

House Bill 395 (AS PASSED HOUSE AND SENATE)

By: Representatives Belton of the 112<sup>th</sup>, Werkheiser of the 157<sup>th</sup>, Corbett of the 174<sup>th</sup>, Lumsden of the 12<sup>th</sup>, Holcomb of the 81<sup>st</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 10A of Title 43 of the Official Code of Georgia Annotated, relating to  
2 professional counselors, social workers, and marriage and family therapists, so as to revise  
3 certain licensing provisions; to enter into an interstate compact known as the "Professional  
4 Counselors Licensure Compact"; to authorize the Georgia Composite Board of Professional  
5 Counselors, Social Workers, and Marriage and Family Therapists to administer the compact  
6 in this state; to authorize the board to conduct national background checks; to provide for  
7 conditions; to provide for eligibility; to provide for related matters; to provide for a short  
8 title; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 10A of Title 43 of the Official Code of Georgia Annotated, relating to professional  
12 counselors, social workers, and marriage and family therapists, is amended by revising Code  
13 Section 43-10A-5, relating to requirement of oath, quorum, powers and duties of board,  
14 ethics, reimbursement of members, and meetings, by adding new subsections to read as  
15 follows:

H. B. 395

16 "(h) The board shall administer the Professional Counselors Licensure Compact contained  
17 in Article 2 of this chapter.

18 (i) The board is authorized to conduct national background checks by the submission of  
19 fingerprints to the Federal Bureau of Investigation through the Georgia Crime Information  
20 Center; provided, however, that reports from such background checks shall not be shared  
21 with entities outside of this state."

22 **SECTION 2.**

23 Said chapter is further amended by revising subsection (a) of Code Section 43-10A-8,  
24 relating to eligibility for licensure, as follows:

25 "43-10A-8.

26 No person shall be eligible for licensure under this chapter unless such person furnishes  
27 satisfactory evidence to the board of all of the following:

28 (1) Having met the education, training, and experience requirements of Code Section  
29 43-10A-11, 43-10A-12, or 43-10A-13 regarding that specialty for which a license is  
30 sought;

31 (2) Having successfully passed the examination established for that specialty under Code  
32 Section 43-10A-9, except that persons meeting the requirements of  
33 subparagraph (a)(2)(A) of Code Section 43-10A-13 shall not be required to pass such  
34 examination;

35 (3) Having paid any required license fee; ~~and~~

36 (4) Having furnished at least two personal references from supervisors, teachers, or any  
37 combination thereof; and

38 (5) Having satisfactory results from a fingerprint record check report conducted by the  
39 Georgia Crime Information Center and the Federal Bureau of Investigation, as  
40 determined by the board. Application for the issuance of a license under this Code  
41 section shall constitute express consent and authorization for the board to perform a

42 criminal background check. Each applicant who submits an application to the board for  
43 licensure agrees to provide the board with any and all information necessary to run a  
44 criminal background check, including, but not limited to, classifiable sets of fingerprints.  
45 Any such applicant shall be responsible for all fees associated with the performance of  
46 such background check."

47 **SECTION 3.**

48 Said chapter is further amended by redesignating provisions of said chapter as Article 1, by  
49 replacing "this chapter" with "this article" everywhere such term occurs in the new article,  
50 and by adding a new article to read as follows:

51 "ARTICLE 2

52 43-10A-50.

53 This article shall be known and may be cited as 'The Professional Counselors Licensure  
54 Compact Act.'

55 43-10A-51.

56 The Professional Counselors Licensure Compact is enacted into law and entered into by  
57 the State of Georgia with any and all other states legally joining therein in the form  
58 substantially as follows:

59 PROFESSIONAL COUNSELORS LICENSURE COMPACT

60 SECTION 1. PURPOSE

61 The purpose of this Compact is to facilitate interstate practice of Licensed Professional  
62 Counselors with the goal of improving public access to Professional Counseling services.

63 The practice of Professional Counseling occurs in the State where the client is located at the  
64 time of the counseling services. The Compact preserves the regulatory authority of States  
65 to protect public health and safety through the current system of State licensure.

66 This Compact is designed to achieve the following objectives:

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

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

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

72 D. Support spouses of relocating Active Duty Military personnel;

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

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

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

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

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

83 J. Provide opportunities for interstate practice by Licensed Professional Counselors who  
84 meet uniform licensure requirements.

