

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 393

BY HEALTH AND WELFARE COMMITTEE

1 AN ACT  
2 RELATING TO THE INTERSTATE COUNSELING COMPACT; AMENDING CHAPTER 34, TITLE  
3 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3406A, IDAHO CODE, TO  
4 PROVIDE FOR THE INTERSTATE COUNSELING COMPACT; AND DECLARING AN EMER-  
5 GENCY AND PROVIDING AN EFFECTIVE DATE.

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Chapter 34, Title 54, Idaho Code, be, and the same is  
8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
9 ignated as Section 54-3406A, Idaho Code, and to read as follows:

10 54-3406A. INTERSTATE COUNSELING COMPACT. The interstate counseling  
11 compact is enacted and entered into law with all other jurisdictions joining  
12 in the compact in the form substantially as follows:

13 INTERSTATE COUNSELING COMPACT

14 SECTION 1  
15 PURPOSE

16 The purpose of this compact is to facilitate interstate practice of li-  
17 censed professional counselors with the goal of improving public access to  
18 professional counseling services. The practice of professional counseling  
19 occurs in the state where the client is located at the time of the counseling  
20 services. The compact preserves the regulatory authority of states to pro-  
21 tect public health and safety through the current system of state licensure.

22 This compact is designed to achieve the following objectives:

23 A. Increase public access to professional counseling services by pro-  
24 viding for the mutual recognition of other member state licenses;

25 B. Enhance the states' ability to protect the public's health and  
26 safety;

27 C. Encourage the cooperation of member states in regulating multistate  
28 practice for licensed professional counselors;

29 D. Support spouses of relocating active duty military personnel;

30 E. Enhance the exchange of licensure, investigative, and disciplinary  
31 information among member states;

32 F. Allow for the use of telehealth technology to facilitate increased  
33 access to professional counseling services;

34 G. Support the uniformity of professional counseling licensure re-  
35 quirements throughout the states to promote public safety and public health  
36 benefits;

37 H. Invest all member states with the authority to hold a licensed pro-  
38 fessional counselor accountable for meeting all state practice laws in the

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

3 I. Eliminate the necessity for licenses in multiple states; and

4 J. Provide opportunities for interstate practice by licensed profes-  
5 sional counselors who meet uniform licensure requirements.

6 SECTION 2  
7 DEFINITIONS

8 As used in this compact, and except as otherwise provided, the follow-  
9 ing definitions shall apply:

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

13 B. "Adverse action" means any administrative, civil, equitable, or  
14 criminal action permitted by a state's laws that is imposed by a licensing  
15 board or other authority against a licensed professional counselor, includ-  
16 ing actions against an individual's license or privilege to practice, such  
17 as revocation, suspension, probation, monitoring of the licensee, limi-  
18 tation on the licensee's practice, or any other encumbrance on licensure  
19 affecting a licensed professional counselor's authorization to practice,  
20 including issuance of a cease and desist action.

21 C. "Alternative program" means a nondisciplinary monitoring or prac-  
22 tice remediation process approved by a professional counseling licensing  
23 board to address impaired practitioners.

24 D. "Continuing competence/education" means a requirement, as a con-  
25 dition of license renewal, to provide evidence of participation in, and/or  
26 completion of, educational and professional activities relevant to practice  
27 or area of work.

28 E. "Counseling compact commission" or "commission" means the national  
29 administrative body whose membership consists of all states that have en-  
30 acted the compact.

31 F. "Current significant investigative information" means:

32 1. Investigative information that a licensing board, after a prelimi-  
33 nary inquiry that includes notification and an opportunity for the li-  
34 censed professional counselor to respond, if required by state law, has  
35 reason to believe is not groundless and, if proved true, would indicate  
36 more than a minor infraction; or

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

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

44 H. "Encumbered license" means a license in which an adverse action  
45 restricts the practice of licensed professional counseling by the licensee  
46 and said adverse action has been reported to the national practitioners data  
47 bank (NPDB).

1 I. "Encumbrance" means a revocation or suspension of, or any limitation  
2 on, the full and unrestricted practice of licensed professional counseling  
3 by a licensing board.

4 J. "Executive committee" means a group of directors elected or ap-  
5 pointed to act on behalf of, and within the powers granted to them by, the  
6 commission.

