact shall not include any information received from the Federal
143 Bureau of Investigation relating to a federal criminal records check
144 performed by a Member State under Public Law 92-544.
- 145 4. Comply with the Rules of the Commission;
- 146 5. Require an applicant to obtain or retain a license in the Home State and meet
147 the Home State's qualifications for licensure or renewal of licensure, as well as
148 all other applicable State laws;
- 149 6. Grant the Privilege to Practice to a Licensee holding a valid Unencumbered
150 License in another Member State in accordance with the terms of the Compact
151 and Rules; and
- 152 7. Provide for the attendance of the State's commissioner to the Counseling
153 Compact Commission meetings.
- 154 C. Member States may charge a fee for granting the Privilege to Practice.
- 155 D. Individuals not residing in a Member State shall continue to be able to apply for a Member
156 State's Single State License as provided under the laws of each Member State. However,
157 the Single State License granted to these individuals shall not be recognized as granting a
158 Privilege to Practice Professional Counseling in any other Member State.
- 159 E. Nothing in this Compact shall affect the requirements established by a Member State for the
160 issuance of a Single State License.
- 161 F. A license issued to a Licensed Professional Counselor by a Home State to a resident in
162 that State shall be recognized by each Member State as authorizing a Licensed
163 Professional Counselor to practice Professional Counseling, under a Privilege to Practice,
164 in each Member State.

SECTION 4. PRIVILEGE TO PRACTICE

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

1. Hold a license in the Home State;
2. Have a valid United States Social Security Number or National Practitioner Identifier;
3. Be eligible for a Privilege to Practice in any Member State in accordance with Section 4(D), (G) and (H);
4. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years;
5. Notify the Commission that the Licensee is seeking the Privilege to Practice within a Remote State(s);
6. Pay any applicable fees, including any State fee, for the Privilege to Practice;
7. Meet any Continuing Competence/Education requirements established by the Home State;
8. Meet any Jurisprudence Requirements established by the Remote State(s) in which the Licensee is seeking a Privilege to Practice; and
9. Report to the Commission any Adverse Action, Encumbrance, or restriction on license taken by any non-Member State within 30 days from the date the action is taken.

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

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

D. A Licensee providing Professional Counseling services in a Remote State is subject to that State's regulatory authority. A Remote State may, in accordance with due process and that State's laws, remove a Licensee's Privilege to Practice in the Remote State for a

specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The Licensee may be ineligible for a Privilege to Practice in any Member State until the specific time for removal has passed and all fines are paid.

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

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

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

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

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

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

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

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

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

- 220 1. The Licensed Professional Counselor shall file an application for obtaining a new
221 Home State license based on a Privilege to Practice, pay all applicable fees, and
222 notify the current and new Home State in accordance with applicable Rules adopted
223 by the Commission.
- 224 2. Upon receipt of an application for obtaining a new Home State license by virtue of a
225 Privilege to Practice, the new Home State shall verify that the Licensed Professional
226 Counselor meets the pertinent criteria outlined in Section 4 via the Data System,
227 without need for primary source verification except for:
- 228 a. a Federal Bureau of Investigation fingerprint based criminal background
229 check if not previously performed or updated pursuant to applicable rules
230 adopted by the Commission in accordance with Public Law 92-544;
- 231 b. other criminal background check as required by the new Home State; and
- 232 c. completion of any requisite Jurisprudence Requirements of the new Home
233 State.
- 234 3. The former Home State shall convert the former Home State license into a Privilege
235 to Practice once the new Home State has activated the new Home State license in
236 accordance with applicable Rules adopted by the Commission.
- 237 4. Notwithstanding any other provision of this Compact, if the Licensed Professional
238 Counselor cannot meet the criteria in Section 4, the new Home State may apply its
239 requirements for issuing a new Single State License.
- 240 5. The Licensed Professional Counselor shall pay all applicable fees to the new Home
241 State in order to be issued a new Home State license.
- 242 C. If a Licensed Professional Counselor changes Primary State of Residence by moving from a
243 Member State to a non-Member State, or from a non-Member State to a Member State, the
244 State criteria shall apply for issuance of a Single State License in the new State.
- 245 D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State
246 License in multiple States, however for the purposes of this Compact, a Licensee shall have
247 only one Home State license.
- 248 E. Nothing in this Compact shall affect the requirements established by a Member State for the
249 issuance of a Single State License.

SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

- A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Section 3 and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission.
- B. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State.

SECTION 8. ADVERSE ACTIONS

- A. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to:
1. Take Adverse Action against a Licensed Professional Counselor's Privilege to Practice within that Member State, and
 2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Board in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State in which the witnesses or evidence are located.
 3. Only the Home State shall have the power to take Adverse Action against a Licensed Professional Counselor's license issued by the Home State.

- B. For purposes of taking Adverse Action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own State laws to determine appropriate action.
- C. The Home State shall complete any pending investigations of a Licensed Professional Counselor who changes primary State of residence during the course of the investigations. The Home State shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the Data System. The administrator of the coordinated licensure information system shall promptly notify the new Home State of any Adverse Actions.
- D. A Member State, if otherwise permitted by State law, may recover from the affected Licensed Professional Counselor the costs of investigations and dispositions of cases resulting from any Adverse Action taken against that Licensed Professional Counselor.
- E. A Member State may take Adverse Action based on the factual findings of the Remote State, provided that the Member State follows its own procedures for taking the Adverse Action.
- F. Joint Investigations:
1. In addition to the authority granted to a Member State by its respective Professional Counseling practice act or other applicable State law, any Member State may participate with other Member States in joint investigations of Licensees.
 2. Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.
- G. If Adverse Action is taken by the Home State against the license of a Licensed Professional Counselor, the Licensed Professional Counselor's Privilege to Practice in all other Member States shall be deactivated until all Encumbrances have been removed from the State license. All Home State disciplinary orders that impose Adverse Action against the license of a Licensed Professional Counselor shall include a Statement that the Licensed Professional Counselor's Privilege to Practice is deactivated in all Member States during the pendency of the order.

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

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

SECTION 9. ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

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

1. The Commission is an instrumentality of the Compact States.
2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each Member State shall have and be limited to one (1) delegate selected by that Member State's Licensing Board.
2. The delegate shall be either:
 - a. A current member of the Licensing Board at the time of appointment, who is a Licensed Professional Counselor or public member; or
 - b. An administrator of the Licensing Board.
3. Any delegate may be removed or suspended from office as provided by the law of the State from which the delegate is appointed.
4. The Member State Licensing Board shall fill any vacancy occurring on the Commission within 60 days.
5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of

336 Rules and creation of bylaws and shall otherwise have an opportunity to participate
337 in the business and affairs of the Commission.

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

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

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

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

346 1. Establish the fiscal year of the Commission;

347 2. Establish bylaws;

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

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

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

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

356 7. Purchase and maintain insurance and bonds;

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

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

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

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

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

372 13. Establish a budget and make expenditures;

373 14. Borrow money;

374 15. Appoint committees, including standing committees composed of members, State
375 regulators, State legislators or their representatives, and consumer representatives,
376 and such other interested persons as may be designated in this Compact and the
377 bylaws;

