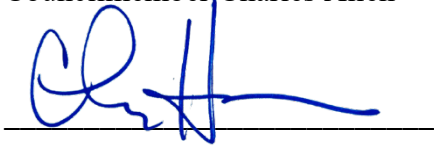
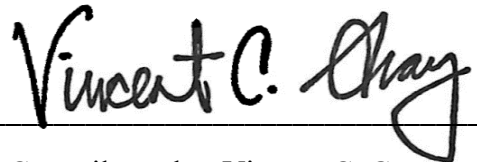


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2 Councilmember Charles Allen

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4 Councilmember Christina Henderson



Councilmember Vincent C. Gray



Councilmember Matthew Frumin

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8 A BILL

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10 _____
11 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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17 A BILL

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21 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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25
26 To authorize the Mayor to execute, on behalf of the District of Columbia, a Counseling Compact
27 for the purpose of increasing access to licensed professional counseling, establish
28 requirements for states to conduct and report adverse actions and the consequences for
29 licensed professional counselors receiving adverse action, provide for additional authority
30 in a compact state’s regulatory authority, require all compact states to share licensee
31 information with other compact states, create a coordinated database on participating
32 compact licensed professional counselors, establish the Counseling Compact
33 Commission, provide for oversight and enforcement of the compact by participating
34 states, and to provide that the compact shall become effective on the date of enactment.

35
36 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
37 act may be cited as the “Counseling Compact Approval Act of 2023”.

38
39 Sec. 2. Purpose.
40

41 The Mayor shall enter into and execute on behalf of the District the Counseling Compact
42 with any state legally joining therein, in the form substantially as follows:

43 “Sec. 2. Purpose.

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

49 This Compact is designed to achieve the following objectives:

50 (a) Increase public access to Professional Counseling services by providing for the
51 mutual recognition of other Member State licenses;

52 (b) Enhance the States’ ability to protect the public’s health and safety;

53 (c) Encourage the cooperation of Member States in regulating multistate practice for
54 Licensed Professional Counselors;

55 (d) Support spouses of relocating Active Duty Military personnel;

56 (e) Enhance the exchange of licensure, investigative, and disciplinary information among
57 Member States;

58 (f) Allow for the use of Telehealth technology to facilitate increased access to
59 Professional Counseling services;

60 (g) Support the uniformity of Professional Counseling licensure requirements throughout
61 the States to promote public safety and public health benefits;

62 (h) Invest all Member States with the authority to hold a Licensed Professional Counselor
63 accountable for meeting all State practice laws in the State in which the client is located at the
64 time care is rendered through the mutual recognition of Member State licenses;

65 (i) Eliminate the necessity for licenses in multiple States; and

66 (j) Provide opportunities for interstate practice by Licensed Professional Counselors who
67 meet uniform licensure requirements.

68 Sec. 3. Definitions.

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

71 (a) “Active-Duty Military” means full-time duty status in the active uniformed service of
72 the 31 United States, including members of the National Guard and Reserve on active duty
73 orders pursuant to 10 U.S.C. Chapters 1209 and 1211. 33.

74 (b) “Adverse Action” means any administrative, civil, equitable or criminal action
75 permitted by a State’s laws which is imposed by a licensing board or other authority against a
76 Licensed Professional Counselor, including actions against an individual’s license or Privilege to
77 Practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the
78 licensee’s practice, or any other Encumbrance on licensure affecting a Licensed Professional
79 Counselor’s authorization to practice, including issuance of a cease and desist action.

80 (c) “Alternative Program” means a non-disciplinary monitoring or practice remediation
81 process approved by a Professional Counseling Licensing Board to address Impaired
82 Practitioners.

83 (d) “Continuing Competence/Education” means a requirement, as a condition of license
84 renewal, to provide evidence of participation in, and/or completion of, educational and
85 professional activities relevant to practice or area of work.

86 (e) “Counseling Compact Commission” or “Commission” means the national
87 administrative body whose membership consists of all States that have enacted the Compact.