7 K. "Home state" means the member state that is the licensee's primary  
8 state of residence.

9 L. "Impaired practitioner" means an individual who has a condition(s)  
10 that may impair the individual's ability to practice as a licensed profes-  
11 sional counselor without some type of intervention, which conditions may in-  
12 clude but are not limited to alcohol and drug dependence, mental health im-  
13 pairment, and neurological or physical impairments.

14 M. "Investigative information" means information, records, and doc-  
15 uments received or generated by a professional counseling licensing board  
16 pursuant to an investigation.

17 N. "Jurisprudence requirement," if required by a member state, means  
18 the assessment of an individual's knowledge of the laws and rules governing  
19 the practice of professional counseling in a state.

20 O. "Licensed professional counselor" means a counselor licensed by a  
21 member state, regardless of the title used by that state, to independently  
22 assess, diagnose, and treat behavioral health conditions.

23 P. "Licensee" means an individual who currently holds an authorization  
24 from the state to practice as a licensed professional counselor.

25 Q. "Licensing board" means the agency of a state, or equivalent, that is  
26 responsible for the licensing and regulation of licensed professional coun-  
27 selors.

28 R. "Member state" means a state that has enacted the compact.

29 S. "Privilege to practice" means a legal authorization, which is equiv-  
30 alent to a license, permitting the practice of professional counseling in a  
31 remote state.

32 T. "Professional counseling" means the assessment, diagnosis, and  
33 treatment of behavioral health conditions by a licensed professional coun-  
34 selor.

35 U. "Remote state" means a member state other than the home state where a  
36 licensee is exercising or seeking to exercise the privilege to practice.

37 V. "Rule" means a regulation promulgated by the commission that has the  
38 force of law.

39 W. "Single-state license" means a licensed professional counselor li-  
40 cense issued by a member state that authorizes practice only within the is-  
41 suing state and does not include a privilege to practice in any other member  
42 state.

43 X. "State" means any state, commonwealth, district, or territory of the  
44 United States of America that regulates the practice of professional coun-  
45 seling.

46 Y. "Telehealth" means the application of telecommunication technology  
47 to deliver professional counseling services remotely to assess, diagnose,  
48 and treat behavioral health conditions.

49 Z. "Unencumbered license" means a license that authorizes a licensed  
50 professional counselor to engage in the full and unrestricted practice of

1 professional counseling.

2 SECTION 3  
3 STATE PARTICIPATION IN THE COMPACT

- 4 A. To participate in the compact, a state must currently:  
5 1. License and regulate licensed professional counselors;  
6 2. Require licensees to pass a nationally recognized exam approved by  
7 the commission;  
8 3. Require licensees to have a sixty (60) semester-hour (or ninety  
9 (90) quarter-hour) master's degree in counseling or sixty (60)  
10 semester-hours (or ninety (90) quarter-hours) of graduate course work  
11 including the following topic areas:  
12 a. Professional counseling orientation and ethical practice;  
13 b. Social and cultural diversity;  
14 c. Human growth and development;  
15 d. Career development;  
16 e. Counseling and helping relationships;  
17 f. Group counseling and group work;  
18 g. Diagnosis and treatment; assessment and testing;  
19 h. Research and program evaluation; and  
20 i. Other areas as determined by the commission.  
21 4. Require licensees to complete a supervised postgraduate profes-  
22 sional experience as defined by the commission; and  
23 5. Have a mechanism in place for receiving and investigating complaints  
24 about licensees.
- 25 B. A member state shall:  
26 1. Participate fully in the commission's data system, including using  
27 the commission's unique identifier as defined by rule;  
28 2. Notify the commission, in compliance with the terms of the compact  
29 and rules, of any adverse action or the availability of investigative  
30 information regarding a licensee;  
31 3. Implement or utilize procedures for considering the criminal his-  
32 tory records of applicants for an initial privilege to practice. These  
33 procedures shall include the submission of fingerprints or other bio-  
34 metric-based information by applicants for the purpose of obtaining  
35 an applicant's criminal history record information from the federal  
36 bureau of investigation and the agency responsible for retaining that  
37 state's criminal records;  
38 a. A member state must fully implement a criminal background check  
39 requirement, within a time frame established by rule, by receiving  
40 the results of the federal bureau of investigation record search  
41 and shall use the results in making licensure decisions; and  
42 b. Communication between a member state, the commission, and  
43 among member states regarding the verification of eligibility  
44 for licensure through the compact may not include any information  
45 received from the federal bureau of investigation relating to a  
46 federal criminal records check performed by a member state under  
47 P.L. 92-544;  
48 4. Comply with the rules of the commission;



1 C. A licensee providing professional counseling in a remote state under  
2 the privilege to practice shall adhere to the laws and regulations of the re-  
3 mote state.