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

380 17. Establish and elect an Executive Committee; and

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

384 D. The Executive Committee

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

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

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

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

- 391 professional counselor organizations.
- 392 c. The ex-officio members will be selected by their respective organizations.
- 393 3. The Commission may remove any member of the Executive Committee as provided
394 in bylaws.
- 395 4. The Executive Committee shall meet at least annually.
- 396 5. The Executive Committee shall have the following duties and responsibilities:
- 397 a. Recommend to the entire Commission changes to the Rules or bylaws,
398 changes to this Compact legislation, fees paid by Compact Member States
399 such as annual dues, and any Commission Compact fee charged to
400 Licensees for the Privilege to Practice;
- 401 b. Ensure Compact administration services are appropriately provided,
402 contractual or otherwise;
- 403 c. Prepare and recommend the budget;
- 404 d. Maintain financial records on behalf of the Commission;
- 405 e. Monitor Compact compliance of Member States and provide compliance
406 reports to the Commission;
- 407 f. Establish additional committees as necessary; and
- 408 g. Other duties as provided in Rules or bylaws.
- 409 E. Meetings of the Commission
- 410 1. All meetings shall be open to the public, and public notice of meetings shall be given
411 in the same manner as required under the Rulemaking provisions in Section 11.
- 412 2. The Commission or the Executive Committee or other committees of the
413 Commission may convene in a closed, non-public meeting if the Commission or
414 Executive Committee or other committees of the Commission must discuss:
- 415 a. Non-compliance of a Member State with its obligations under the Compact;

- 416 b. The employment, compensation, discipline or other matters, practices or
417 procedures related to specific employees or other matters related to the
418 Commission's internal personnel practices and procedures;
- 419 c. Current, threatened, or reasonably anticipated litigation;
- 420 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or
421 real estate;
- 422 e. Accusing any person of a crime or formally censuring any person;
- 423 f. Disclosure of trade secrets or commercial or financial information that is
424 privileged or confidential;
- 425 g. Disclosure of information of a personal nature where disclosure would
426 constitute a clearly unwarranted invasion of personal privacy;
- 427 h. Disclosure of investigative records compiled for law enforcement purposes;
- 428 i. Disclosure of information related to any investigative reports prepared by or
429 on behalf of or for use of the Commission or other committee charged with
430 responsibility of investigation or determination of compliance issues pursuant
431 to the Compact; or
- 432 j. Matters specifically exempted from disclosure by federal or Member State
433 statute.
- 434 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the
435 Commission's legal counsel or designee shall certify that the meeting may be closed
436 and shall reference each relevant exempting provision.
- 437 4. The Commission shall keep minutes that fully and clearly describe all matters
438 discussed in a meeting and shall provide a full and accurate summary of actions
439 taken, and the reasons therefore, including a description of the views expressed. All
440 documents considered in connection with an action shall be identified in such
441 minutes. All minutes and documents of a closed meeting shall remain under seal,
442 subject to release by a majority vote of the Commission or order of a court of
443 competent jurisdiction.

444 F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.
3. The Commission may levy on and collect an annual assessment from each Member State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a Rule binding upon all Member States.
4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.
5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified Immunity, Defense, and Indemnification

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

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

SECTION 10. DATA SYSTEM

- A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, Adverse Action, and Investigative Information on all licensed individuals in Member States.
- B. Notwithstanding any other provision of State law to the contrary, a Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Commission, including:
 1. Identifying information;
 2. Licensure data;
 3. Adverse Actions against a license or Privilege to Practice;
 4. Non-confidential information related to Alternative Program participation;
 5. Any denial of application for licensure, and the reason(s) for such denial;