88 (f) “Current Significant Investigative Information” means:

89 (1) Investigative Information that a Licensing Board, after a preliminary inquiry
90 that includes notification and an opportunity for the Licensed Professional Counselor to respond,
91 if required by State law, has reason to believe is not groundless and, if proved true, would
92 indicate more than a minor infraction; or

93 (2) Investigative Information that indicates that the Licensed Professional
94 Counselor represents an immediate threat to public health and safety regardless of whether the
95 Licensed Professional Counselor has been notified and had an opportunity to respond.

96 (g) “Data System” means a repository of information about Licensees, including, but not
97 limited to, continuing education, examination, licensure, investigative, Privilege to Practice and
98 Adverse Action information.

99 (h) “Encumbered License” means a license in which an Adverse Action restricts the
100 practice of licensed Professional Counseling by the Licensee and said Adverse Action has been
101 reported to the National Practitioners Data Bank (NPDB).

102 (i) “Encumbrance” means a revocation or suspension of, or any limitation on, the full and
103 unrestricted practice of Licensed Professional Counseling by a Licensing Board.

104 (j) “Executive Committee” means a group of directors elected or appointed to act on
105 behalf of, and within the powers granted to them by, the Commission.

106 (k) “Home State” means the Member State that is the Licensee’s primary State of
107 residence.

108 (l) “Impaired Practitioner” means an individual who has a condition(s) that may impair
109 their ability to practice as a Licensed Professional Counselor without some type of intervention
110 and may include, but are not limited to, alcohol and drug dependence, mental health impairment,
111 and neurological or physical impairments.

112 (m) “Investigative Information” means information, records, and documents received or
113 generated by a Professional Counseling Licensing Board pursuant to an investigation.

114 (n) “Jurisprudence Requirement” if required by a Member State, means the assessment of
115 an individual’s knowledge of the laws and Rules governing the practice of Professional
116 Counseling in a State.

117 (o) “Licensed Professional Counselor” means a counselor licensed by a Member State,
118 regardless of the title used by that State, to independently assess, diagnose, and treat behavioral
119 health conditions.

120 (p) “Licensee” means an individual who currently holds an authorization from the State
121 to practice as a Licensed Professional Counselor.

122 (q) “Licensing Board” means the agency of a State, or equivalent, that is responsible for
123 the licensing and regulation of Licensed Professional Counselors

124 (r) “Member State” means a State that has enacted the Compact.

125 (s) “Privilege to Practice” means a legal authorization, which is equivalent to a license,
126 permitting the practice of Professional Counseling in a Remote State.

127 (t) “Professional Counseling” means the assessment, diagnosis, and treatment of
128 behavioral health conditions by a Licensed Professional Counselor.

129 (u) “Remote State” means a Member State other than the Home State, where a Licensee
130 is exercising or seeking to exercise the Privilege to Practice.

131 (v) “Rule” means a regulation promulgated by the Commission that has the force of law.

132 (w) “Single State License” means a Licensed Professional Counselor license issued by a
133 Member State that authorizes practice only within the issuing State and does not include a
134 Privilege to Practice in any other Member State.

135 (x) “State” means any state, commonwealth, district, or territory of the United States of
136 America that regulates the practice of Professional Counseling.

137 (y) “Telehealth” means the application of telecommunication technology to deliver
138 Professional Counseling services remotely to assess, diagnose, and treat behavioral health
139 conditions.

140 (z) “Unencumbered License” means a license that authorizes a Licensed Professional
141 Counselor to engage in the full and unrestricted practice of Professional Counseling.