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

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

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

17 F. Once an encumbered license in the home state is restored to good  
18 standing, the licensee must meet the requirements of A. of this section to  
19 obtain a privilege to practice in any remote state.

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

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

28 H. Once the requirements of G. of this section have been met, the li-  
29 censee must meet the requirements in A. of this section to obtain a privilege  
30 to practice in a remote state.

## 31 SECTION 5

### 32 OBTAINING A NEW HOME STATE LICENSE BASED ON A PRIVILEGE TO PRACTICE

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

36 B. If a licensed professional counselor changes primary state of resi-  
37 dence by moving between two (2) member states:

38 1. The licensed professional counselor shall file an application for  
39 obtaining a new home state license based on a privilege to practice, pay  
40 all applicable fees, and notify the current and new home state in accor-  
41 dance with applicable rules adopted by the commission.

42 2. Upon receipt of an application for obtaining a new home state li-  
43 cense by virtue of a privilege to practice, the new home state shall ver-  
44 ify that the licensed professional counselor meets the pertinent crite-  
45 ria outlined in section 4 via the data system, without need for primary  
46 source verification, except for:

- 47 a. Completion of a federal bureau of investigation fingerprint-  
48 based criminal background check if not previously performed or up-



## ADVERSE ACTIONS

1  
2 A. In addition to the other powers conferred by state law, a remote  
3 state shall have the authority, in accordance with existing state due  
4 process law, to:

5 1. Take adverse action against a licensed professional counselor's  
6 privilege to practice within that member state; and

7 2. Issue subpoenas for both hearings and investigations that require  
8 the attendance and testimony of witnesses as well as the production of  
9 evidence. Subpoenas issued by a licensing board in a member state for  
10 the attendance and testimony of witnesses or the production of evidence  
11 from another member state shall be enforced in the latter state by any  
12 court of competent jurisdiction, according to the practice and proce-  
13 dure of that court applicable to subpoenas issued in proceedings pend-  
14 ing before it. The issuing authority shall pay any witness fees, travel  
15 expenses, mileage, and other fees required by the service statutes of  
16 the state in which the witnesses or evidence are located.

17 3. Only the home state shall have the power to take adverse action  
18 against a licensed professional counselor's license issued by the home  
19 state.

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

24 C. The home state shall complete any pending investigations of a li-  
25 censed professional counselor who changes primary state of residence during  
26 the course of the investigations. The home state shall also have the author-  
27 ity to take appropriate action(s) and shall promptly report the conclusions  
28 of the investigations to the administrator of the data system. The admin-  
29 istrator of the coordinated licensure information system shall promptly no-  
30 tify the new home state of any adverse actions.

31 D. A member state, if otherwise permitted by state law, may recover from  
32 the affected licensed professional counselor the costs of investigations  
33 and dispositions of cases resulting from any adverse action taken against  
34 that licensed professional counselor.

35 E. A member state may take adverse action based on the factual findings  
36 of the remote state, provided that the member state follows its own proce-  
37 dures for taking the adverse action.

38 F. Joint investigations:

39 1. In addition to the authority granted to a member state by its respec-  
40 tive professional counseling practice act or other applicable state  
41 law, any member state may participate with other member states in joint  
42 investigations of licensees.

43 2. Member states shall share any investigative, litigation, or compli-  
44 ance materials in furtherance of any joint or individual investigation  
45 initiated under the compact.

46 G. If adverse action is taken by the home state against the license of  
47 a licensed professional counselor, the licensed professional counselor's  
48 privilege to practice in all other member states shall be deactivated until  
49 all encumbrances have been removed from the state license. All home state



1 disciplinary orders that impose adverse action against the license of a li-  
 2 censed professional counselor shall include a statement that the licensed  
 3 professional counselor's privilege to practice is deactivated in all member  
 4 states during the pendency of the order.