6. Current Significant Investigative Information; and

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

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

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

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

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

SECTION 11. RULEMAKING

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

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

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

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

- 533 E. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least
534 thirty (30) days in advance of the meeting at which the Rule will be considered and voted
535 upon, the Commission shall file a Notice of Proposed Rulemaking:
- 536 1. On the website of the Commission or other publicly accessible platform; and
537 2. On the website of each Member State Professional Counseling Licensing Board or
538 other publicly accessible platform or the publication in which each State would
539 otherwise publish proposed Rules.
- 540 F. The Notice of Proposed Rulemaking shall include:
- 541 1. The proposed time, date, and location of the meeting in which the Rule will be
542 considered and voted upon;
- 543 2. The text of the proposed Rule or amendment and the reason for the proposed Rule;
- 544 3. A request for comments on the proposed Rule from any interested person; and
545 4. The manner in which interested persons may submit notice to the Commission of
546 their intention to attend the public hearing and any written comments.
- 547 G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written
548 data, facts, opinions, and arguments, which shall be made available to the public.
- 549 H. The Commission shall grant an opportunity for a public hearing before it adopts a Rule or
550 amendment if a hearing is requested by:
- 551 1. At least twenty-five (25) persons;
- 552 2. A State or federal governmental subdivision or agency; or
553 3. An association having at least twenty-five (25) members.
- 554 I. If a hearing is held on the proposed Rule or amendment, the Commission shall publish the
555 place, time, and date of the scheduled public hearing. If the hearing is held via electronic
556 means, the Commission shall publish the mechanism for access to the electronic hearing.
- 557 1. All persons wishing to be heard at the hearing shall notify the executive director of
558 the Commission or other designated member in writing of their desire to appear and

559 testify at the hearing not less than five (5) business days before the scheduled date
560 of the hearing.

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

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

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

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

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

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

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

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

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

584 3. Meet a deadline for the promulgation of an administrative Rule that is established by
585 federal law or Rule; or

586 4. Protect public health and safety.

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

SECTION 12. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the Rules promulgated hereunder shall have standing as statutory law.
2. All courts shall take judicial notice of the Compact and the Rules in any judicial or administrative proceeding in a Member State pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Commission.
3. The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. Default, Technical Assistance, and Termination

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

- 615 a. Provide written notice to the defaulting State and other Member States of the
616 nature of the default, the proposed means of curing the default and/or any
617 other action to be taken by the Commission; and
- 618 b. Provide remedial training and specific technical assistance regarding the
619 default.
- 620 C. If a State in default fails to cure the default, the defaulting State may be terminated from the
621 Compact upon an affirmative vote of a majority of the Member States, and all rights,
622 privileges and benefits conferred by this Compact may be terminated on the effective date of
623 termination. A cure of the default does not relieve the offending State of obligations or
624 liabilities incurred during the period of default.
- 625 D. Termination of membership in the Compact shall be imposed only after all other means of
626 securing compliance have been exhausted. Notice of intent to suspend or terminate shall be
627 given by the Commission to the governor, the majority and minority leaders of the defaulting
628 State's legislature, and each of the Member States.
- 629 E. A State that has been terminated is responsible for all assessments, obligations, and
630 liabilities incurred through the effective date of termination, including obligations that extend
631 beyond the effective date of termination.
- 632 F. The Commission shall not bear any costs related to a State that is found to be in default or
633 that has been terminated from the Compact, unless agreed upon in writing between the
634 Commission and the defaulting State.
- 635 G. The defaulting State may appeal the action of the Commission by petitioning the U.S.
636 District Court for the District of Columbia or the federal district where the Commission has its
637 principal offices. The prevailing member shall be awarded all costs of such litigation,
638 including reasonable attorney's fees.
- 639 H. Dispute Resolution
- 640 1. Upon request by a Member State, the Commission shall attempt to resolve disputes
641 related to the Compact that arise among Member States and between member and
642 non-Member States.

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

I. Enforcement

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

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

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

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

- A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth Member State. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking powers necessary to the implementation and administration of the Compact.
- B. Any State that joins the Compact subsequent to the Commission's initial adoption of the Rules shall be subject to the Rules as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State.
- C. Any Member State may withdraw from this Compact by enacting a statute repealing the same.
1. A Member State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

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

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

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

SECTION 14. CONSTRUCTION AND SEVERABILITY

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

SECTION 15. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

- 701 D. Any lawful actions of the Commission, including all Rules and bylaws properly
702 promulgated by the Commission, are binding upon the Member States.
- 703 E. All permissible agreements between the Commission and the Member States are
704 binding in accordance with their terms.
- 705 F. In the event any provision of the Compact exceeds the constitutional limits imposed on the
706 legislature of any Member State, the provision shall be ineffective to the extent of the conflict
707 with the constitutional provision in question in that Member State.