142 Sec. 3. State participation in the Compact.

143 (a) To Participate in the Compact, a State must currently:

144 (1) License and regulate Licensed Professional Counselors;

145 (2) Require Licensees to pass a nationally recognized exam approved by the
146 Commission;

147 (3) Require Licensees to have a 60 semester-hour (or 90 quarter-hour) master's
148 degree in counseling or 60 semester-hours (or 90 quarter-hours) of graduate 110 course work
149 including the following topic areas:

150 (A) Professional Counseling Orientation and Ethical Practice;

151 (B) Social and Cultural Diversity;

152 (C) Human Growth and Development;

153 (D) Career Development;

154 (E) Counseling and Helping Relationships;

155 (F) Group Counseling and Group Work;

156 (G) Diagnosis and Treatment; Assessment and Testing;

157 (H) Research and Program Evaluation; and

158 (I) Other areas as determined by the Commission.

159 (4) Require Licensees to complete a supervised postgraduate professional
160 experience as defined by the Commission;

161 (5) Have a mechanism in place for receiving and investigating complaints about
162 Licensees.

163 (b) A Member State shall:

164 (1) Participate fully in the Commission's Data System, including using the
165 Commission's unique identifier as defined in Rules;

166 (2) Notify the Commission, in compliance with the terms of the Compact and
167 Rules, of any Adverse Action or the availability of Investigative Information regarding a
168 Licensee;

169 (3) Implement or utilize procedures for considering the criminal history records of
170 applicants for an initial Privilege to Practice. These procedures shall include the submission of
171 fingerprints or other biometric-based information by applicants for the purpose of obtaining an
172 applicant's criminal history record information from the Federal Bureau of Investigation and the
173 agency responsible for retaining that State's criminal records;

174 (A) A member state must fully implement a criminal background check
175 requirement, within a time frame established by rule, by receiving the results of the Federal
176 Bureau of Investigation record search and shall use the results in making licensure decisions.

177 (B) Communication between a Member State, the Commission and among
178 Member States regarding the verification of eligibility for licensure through the Compact shall
179 not include any information received from the Federal Bureau of Investigation relating to a
180 federal criminal records check performed by a Member State under Public Law 92-544.

181 (4) Comply with the Rules of the Commission;

182 (5) Require an applicant to obtain or retain a license in the Home State and meet
183 the Home State's qualifications for licensure or renewal of licensure, as well as all other
184 applicable State laws;

185 (6) Grant the Privilege to Practice to a Licensee holding a valid Unencumbered
186 License in another Member State in accordance with the terms of the Compact and Rules; and

187 (7) Provide for the attendance of the State's commissioner to the Counseling
188 Compact Commission meetings.

189 (c) Member States may charge a fee for granting the Privilege to Practice.

190 (d) Individuals not residing in a Member State shall continue to be able to apply for a
191 Member State's Single State License as provided under the laws of each Member State.
192 However, the Single State License granted to these individuals shall not be recognized as
193 granting a Privilege to Practice Professional Counseling in any other Member State.

194 (e) Nothing in this Compact shall affect the requirements established by a Member State
195 for the issuance of a Single State License.

196 (f) A license issued to a Licensed Professional Counselor by a Home State to a resident in
197 that State shall be recognized by each Member State as authorizing a Licensed Professional
198 Counselor to practice Professional Counseling, under a Privilege to Practice, in each Member
199 State.

200 Sec. 4. Privilege to practice.

201 (a) To exercise the Privilege to Practice under the terms and provisions of the Compact,
202 the Licensee shall:

203 (1) Hold a license in the Home State;

204 (2) Have a valid United States Social Security Number or National Practitioner
205 Identifier;

206 (3) Be eligible for a Privilege to Practice in any Member State in accordance with
207 Section 4(d), (g) and (h);

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

210 (5) Notify the Commission that the Licensee is seeking the Privilege to Practice
211 within a Remote State(s);

212 (6) Pay any applicable fees, including any State fee, for the Privilege to Practice;

213 (7) Meet any Continuing Competence/Education requirements established by the
214 Home State;

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

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

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

222 (c) A Licensee providing Professional Counseling in a Remote State under the Privilege
223 to 189 Practice shall adhere to the laws and regulations of the Remote State.