## 85 SECTION 2. DEFINITIONS

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

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

- 115 G. "Data System" means a repository of information about Licensees, including, but not  
116 limited to, continuing education, examination, licensure, investigative, Privilege to Practice  
117 and Adverse Action information.
- 118 H. "Encumbered License" means a license in which an Adverse Action restricts the  
119 practice of licensed Professional Counseling by the Licensee and said Adverse Action has  
120 been reported to the National Practitioners Data Bank (NPDB).
- 121 I. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and  
122 unrestricted practice of Licensed Professional Counseling by a Licensing Board.
- 123 J. "Executive Committee" means a group of directors elected or appointed to act on behalf  
124 of, and within the powers granted to them by, the Commission.
- 125 K. "Home State" means the Member State that is the Licensee's primary State of residence.
- 126 L. "Impaired Practitioner" means an individual who has a condition(s) that may impair  
127 their ability to practice as a Licensed Professional Counselor without some type of  
128 intervention and may include, but are not limited to, alcohol and drug dependence, mental  
129 health impairment, and neurological or physical impairments.
- 130 M. "Investigative Information" means information, records, and documents received or  
131 generated by a Professional Counseling Licensing Board pursuant to an investigation.
- 132 N. "Jurisprudence Requirement" if required by a Member State, means the assessment of  
133 an individual's knowledge of the laws and Rules governing the practice of Professional  
134 Counseling in a State.
- 135 O. "Licensed Professional Counselor" means a counselor licensed by a Member State,  
136 regardless of the title used by that State, to independently assess, diagnose, and treat  
137 behavioral health conditions.
- 138 P. "Licensee" means an individual who currently holds an authorization from the State to  
139 practice as a Licensed Professional Counselor.
- 140 Q. "Licensing Board" means the agency of a State, or equivalent, that is responsible for  
141 the licensing and regulation of Licensed Professional Counselors.

- 142 R. "Member State" means a State that has enacted the Compact.
- 143 S. "Privilege to Practice" means a legal authorization, which is equivalent to a license,  
144 permitting the practice of Professional Counseling in a Remote State.
- 145 T. "Professional Counseling" means the assessment, diagnosis, and treatment of behavioral  
146 health conditions by a Licensed Professional Counselor.
- 147 U. "Remote State" means a Member State other than the Home State, where a Licensee  
148 is exercising or seeking to exercise the Privilege to Practice.
- 149 V. "Rule" means a regulation promulgated by the Commission that has the force of law.
- 150 W. "Single State License" means a Licensed Professional Counselor license issued by a  
151 Member State that authorizes practice only within the issuing State and does not include  
152 a Privilege to Practice in any other Member State.
- 153 X. "State" means any state, commonwealth, district, or territory of the United States of  
154 America that regulates the practice of Professional Counseling.
- 155 Y. "Telehealth" means the application of telecommunication technology to deliver  
156 Professional Counseling services remotely to assess, diagnose, and treat behavioral health  
157 conditions.
- 158 Z. "Unencumbered License" means a license that authorizes a Licensed Professional  
159 Counselor to engage in the full and unrestricted practice of Professional Counseling.

160 SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

- 168 b. Social and Cultural Diversity;  
169 c. Human Growth and Development;  
170 d. Career Development;  
171 e. Counseling and Helping Relationships;  
172 f. Group Counseling and Group Work;  
173 g. Diagnosis and Treatment; Assessment and Testing;  
174 h. Research and Program Evaluation; and  
175 i. Other areas as determined by the Commission.
- 176 4. Require Licensees to complete a supervised postgraduate professional experience as  
177 defined by the Commission;
- 178 5. Have a mechanism in place for receiving and investigating complaints about  
179 Licensees.
- 180 B. A Member State shall:
- 181 1. Participate fully in the Commission's Data System, including using the Commission's  
182 unique identifier as defined in Rules;
- 183 2. Notify the Commission, in compliance with the terms of the Compact and Rules, of  
184 any Adverse Action or the availability of Investigative Information regarding a Licensee;
- 185 3. Implement or utilize procedures for considering the criminal history records of  
186 applicants for an initial Privilege to Practice. These procedures shall include the  
187 submission of fingerprints or other biometric-based information by applicants for the  
188 purpose of obtaining an applicant's criminal history record information from the Federal  
189 Bureau of Investigation and the agency responsible for retaining that State's criminal  
190 records;
- 191 a. A member state must fully implement a criminal background check requirement,  
192 within a time frame established by rule, by receiving the results of the Federal Bureau  
193 of Investigation record search and shall use the results in making licensure decisions.