5 H. If a member state takes adverse action, it shall promptly notify the  
 6 administrator of the data system. The administrator of the data system shall  
 7 promptly notify the home state of any adverse actions by remote states.

8 I. Nothing in this compact may override a member state's decision that  
 9 participation in an alternative program may be used in lieu of adverse ac-  
 10 tion.

11 SECTION 9  
 12 ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

13 A. The compact member states hereby create and establish a joint public  
 14 agency known as the counseling compact commission:

15 1. The commission is an instrumentality of the compact states.

16 2. Venue is proper and judicial proceedings by or against the commis-  
 17 sion shall be brought solely and exclusively in a court of competent ju-  
 18 risdiction where the principal office of the commission is located. The  
 19 commission may waive venue and jurisdictional defenses to the extent  
 20 it adopts or consents to participate in alternative dispute resolution  
 21 proceedings.

22 3. Nothing in this compact may be construed to be a waiver of sovereign  
 23 immunity.

24 B. Membership, voting, and meetings:

25 1. Each member state shall have and be limited to one (1) delegate se-  
 26 lected by that member state's licensing board.

27 2. The delegate shall be either:

28 a. A current member of the licensing board at the time of appoint-  
 29 ment who is a licensed professional counselor or public member; or

30 b. An administrator of the licensing board.

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

33 4. The member state licensing board shall fill any vacancy occurring on  
 34 the commission within sixty (60) days.

35 5. Each delegate shall be entitled to one (1) vote with regard to the  
 36 promulgation of rules and creation of bylaws and shall otherwise have  
 37 an opportunity to participate in the business and affairs of the commis-  
 38 sion.

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

42 7. The commission shall meet at least once during each calendar year.  
 43 Additional meetings shall be held as set forth in the bylaws.

44 8. The commission shall by rule establish a term of office for delegates  
 45 and may by rule establish term limits.

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

47 1. Establish the fiscal year of the commission;

48 2. Establish bylaws;

- 1 3. Maintain its financial records in accordance with the bylaws;
- 2 4. Meet and take such actions as are consistent with the provisions of
- 3 this compact and the bylaws;
- 4 5. Promulgate rules, which shall be binding to the extent and in the
- 5 manner provided for in the compact;
- 6 6. Bring and prosecute legal proceedings or actions in the name of the
- 7 commission, provided that the standing of any state licensing board to
- 8 sue or be sued under applicable law shall not be affected;
- 9 7. Purchase and maintain insurance and bonds;
- 10 8. Borrow, accept, or contract for services of personnel, including but
- 11 not limited to employees of a member state;
- 12 9. Hire employees, elect or appoint officers, fix compensation, define
- 13 duties, grant such individuals appropriate authority to carry out the
- 14 purposes of the compact, and establish the commission's personnel poli-
- 15 cies and programs relating to conflicts of interest, qualifications of
- 16 personnel, and other related personnel matters;
- 17 10. Accept any and all appropriate donations and grants of money, equip-
- 18 ment, supplies, materials, and services and receive, utilize, and dis-
- 19 pose of the same; provided that at all times the commission shall avoid
- 20 any appearance of impropriety or conflict of interest;
- 21 11. Lease, purchase, accept appropriate gifts or donations of, or oth-
- 22 erwise own, hold, improve, or use any property, real, personal, or
- 23 mixed; provided that at all times the commission shall avoid any appear-
- 24 ance of impropriety;
- 25 12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or other-
- 26 wise dispose of any property, real, personal, or mixed;
- 27 13. Establish a budget and make expenditures;
- 28 14. Borrow money;
- 29 15. Appoint committees, including standing committees composed of mem-
- 30 bers, state regulators, state legislators or their representatives,
- 31 consumer representatives, and such other interested persons as may be
- 32 designated in this compact and the bylaws;
- 33 16. Provide and receive information from, and cooperate with, law en-
- 34 forcement agencies;
- 35 17. Establish and elect an executive committee; and
- 36 18. Perform such other functions as may be necessary or appropriate to
- 37 achieve the purposes of this compact consistent with the state regula-
- 38 tion of professional counseling licensure and practice.
- 39 D. The executive committee:
- 40 1. The executive committee shall have the power to act on behalf of the
- 41 commission according to the terms of this compact.
- 42 2. The executive committee shall be composed of up to eleven (11) mem-
- 43 bers:
- 44 a. Seven (7) voting members who are elected by the commission from
- 45 the current membership of the commission;
- 46 b. Up to four (4) ex officio, nonvoting members from four (4) rec-
- 47 ognized national professional counselor organizations.
- 48 c. The ex officio members will be selected by their respective or-
- 49 ganizations.