224 (d) A Licensee providing Professional Counseling services in a Remote State is subject to
225 that State's regulatory authority. A Remote State may, in accordance with due process and that
226 State's laws, remove a Licensee's Privilege to Practice in the Remote State for a specific period

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

230 (e) If a Home State license is encumbered, the Licensee shall lose the Privilege to
231 Practice in any Remote State until the following occur:

232 (1) The Home State license is no longer encumbered; and

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

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

238 (g) If a Licensee's Privilege to Practice in any Remote State is removed, the individual
239 may lose the Privilege to Practice in all other Remote States until the following occur:

240 (1) The specific period of time for which the Privilege to Practice was removed
241 has ended;

242 (2) All fines have been paid; and

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

245 (h) Once the requirements of Section 4(g) have been met, the Licensee must meet the
246 requirements in Section 4(a) to obtain a Privilege to Practice in a Remote State.

247 Sec. 5. Obtaining a new home state license based on a privilege to practice.

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

250 (b) If a Licensed Professional Counselor changes primary State of residence by moving
251 between two Member States:

252 (1) The Licensed Professional Counselor shall file an application for obtaining a
253 new Home State license based on a Privilege to Practice, pay all applicable fees, and notify the
254 current and new Home State in accordance with applicable Rules adopted by the Commission.

255 (2) Upon receipt of an application for obtaining a new Home State license by
256 virtue of a Privilege to Practice, the new Home State shall verify that the Licensed Professional
257 Counselor meets the pertinent criteria outlined in Section 4 via the Data System, without need for
258 primary source verification except for:

259 (A) a Federal Bureau of Investigation fingerprint based criminal
260 background check if not previously performed or updated pursuant to applicable rules adopted
261 by the Commission in accordance with Public Law 92-544;

262 (B) Other criminal background check as required by the new Home State;
263 and c. completion of any requisite Jurisprudence Requirements of the new Home State.

264 (3) The former Home State shall convert the former Home State license into a
265 Privilege to Practice once the new Home State has activated the new Home State license in
266 accordance with applicable Rules adopted by the Commission.

267 (4) Notwithstanding any other provision of this Compact, if the Licensed
268 Professional Counselor cannot meet the criteria in Section 4, the new Home State may apply its
269 requirements for issuing a new Single State License.

270 (5) The Licensed Professional Counselor shall pay all applicable fees to the new
271 Home State in order to be issued a new Home State license.

272 (c) If a Licensed Professional Counselor changes Primary State of Residence by moving
273 from a Member State to a non-Member State, or from a non-Member State to a Member State,
274 the State criteria shall apply for issuance of a Single State License in the new State.

275 (d) Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State
276 License in multiple States, however for the purposes of this Compact, a Licensee shall have only
277 one Home State license.

278 (e) Nothing in this Compact shall affect the requirements established by a Member State
279 for the issuance of a Single State License.

280 Sec. 6. Active duty military personnel or their spouses.

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

286 Sec. 7. Compact privilege to practice telehealth.

287 (a) Member States shall recognize the right of a Licensed Professional Counselor,
288 licensed by a Home State in accordance with Section 3 and under Rules promulgated by the
289 Commission, to practice Professional Counseling in any Member State via Telehealth under a
290 Privilege to Practice as provided in the Compact and Rules promulgated by the Commission.

291 (b) A Licensee providing Professional Counseling services in a Remote State under the
292 Privilege to Practice shall adhere to the laws and regulations of the Remote State.

293 Sec. 8. Adverse Actions.

294 (a) In addition to the other powers conferred by State law, a Remote State shall have the
295 authority, in accordance with existing State due process law, to:

296 (1) Take Adverse Action against a Licensed Professional Counselor's Privilege to
297 Practice within that Member State, and

298 (2) Issue subpoenas for both hearings and investigations that require the
299 attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued
300 by a Licensing Board in a Member State for the attendance and testimony of witnesses or the
301 production of evidence from another Member State shall be enforced in the latter State by any
302 court of competent jurisdiction, according to the practice and procedure of that court applicable
303 to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness
304 fees, travel expenses, mileage, and other fees required by the service statutes of the State in
305 which the witnesses or evidence are located.