194 b. Communication between a Member State, the Commission and among Member  
195 States regarding the verification of eligibility for licensure through the Compact shall  
196 not include any information received from the Federal Bureau of Investigation relating  
197 to a federal criminal records check performed by a Member State under Public Law  
198 92-544.

199 4. Comply with the Rules of the Commission;

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

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

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

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

208 D. Individuals not residing in a Member State shall continue to be able to apply for a  
209 Member State's Single State License as provided under the laws of each Member State.

210 However, the Single State License granted to these individuals shall not be recognized as  
211 granting a Privilege to Practice Professional Counseling in any other Member State.

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

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

218 SECTION 4. PRIVILEGE TO PRACTICE

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

221 1. Hold a license in the Home State;

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

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

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

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

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

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

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

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

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

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

241 D. A Licensee providing Professional Counseling services in a Remote State is subject to  
242 that State's regulatory authority. A Remote State may, in accordance with due process and  
243 that State's laws, remove a Licensee's Privilege to Practice in the Remote State for a  
244 specific period of time, impose fines, and/or take any other necessary actions to protect the

245 health and safety of its citizens. The Licensee may be ineligible for a Privilege to Practice  
246 in any Member State until the specific time for removal has passed and all fines are paid.

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

249 1. The Home State license is no longer encumbered; and

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

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

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

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

259 2. All fines have been paid; and

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

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

264 SECTION 5. OBTAINING A NEW HOME STATE LICENSE BASED ON A PRIVILEGE  
265 TO PRACTICE

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

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

- 270 1. The Licensed Professional Counselor shall file an application for obtaining a new  
271 Home State license based on a Privilege to Practice, pay all applicable fees, and notify  
272 the current and new Home State in accordance with applicable Rules adopted by the  
273 Commission.
- 274 2. Upon receipt of an application for obtaining a new Home State license by virtue of a  
275 Privilege to Practice, the new Home State shall verify that the Licensed Professional  
276 Counselor meets the pertinent criteria outlined in Section 4 via the Data System, without  
277 need for primary source verification except for:
- 278 a. a Federal Bureau of Investigation fingerprint based criminal background check if not  
279 previously performed or updated pursuant to applicable rules adopted by the  
280 Commission in accordance with Public Law 92-544;
- 281 b. other criminal background check as required by the new Home State; and
- 282 c. completion of any requisite Jurisprudence Requirements of the new Home State.
- 283 3. The former Home State shall convert the former Home State license into a Privilege  
284 to Practice once the new Home State has activated the new Home State license in  
285 accordance with applicable Rules adopted by the Commission.
- 286 4. Notwithstanding any other provision of this Compact, if the Licensed Professional  
287 Counselor cannot meet the criteria in Section 4, the new Home State may apply its  
288 requirements for issuing a new Single State License.
- 289 5. The Licensed Professional Counselor shall pay all applicable fees to the new Home  
290 State in order to be issued a new Home State license.
- 291 C. If a Licensed Professional Counselor changes Primary State of Residence by moving  
292 from a Member State to a non-Member State, or from a non-Member State to a Member  
293 State, the State criteria shall apply for issuance of a Single State License in the new State.
- 294 D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State  
295 License in multiple States, however for the purposes of this Compact, a Licensee shall have  
296 only one Home State license.

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

299 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

305 SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

306 A. Member States shall recognize the right of a Licensed Professional Counselor, licensed  
307 by a Home State in accordance with Section 3 and under Rules promulgated by the  
308 Commission, to practice Professional Counseling in any Member State via Telehealth  
309 under a Privilege to Practice as provided in the Compact and Rules promulgated by the  
310 Commission.

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

313 SECTION 8. ADVERSE ACTIONS

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

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

318 2. Issue subpoenas for both hearings and investigations that require the attendance and  
319 testimony of witnesses as well as the production of evidence. Subpoenas issued by a  
320 Licensing Board in a Member State for the attendance and testimony of witnesses or the

321 production of evidence from another Member State shall be enforced in the latter State  
322 by any court of competent jurisdiction, according to the practice and procedure of that  
323 court applicable to subpoenas issued in proceedings pending before it. The issuing  
324 authority shall pay any witness fees, travel expenses, mileage, and other fees required by  
325 the service statutes of the State in which the witnesses or evidence are located.