1 3. The commission may remove any member of the executive committee as  
2 provided in the bylaws.

3 4. The executive committee shall meet at least annually.

4 5. The executive committee shall have the following duties and respon-  
5 sibilities:

6 a. Recommend to the entire commission changes to the rules or by-  
7 laws, changes to this compact legislation, fees paid by compact  
8 member states, such as annual dues, and any commission compact fee  
9 charged to licensees for the privilege to practice;

10 b. Ensure compact administration services are appropriately pro-  
11 vided, contractual or otherwise;

12 c. Prepare and recommend the budget;

13 d. Maintain financial records on behalf of the commission;

14 e. Monitor compact compliance of member states and provide com-  
15 pliance reports to the commission;

16 f. Establish additional committees as necessary; and

17 g. Other duties as provided in rules or bylaws.

18 E. Meetings of the commission:

19 1. All meetings shall be open to the public, and public notice of meet-  
20 ings shall be given in the same manner as required under the rulemaking  
21 provisions in section 11.

22 2. The commission or the executive committee or other committees of the  
23 commission may convene in a closed, nonpublic meeting if the commission  
24 or executive committee or other committees of the commission must dis-  
25 cuss:

26 a. Noncompliance of a member state with its obligations under the  
27 compact;

28 b. The employment, compensation, discipline, or other matters,  
29 practices, or procedures related to specific employees or other  
30 matters related to the commission's internal personnel practices  
31 and procedures;

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

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

35 e. Accusing any person of a crime or formally censuring any per-  
36 son;

37 f. Disclosure of trade secrets or commercial or financial infor-  
38 mation that is privileged or confidential;

39 g. Disclosure of information of a personal nature where disclo-  
40 sure would constitute a clearly unwarranted invasion of personal  
41 privacy;

42 h. Disclosure of investigative records compiled for law enforce-  
43 ment purposes;

44 i. Disclosure of information related to any investigative reports  
45 prepared by or on behalf of or for use of the commission or other  
46 committee charged with responsibility of investigation or deter-  
47 mination of compliance issues pursuant to the compact; or

48 j. Matters specifically exempted from disclosure by federal or  
49 member state statute.

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

5 4. The commission shall keep minutes that fully and clearly describe  
6 all matters discussed in a meeting and shall provide a full and accu-  
7 rate summary of actions taken, and the reasons therefor, including a de-  
8 scription of the views expressed. All documents considered in connec-  
9 tion with an action shall be identified in such minutes. All minutes and  
10 documents of a closed meeting shall remain under seal, subject to re-  
11 lease by a majority vote of the commission or order of a court of compe-  
12 tent jurisdiction.

13 F. Financing of the commission:

14 1. The commission shall pay, or provide for the payment of, the reason-  
15 able expenses of its establishment, organization, and ongoing activi-  
16 ties.

17 2. The commission may accept any and all appropriate revenue sources,  
18 donations, and grants of money, equipment, supplies, materials, and  
19 services.

20 3. The commission may levy on and collect an annual assessment from each  
21 member state or impose fees on other parties to cover the cost of the  
22 operations and activities of the commission and its staff, which must  
23 be in a total amount sufficient to cover its annual budget as approved  
24 each year for which revenue is not provided by other sources. The aggre-  
25 gate annual assessment amount shall be allocated based upon a formula to  
26 be determined by the commission, which shall promulgate a rule binding  
27 upon all member states.

28 4. The commission shall not incur obligations of any kind prior to se-  
29 curing the funds adequate to meet the same; nor shall the commission  
30 pledge the credit of any of the member states, except by and with the  
31 authority of the member state.

32 5. The commission shall keep accurate accounts of all receipts and dis-  
33 bursements. The receipts and disbursements of the commission shall be  
34 subject to the audit and accounting procedures established under its  
35 bylaws. However, all receipts and disbursements of funds handled by the  
36 commission shall be audited yearly by a certified or licensed public  
37 accountant, and the report of the audit shall be included in and become  
38 part of the annual report of the commission.