306 (3) Only the Home State shall have the power to take Adverse Action against a
307 Licensed Professional Counselor's license issued by the Home State.

308 (b) For purposes of taking Adverse Action, the Home State shall give the same priority
309 and effect to reported conduct received from a Member State as it would if the conduct had
310 occurred within the Home State. In so doing, the Home State shall apply its own State laws to
311 determine appropriate action.

312 (c) The Home State shall complete any pending investigations of a Licensed Professional
313 Counselor who changes primary State of residence during the course of the investigations. The
314 Home State shall also have the authority to take appropriate action(s) and shall promptly report
315 the conclusions of the investigations to the administrator of the Data System. The administrator
316 of the coordinated licensure information system shall promptly notify the new Home State of any
317 Adverse Actions.

318 (d) A Member State, if otherwise permitted by State law, may recover from the affected
319 Licensed Professional Counselor the costs of investigations and dispositions of cases resulting
320 from any Adverse Action taken against that Licensed Professional Counselor.

321 (e) A Member State may take Adverse Action based on the factual findings of the
322 Remote State, provided that the Member State follows its own procedures for taking the Adverse
323 Action.

324 (f) Joint Investigations:

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

328 (2) Member States shall share any investigative, litigation, or compliance
329 materials in furtherance of any joint or individual investigation initiated under the Compact.

330 (g) If Adverse Action is taken by the Home State against the license of a Licensed
331 Professional Counselor, the Licensed Professional Counselor's Privilege to Practice in all other
332 Member States shall be deactivated until all Encumbrances have been removed from the State
333 license. All Home State disciplinary orders that impose Adverse Action against the license of a
334 Licensed Professional Counselor shall include a Statement that the Licensed Professional
335 Counselor's Privilege to Practice is deactivated in all Member States during the pendency of the
336 order.

337 (h) If a Member State takes Adverse Action, it shall promptly notify the administrator of
338 the Data System. The administrator of the Data System shall promptly notify the Home State of
339 any Adverse Actions by Remote States.

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

342 Sec. 9. Establishment of Counseling Compact Commission.

343 (a) The Compact Member States hereby create and establish a joint public agency known
344 as the Counseling Compact Commission:

345 (1) The Commission is an instrumentality of the Compact States.

346 (2) Venue is proper and judicial proceedings by or against the Commission shall
347 be brought solely and exclusively in a court of competent jurisdiction where the principal office
348 of the Commission is located. The Commission may waive venue and jurisdictional defenses to
349 the extent it adopts or consents to participate in alternative dispute resolution proceedings.

350 (3) Nothing in this Compact shall be construed to be a waiver of sovereign
351 immunity.

352 (b) Membership, Voting, and Meetings:

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

355 (2) The delegate shall be either:

356 (A) A current member of the Licensing Board at the time of appointment,
357 who is a Licensed Professional Counselor or public member; or

358 (B) An administrator of the Licensing Board.

359 (3) Any delegate may be removed or suspended from office as provided by the
360 law of the State from which the delegate is appointed.

361 (4) The Member State Licensing Board shall fill any vacancy occurring on the
362 Commission within 60 days.

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

366 (6) A delegate shall vote in person or by such other means as provided in the
367 bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other
368 means of communication.

369 (7) The Commission shall meet at least once during each calendar year.
370 Additional meetings shall be held as set forth in the bylaws.

371 (8) The Commission shall by Rule establish a term of office for delegates and
372 may by Rule establish term limits.