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

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

332 C. The Home State shall complete any pending investigations of a Licensed Professional  
333 Counselor who changes primary State of residence during the course of the investigations.  
334 The Home State shall also have the authority to take appropriate action(s) and shall  
335 promptly report the conclusions of the investigations to the administrator of the Data  
336 System. The administrator of the coordinated licensure information system shall promptly  
337 notify the new Home State of any Adverse Actions.

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

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

344 F. Joint Investigations:

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

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

350 G. If Adverse Action is taken by the Home State against the license of a Licensed  
351 Professional Counselor, the Licensed Professional Counselor's Privilege to Practice in all  
352 other Member States shall be deactivated until all Encumbrances have been removed from  
353 the State license. All Home State disciplinary orders that impose Adverse Action against  
354 the license of a Licensed Professional Counselor shall include a Statement that the  
355 Licensed Professional Counselor's Privilege to Practice is deactivated in all Member States  
356 during the pendency of the order.

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

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

362 -

### 363 SECTION 9. ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

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

366 1. The Commission is an instrumentality of the Compact States.

367 2. Venue is proper and judicial proceedings by or against the Commission shall be  
368 brought solely and exclusively in a court of competent jurisdiction where the principal  
369 office of the Commission is located. The Commission may waive venue and  
370 jurisdictional defenses to the extent it adopts or consents to participate in alternative  
371 dispute resolution proceedings.

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

373 B. Membership, Voting, and Meetings

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

376 2. The delegate shall be either:

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

379 b. An administrator of the Licensing Board.

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

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

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

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

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

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

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

395 1. Establish the fiscal year of the Commission;

396 2. Establish bylaws;

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

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



- 400 5. Promulgate Rules which shall be binding to the extent and in the manner provided for  
401 in the Compact;
- 402 6. Bring and prosecute legal proceedings or actions in the name of the Commission,  
403 provided that the standing of any State Licensing Board to sue or be sued under  
404 applicable law shall not be affected;
- 405 7. Purchase and maintain insurance and bonds;
- 406 8. Borrow, accept, or contract for services of personnel, including, but not limited to,  
407 employees of a Member State;
- 408 9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such  
409 individuals appropriate authority to carry out the purposes of the Compact, and establish  
410 the Commission's personnel policies and programs relating to conflicts of interest,  
411 qualifications of personnel, and other related personnel matters;
- 412 10. Accept any and all appropriate donations and grants of money, equipment, supplies,  
413 materials, and services, and to receive, utilize, and dispose of the same; provided that at  
414 all times the Commission shall avoid any appearance of impropriety and/or conflict of  
415 interest;
- 416 11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold,  
417 improve or use, any property, real, personal or mixed; provided that at all times the  
418 Commission shall avoid any appearance of impropriety;
- 419 12. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any  
420 property real, personal, or mixed;
- 421 13. Establish a budget and make expenditures;
- 422 14. Borrow money;
- 423 15. Appoint committees, including standing committees composed of members, State  
424 regulators, State legislators or their representatives, and consumer representatives, and  
425 such other interested persons as may be designated in this Compact and the bylaws;

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

428 17. Establish and elect an Executive Committee; and

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

432 D. The Executive Committee

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

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

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

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

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

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

443 4. The Executive Committee shall meet at least annually.

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

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

448 b. Ensure Compact administration services are appropriately provided, contractual or  
449 otherwise;

450 c. Prepare and recommend the budget;

451 d. Maintain financial records on behalf of the Commission;

452 e. Monitor Compact compliance of Member States and provide compliance reports to  
453 the Commission;

454 f. Establish additional committees as necessary; and

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

456 E. Meetings of the Commission

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

459 2. The Commission or the Executive Committee or other committees of the Commission  
460 may convene in a closed, non-public meeting if the Commission or Executive Committee  
461 or other committees of the Commission must discuss:

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

463 b. The employment, compensation, discipline or other matters, practices or procedures  
464 related to specific employees or other matters related to the Commission's internal  
465 personnel practices and procedures;

466 c. Current, threatened, or reasonably anticipated litigation;

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

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

470 f. Disclosure of trade secrets or commercial or financial information that is privileged  
471 or confidential;

472 g. Disclosure of information of a personal nature where disclosure would constitute a  
473 clearly unwarranted invasion of personal privacy;

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

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

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

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

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

488 F. Financing of the Commission

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

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

493 3. The Commission may levy on and collect an annual assessment from each Member  
494 State or impose fees on other parties to cover the cost of the operations and activities of  
495 the Commission and its staff, which must be in a total amount sufficient to cover its  
496 annual budget as approved each year for which revenue is not provided by other sources.  
497 The aggregate annual assessment amount shall be allocated based upon a formula to be  
498 determined by the Commission, which shall promulgate a Rule binding upon all Member  
499 States.