39 G. Qualified immunity, defense, and indemnification:

40 1. The members, officers, executive director, employees, and represen-  
41 tatives of the commission shall be immune from suit and liability, ei-  
42 ther personally or in their official capacity, for any claim for dam-  
43 age to or loss of property or personal injury or other civil liability  
44 caused by or arising out of any actual or alleged act, error, or omission  
45 that occurred, or that the person against whom the claim is made had a  
46 reasonable basis for believing occurred within the scope of commission  
47 employment, duties, or responsibilities; provided that nothing in this  
48 paragraph shall be construed to protect any such person from suit and/or  
49 liability for any damage, loss, injury, or liability caused by the in-  
50 tentional or willful or wanton misconduct of that person.



1 E. Member states contributing information to the data system may design-  
2 nate information that may not be shared with the public without the express  
3 permission of the contributing state.

4 F. Any information submitted to the data system that is subsequently  
5 required to be expunged by the laws of the member state contributing the in-  
6 formation shall be removed from the data system.

7 SECTION 11  
8 RULEMAKING

9 A. The commission shall promulgate reasonable rules in order to effec-  
10 tively and efficiently achieve the purpose of the compact. Notwithstanding  
11 the foregoing, in the event the commission exercises its rulemaking author-  
12 ity in a manner that is beyond the scope of the purposes of the compact, or the  
13 powers granted hereunder, then such an action by the commission shall be in-  
14 valid and have no force or effect.

15 B. The commission shall exercise its rulemaking powers pursuant to the  
16 criteria set forth in this section and the rules adopted thereunder. Rules  
17 and amendments shall become binding as of the date specified in each rule or  
18 amendment.

19 C. If a majority of the legislatures of the member states rejects a  
20 rule, by enactment of a statute or resolution in the same manner used to adopt  
21 the compact within four (4) years of the date of adoption of the rule, then  
22 such rule shall have no further force and effect in any member state.

23 D. Rules or amendments to the rules shall be adopted at a regular or spe-  
24 cial meeting of the commission.

25 E. Prior to promulgation and adoption of a final rule or rules by the  
26 commission, and at least thirty (30) days in advance of the meeting at which  
27 the rule will be considered and voted upon, the commission shall file a no-  
28 tice of proposed rulemaking:

29 1. On the website of the commission or other publicly accessible plat-  
30 form; and

31 2. On the website of each member state professional counseling licens-  
32 ing board or other publicly accessible platform or the publication in  
33 which each state would otherwise publish proposed rules.

34 F. The notice of proposed rulemaking shall include:

35 1. The proposed time, date, and location of the meeting in which the  
36 rule will be considered and voted upon;

37 2. The text of the proposed rule or amendment and the reason for the pro-  
38 posed rule;

39 3. A request for comments on the proposed rule from any interested per-  
40 son; and

41 4. The manner in which interested persons may submit notice to the com-  
42 mission of their intention to attend the public hearing and any written  
43 comments.

44 G. Prior to adoption of a proposed rule, the commission shall allow per-  
45 sons to submit written data, facts, opinions, and arguments, which shall be  
46 made available to the public.

47 H. The commission shall grant an opportunity for a public hearing be-  
48 fore it adopts a rule or amendment if a hearing is requested by:

- 1 1. At least twenty-five (25) persons;
- 2 2. A state or federal governmental subdivision or agency; or
- 3 3. An association having at least twenty-five (25) members.
- 4 I. If a hearing is held on a proposed rule or amendment, the commission
- 5 shall publish the place, time, and date of the scheduled public hearing. If
- 6 the hearing is held via electronic means, the commission shall publish the
- 7 mechanism for access to the electronic hearing.
- 8 1. All persons wishing to be heard at the hearing shall notify the exec-
- 9 utive director of the commission or other designated member in writing
- 10 of their desire to appear and testify at the hearing not less than five
- 11 (5) business days before the scheduled date of the hearing.
- 12 2. Hearings shall be conducted in a manner that provides each person who
- 13 wishes to comment a fair and reasonable opportunity to comment orally or
- 14 in writing.
- 15 3. All hearings will be recorded. A copy of the recording will be made
- 16 available on request.
- 17 4. Nothing in this section shall be construed as requiring a separate
- 18 hearing on each rule. Rules may be grouped for the convenience of the
- 19 commission at hearings required by this section.
- 20 J. Following the scheduled hearing date, or by the close of business on
- 21 the scheduled hearing date if the hearing was not held, the commission shall
- 22 consider all written and oral comments received.
- 23 K. If no written notice of intent to attend the public hearing by inter-
- 24 ested parties is received, the commission may proceed with promulgation of
- 25 the proposed rule without a public hearing.
- 26 L. The commission shall, by majority vote of all members, take final ac-
- 27 tion on the proposed rule and shall determine the effective date of the rule,
- 28 if any, based on the rulemaking record and the full text of the rule.
- 29 M. Upon determination that an emergency exists, the commission may con-
- 30 sider and adopt an emergency rule without prior notice, opportunity for com-
- 31 ment, or hearing, provided that the usual rulemaking procedures provided in
- 32 the compact and in this section shall be retroactively applied to the rule as
- 33 soon as reasonably possible, but in no event later than ninety (90) days af-
- 34 ter the effective date of the rule. For the purposes of this provision, an
- 35 emergency rule is one that must be adopted immediately in order to:
- 36 1. Meet an imminent threat to public health, safety, or welfare;
- 37 2. Prevent a loss of commission or member state funds;
- 38 3. Meet a deadline for the promulgation of an administrative rule that
- 39 is established by federal law or rule; or
- 40 4. Protect public health and safety.
- 41 N. The commission or an authorized committee of the commission may di-
- 42 rect revisions to a previously adopted rule or amendment for purposes of cor-
- 43 recting typographical errors, errors in format, errors in consistency, or
- 44 grammatical errors. Public notice of any revisions shall be posted on the
- 45 website of the commission. Any revision shall be subject to challenge by
- 46 any person for a period of thirty (30) days after posting. A revision may
- 47 be challenged only on grounds that the revision results in a material change
- 48 to a rule. A challenge shall be made in writing and delivered to the chair
- 49 of the commission prior to the end of the notice period. If no challenge is
- 50 made, the revision will take effect without further action. If the revision

1 is challenged, the revision may not take effect without the approval of the  
2 commission.

3 SECTION 12  
4 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

5 A. Oversight:

6 1. The executive, legislative, and judicial branches of state govern-  
7 ment in each member state shall enforce this compact and take all ac-  
8 tions necessary and appropriate to effectuate the compact's purposes  
9 and intent. The provisions of this compact and the rules promulgated  
10 hereunder shall have standing as statutory law.

11 2. All courts shall take judicial notice of the compact and the rules  
12 in any judicial or administrative proceeding in a member state pertain-  
13 ing to the subject matter of this compact that may affect the powers, re-  
14 sponsibilities, or actions of the commission.

15 3. The commission shall be entitled to receive service of process in any  
16 such proceeding and shall have standing to intervene in such a proceed-  
17 ing for all purposes. Failure to provide service of process to the com-  
18 mission shall render a judgment or order void as to the commission, this  
19 compact, or promulgated rules.

20 B. Default, technical assistance, and termination:

21 1. If the commission determines that a member state has defaulted in the  
22 performance of its obligations or responsibilities under this compact  
23 or the promulgated rules, the commission shall:

24 a. Provide written notice to the defaulting state and other member  
25 states of the nature of the default, the proposed means of curing  
26 the default, and/or any other action to be taken by the commission;  
27 and

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

30 C. If a state in default fails to cure the default, the defaulting state  
31 may be terminated from the compact upon an affirmative vote of a majority  
32 of the member states, and all rights, privileges, and benefits conferred by  
33 this compact may be terminated on the effective date of termination. A cure  
34 of the default does not relieve the offending state of obligations or liabil-  
35 ities incurred during the period of default.

36 D. Termination of membership in the compact shall be imposed only after  
37 all other means of securing compliance have been exhausted. Notice of in-  
38 tent to suspend or terminate shall be given by the commission to the default-  
39 ing state's governor, the majority and minority leaders of the defaulting  
40 state's legislature, and each of the member states.

41 E. A state that has been terminated is responsible for all assessments,  
42 obligations, and liabilities incurred through the effective date of termi-  
43 nation, including obligations that extend beyond the effective date of ter-  
44 mination.

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



1 G. The defaulting state may appeal the action of the commission by peti-  
2 tioning the United States district court for the District of Columbia or the  
3 federal district where the commission has its principal offices. The pre-  
4 vailing member shall be awarded all costs of such litigation, including rea-  
5 sonable attorney's fees.