373 (c) The Commission shall have the following powers and duties:

374 (1) Establish the fiscal year of the Commission;

375 (2) Establish bylaws;

376 (3) Maintain its financial records in accordance with the bylaws;

377 (4) Meet and take such actions as are consistent with the provisions of this
378 Compact and the bylaws;

379 (5) Promulgate Rules which shall be binding to the extent and in the manner
380 provided for in the Compact;

381 (6) Bring and prosecute legal proceedings or actions in the name of the
382 Commission, provided that the standing of any State Licensing Board to sue or be sued under
383 applicable law shall not be affected;

384 (7) Purchase and maintain insurance and bonds;

385 (8) Borrow, accept, or contract for services of personnel, including, but not
386 limited to, employees of a Member State;

387 (9) Hire employees, elect or appoint officers, fix compensation, define duties,
388 grant such individuals appropriate authority to carry out the purposes of the Compact, and
389 establish the Commission's personnel policies and programs relating to conflicts of interest,
390 qualifications of personnel, and other related personnel matters;

391 (10) Accept any and all appropriate donations and grants of money, equipment,
392 supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at
393 all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

394 (11) Lease, purchase, accept appropriate gifts or donations of, or otherwise to
395 own, hold, improve or use, any property, real, personal or mixed; provided that at all times the
396 Commission shall avoid any appearance of impropriety;

397 (12) Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise
398 dispose of any property real, personal, or mixed;

399 (13) Establish a budget and make expenditures;

400 (14) Borrow money;

401 (15) Appoint committees, including standing committees composed of members,
402 State regulators, State legislators, or their representatives, and consumer representatives, and
403 such other interested persons as may be designated in this Compact and the bylaws;

404 (16) Provide and receive information from, and cooperate with, law enforcement
405 agencies;

406 (17) Establish and elect an Executive Committee; and

407 (18) Perform such other functions as may be necessary or appropriate to achieve
408 the purposes of this Compact consistent with the State regulation of Professional Counseling
409 licensure and practice.

410 (d) The Executive Committee:

411 (1) The Executive Committee shall have the power to act on behalf of the
412 Commission according to the terms of this Compact.

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

414 (A) Seven voting members who are elected by the Commission from the
415 current membership of the Commission; and

416 (B) Up to four (4) ex-officio, nonvoting members from four (4) recognized
417 national professional counselor organizations.

418 (C) The ex-officio members will be selected by their respective
419 organizations.

420 (3) The Commission may remove any member of the Executive Committee as
421 provided 394 in bylaws.

422 (4) The Executive Committee shall meet at least annually.

423 (5) The Executive Committee shall have the following duties and responsibilities:

424 (A) Recommend to the entire Commission changes to the Rules or bylaws,
425 changes to this Compact legislation, fees paid by Compact Member States such as annual dues,
426 and any Commission Compact fee charged to Licensees for the Privilege to Practice;

427 (B) Ensure Compact administration services are appropriately provided,
428 402 contractual or otherwise;

429 (C) Prepare and recommend the budget;

430 (D) Maintain financial records on behalf of the Commission;

431 (E) Monitor Compact compliance of Member States and provide
432 compliance reports to the Commission;

433 (F) Establish additional committees as necessary; and

434 (G) Other duties as provided in Rules or bylaws.

435 (e) Meetings of the Commission:

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

438 (2) The Commission or the Executive Committee or other committees of the
439 Commission may convene in a closed, non-public meeting if the Commission or Executive
440 Committee or other committees of the Commission must discuss:

441 (A) Non-compliance of a Member State with its obligations under the
442 Compact;

443 (B) The employment, compensation, discipline or other matters, practices
444 or procedures related to specific employees or other matters related to the Commission's internal
445 personnel practices and procedures;

446 (C) Current, threatened, or reasonably anticipated litigation;

447 (D) Negotiation of contracts for the purchase, lease, or sale of goods,
448 services, or real estate;

449 (E) Accusing any person of a crime or formally censuring any person;

450 (F) Disclosure of trade secrets or commercial or financial information that
451 is privileged or confidential;

452 (G) Disclosure of information of a personal nature where disclosure would
453 constitute a clearly unwarranted invasion of personal privacy;

454 (H) Disclosure of investigative records compiled for law enforcement
455 purposes;

456 (I) Disclosure of information related to any investigative reports prepared
457 by or on behalf of or for use of the Commission or other committee charged with responsibility
458 of investigation or determination of compliance issues pursuant to the Compact; or

459 (J) Matters specifically exempted from disclosure by federal or Member
460 State statute.