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

503 5. The Commission shall keep accurate accounts of all receipts and disbursements. The  
504 receipts and disbursements of the Commission shall be subject to the audit and  
505 accounting procedures established under its bylaws. However, all receipts and

506 disbursements of funds handled by the Commission shall be audited yearly by a certified  
507 or licensed public accountant, and the report of the audit shall be included in and become  
508 part of the annual report of the Commission.

509 G. Qualified Immunity, Defense, and Indemnification

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

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

528 3. The Commission shall indemnify and hold harmless any member, officer, executive  
529 director, employee, or representative of the Commission for the amount of any settlement  
530 or judgment obtained against that person arising out of any actual or alleged act, error,  
531 or omission that occurred within the scope of Commission employment, duties, or  
532 responsibilities, or that such person had a reasonable basis for believing occurred within

533 the scope of Commission employment, duties, or responsibilities, provided that the actual  
534 or alleged act, error, or omission did not result from the intentional or willful or wanton  
535 misconduct of that person.

536 SECTION 10. DATA SYSTEM

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

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

543 1. Identifying information;

544 2. Licensure data;

545 3. Adverse Actions against a license or Privilege to Practice;

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

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

548 6. Current Significant Investigative Information; and

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

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

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

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

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

562 SECTION 11. RULEMAKING

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

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

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

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

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

- 580 1. On the website of the Commission or other publicly accessible platform; and  
581 2. On the website of each Member State Professional Counseling Licensing Board or  
582 other publicly accessible platform or the publication in which each State would otherwise  
583 publish proposed Rules.

584 F. The Notice of Proposed Rulemaking shall include:

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

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

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

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

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

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

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

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

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

598 I. If a hearing is held on the proposed Rule or amendment, the Commission shall publish  
599 the place, time, and date of the scheduled public hearing. If the hearing is held via  
600 electronic means, the Commission shall publish the mechanism for access to the electronic  
601 hearing.

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

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

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



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

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

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

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

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

- 628 1. Meet an imminent threat to public health, safety, or welfare;
- 629 2. Prevent a loss of Commission or Member State funds;
- 630 3. Meet a deadline for the promulgation of an administrative Rule that is established by  
631 federal law or Rule; or
- 632 4. Protect public health and safety.

633 N. The Commission or an authorized committee of the Commission may direct revisions  
634 to a previously adopted Rule or amendment for purposes of correcting typographical errors,  
635 errors in format, errors in consistency, or grammatical errors. Public notice of any  
636 revisions shall be posted on the website of the Commission. The revision shall be subject

637 to challenge by any person for a period of thirty (30) days after posting. The revision may  
638 be challenged only on grounds that the revision results in a material change to a Rule. A  
639 challenge shall be made in writing and delivered to the chair of the Commission prior to  
640 the end of the notice period. If no challenge is made, the revision will take effect without  
641 further action. If the revision is challenged, the revision may not take effect without the  
642 approval of the Commission.

## 643 SECTION 12. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

### 644 A. Oversight

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

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

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

### 656 B. Default, Technical Assistance, and Termination

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

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

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

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

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

673 E. A State that has been terminated is responsible for all assessments, obligations, and  
674 liabilities incurred through the effective date of termination, including obligations that  
675 extend beyond the effective date of termination.

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

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

683 H. Dispute Resolution

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

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

689 I. Enforcement

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

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

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

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

703 A. The Compact shall come into effect on the date on which the Compact statute is  
704 enacted into law in the tenth Member State. The provisions, which become effective at that  
705 time, shall be limited to the powers granted to the Commission relating to assembly and the  
706 promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking  
707 powers necessary to the implementation and administration of the Compact.

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

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

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

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

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

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

727 SECTION 14. CONSTRUCTION AND SEVERABILITY

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

737 SECTION 15. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

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

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

749 F. In the event any provision of the Compact exceeds the constitutional limits imposed on  
750 the legislature of any Member State, the provision shall be ineffective to the extent of the  
751 conflict with the constitutional provision in question in that Member State."

752 **SECTION 4.**

753 All laws and parts of laws in conflict with this Act are repealed.