6 H. Dispute resolution:

7 1. Upon request by a member state, the commission shall attempt to re-  
8 solve disputes related to the compact that arise among member states and  
9 between member and nonmember states.

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

12 I. Enforcement:

13 1. The commission, in the reasonable exercise of its discretion, shall  
14 enforce the provisions and rules of this compact.

15 2. By majority vote, the commission may initiate legal action in the  
16 United States district court for the District of Columbia or the fed-  
17 eral district where the commission has its principal offices against  
18 a member state in default to enforce compliance with the provisions of  
19 the compact and its promulgated rules and bylaws. The relief sought  
20 may include both injunctive relief and damages. In the event judicial  
21 enforcement is necessary, the prevailing member shall be awarded all  
22 costs of such litigation, including reasonable attorney's fees.

23 3. The remedies herein shall not be the exclusive remedies of the com-  
24 mission. The commission may pursue any other remedies available under  
25 federal or state law.

## 26 SECTION 13

### 27 DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT 28 COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

29 A. The compact shall come into effect on the date on which the compact  
30 statute is enacted into law in the tenth member state. The provisions, which  
31 become effective at that time, shall be limited to the powers granted to the  
32 commission relating to assembly and the promulgation of rules. Thereafter,  
33 the commission shall meet and exercise rulemaking powers necessary to the  
34 implementation and administration of the compact.

35 B. Any state that joins the compact subsequent to the commission's ini-  
36 tial adoption of the rules shall be subject to the rules as they exist on the  
37 date on which the compact becomes law in that state. Any rule that has been  
38 previously adopted by the commission shall have the full force and effect of  
39 law on the day the compact becomes law in that state.

40 C. Any member state may withdraw from this compact by enacting a statute  
41 repealing the same.

42 1. A member state's withdrawal shall not take effect until six (6)  
43 months after enactment of the repealing statute.

44 2. Withdrawal shall not affect the continuing requirement of the with-  
45 drawing state's professional counseling licensing board to comply with  
46 the investigative and adverse action reporting requirements of this  
47 compact prior to the effective date of withdrawal.

1 D. Nothing contained in this compact shall be construed to invalidate  
2 or prevent any professional counseling licensure agreement or other cooper-  
3 ative arrangement between a member state and a nonmember state that does not  
4 conflict with the provisions of this compact.

5 E. This compact may be amended by the member states. No amendment to  
6 this compact shall become effective and binding upon any member state until  
7 it is enacted into the laws of all member states.

8 SECTION 14  
9 CONSTRUCTION AND SEVERABILITY

10 This compact shall be liberally construed so as to effectuate the pur-  
11 poses thereof. The provisions of this compact shall be severable and if any  
12 phrase, clause, sentence, or provision of this compact is declared to be con-  
13 trary to the constitution of any member state or of the United States or the  
14 applicability thereof to any government, agency, person, or circumstance is  
15 held invalid, the validity of the remainder of this compact and the applica-  
16 bility thereof to any government, agency, person, or circumstance shall not  
17 be affected thereby. If this compact shall be held contrary to the constitu-  
18 tion of any member state, the compact shall remain in full force and effect as  
19 to the remaining member states and in full force and effect as to the member  
20 state affected as to all severable matters.

21 SECTION 15  
22 BINDING EFFECT OF COMPACT AND OTHER LAWS

23 A. A licensee providing professional counseling services in a remote  
24 state under the privilege to practice shall adhere to the laws and regula-  
25 tions, including scope of practice, of the remote state.

26 B. Nothing herein prevents the enforcement of any other law of a member  
27 state that is not inconsistent with the compact.

28 C. Any laws in a member state in conflict with the compact are super-  
29 seded to the extent of the conflict.

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

32 E. All permissible agreements between the commission and the member  
33 states are binding in accordance with their terms.

34 F. In the event any provision of the compact exceeds the constitutional  
35 limits imposed on the legislature of any member state, the provision shall be  
36 ineffective to the extent of the conflict with the constitutional provision  
37 in question in that member state.

38 SECTION 2. An emergency existing therefor, which emergency is hereby  
39 declared to exist, this act shall be in full force and effect on and after  
40 July 1, 2024.