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

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

470 (f) Financing of the Commission:

471 (1) The Commission shall pay, or provide for the payment of, the reasonable
472 expenses of its establishment, organization, and ongoing activities.

473 (2) The Commission may accept any and all appropriate revenue sources,
474 donations, and grants of money, equipment, supplies, materials, and services.

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

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

484 (5) The Commission shall keep accurate accounts of all receipts and
485 disbursements. The receipts and disbursements of the Commission shall be subject to the audit
486 and accounting procedures established under its bylaws. However, all receipts and disbursements
487 of funds handled by the Commission shall be audited yearly by a certified or licensed public
488 accountant, and the report of the audit shall be included in and become part of the annual report
489 of the Commission.

490 (g) Qualified Immunity, Defense, and Indemnification.

491 (1) The members, officers, executive director, employees and representatives of
492 the Commission shall be immune from suit and liability, either personally or in their official

493 capacity, for any claim for damage to or loss of property or personal injury or other civil liability
494 caused by or arising out of any actual or alleged act, error or omission that occurred, or that the
495 person against whom the claim is made had a reasonable basis for believing occurred within the
496 scope of Commission employment, duties or responsibilities; provided that nothing in this
497 paragraph shall be construed to protect any such person from suit and/or liability for any damage,
498 loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

499 (2) The Commission shall defend any member, officer, executive director,
500 employee or representative of the Commission in any civil action seeking to impose liability
501 arising out of any actual or alleged act, error, or omission that occurred within the scope of
502 Commission employment, duties, or responsibilities, or that the person against whom the claim is
503 made had a reasonable basis for believing occurred within the scope of Commission
504 employment, duties, or responsibilities; provided that nothing herein shall be construed to
505 prohibit that person from retaining his or her own counsel; and provided further, that the actual
506 or alleged act, error, or omission did not result from that person's intentional or willful or wanton
507 misconduct.

508 (3) The Commission shall indemnify and hold harmless any member, officer,
509 executive director, employee, or representative of the Commission for the amount of any
510 settlement or judgment obtained against that person arising out of any actual or alleged act, error,
511 or omission that occurred within the scope of Commission employment, duties, or
512 responsibilities, or that such person had a reasonable basis for believing occurred within the
513 scope of Commission employment, duties, or responsibilities, provided that the actual or alleged
514 act, error, or omission did not result from the intentional or willful or wanton misconduct of that
515 person.

516 Sec. 10. Data system.

517 (a) The Commission shall provide for the development, maintenance, operation, and
518 utilization of a coordinated database and reporting system containing licensure, Adverse Action,
519 and Investigative Information on all licensed individuals in Member States.

520 (b) Notwithstanding any other provision of State law to the contrary, a Member State
521 shall submit a uniform data set to the Data System on all individuals to whom this Compact is
522 applicable as required by the Rules of the Commission, including:

523 (1) Identifying information;

524 (2) Licensure data;

525 (3) Adverse Actions against a license or Privilege to Practice;

526 (4) Non-confidential information related to Alternative Program participation;

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

528 (6) Current Significant Investigative Information; and

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

531 (c) Investigative Information pertaining to a Licensee in any Member State will only be
532 available to other Member States.

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

536 (e) Member States contributing information to the Data System may designate
537 information that may not be shared with the public without the express permission of the
538 contributing State.

539 (f) Any information submitted to the Data System that is subsequently required to be
540 expunged by the laws of the Member State contributing the information shall be removed from
541 the Data System.

542 Sec. 11. Rulemaking.

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

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

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

555 (d) Rules or amendments to the Rules shall be adopted at a regular or special meeting of
556 the Commission.

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

560 (1) On the website of the Commission or other publicly accessible platform; and

561 (2) On the website of each Member State Professional Counseling Licensing
562 Board or other publicly accessible platform or the publication in which each State would
563 otherwise publish proposed Rules.

564 (f) The Notice of Proposed Rulemaking shall include:

565 (1) The proposed time, date, and location of the meeting in which the Rule will
566 be considered and voted upon;

567 (2) The text of the proposed Rule or amendment and the reason for the proposed
568 Rule;

569 (3) A request for comments on the proposed Rule from any interested person; and

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

572 (g) Prior to adoption of a proposed Rule, the Commission shall allow persons to submit
573 written data, facts, opinions, and arguments, which shall be made available to the public.

574 (h) The Commission shall grant an opportunity for a public hearing before it adopts a
575 Rule or amendment if a hearing is requested by:

576 (1) At least twenty-five (25) persons;

577 (2) A State or federal governmental subdivision or agency; or

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

579 (i) If a hearing is held on the proposed Rule or amendment, the Commission shall
580 publish the place, time, and date of the scheduled public hearing. If the hearing is held via
581 electronic means, the Commission shall publish the mechanism for access to the electronic
582 hearing.

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

586 (2) Hearings shall be conducted in a manner providing each person who wishes to
587 comment a fair and reasonable opportunity to comment orally or in writing.

588 (3) All hearings will be recorded. A copy of the recording will be made available
589 on request.

590 (4) Nothing in this section shall be construed as requiring a separate hearing on
591 each Rule. Rules may be grouped for the convenience of the Commission at hearings required by
592 this section.

593 (j) Following the scheduled hearing date, or by the close of business on the scheduled
594 hearing date if the hearing was not held, the Commission shall consider all written and oral
595 comments received.

596 (k) If no written notice of intent to attend the public hearing by interested parties is
597 received, the Commission may proceed with promulgation of the proposed Rule without a public
598 hearing.

599 (l) The Commission shall, by majority vote of all members, take final action on the
600 proposed Rule and shall determine the effective date of the Rule, if any, based on the
601 Rulemaking record and the full text of the Rule.

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

608 (1) Meet an imminent threat to public health, safety, or welfare;

609 (2) Prevent a loss of Commission or Member State funds;

610 (3) Meet a deadline for the promulgation of an administrative Rule that is
611 established by federal law or Rule; or

612 (4) Protect public health and safety.

613 (n) The Commission or an authorized committee of the Commission may direct revisions
614 to a previously adopted Rule or amendment for purposes of correcting typographical errors,
615 errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall
616 be posted on the website of the Commission. The revision shall be subject to challenge by any

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

622 Sec. 12. Oversight, dispute resolution, and enforcement.

623 (a) Oversight:

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

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

631 (3) The Commission shall be entitled to receive service of process in any such
632 proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to
633 provide service of process to the Commission shall render a judgment or order void as to the
634 Commission, this Compact, or promulgated Rules.

635 (b) Default, technical assistance, and termination:

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

639 (A) Provide written notice to the defaulting State and other Member States
640 of the nature of the default, the proposed means of curing the default and/or any other action to
641 be taken by the Commission; and

642 (B) Provide remedial training and specific technical assistance regarding
643 the default.

644 (c) If a State in default fails to cure the default, the defaulting State may be terminated
645 from the Compact upon an affirmative vote of a majority of the Member States, and all rights,
646 privileges and benefits conferred by this Compact may be terminated on the effective date of
647 termination. A cure of the default does not relieve the offending State of obligations or liabilities
648 incurred during the period of default.

649 (d) Termination of membership in the Compact shall be imposed only after all other
650 means of securing compliance have been exhausted. Notice of intent to suspend or terminate
651 shall be given by the Commission to the governor, the majority and minority leaders of the
652 defaulting State's legislature, and each of the Member States.

653 (e) A State that has been terminated is responsible for all assessments, obligations, and
654 liabilities incurred through the effective date of termination, including obligations that extend
655 beyond the effective date of termination.

656 (f) The Commission shall not bear any costs related to a State that is found to be in
657 default or that has been terminated from the Compact, unless agreed upon in writing between the
658 Commission and the defaulting State.

659 (g) The defaulting State may appeal the action of the Commission by petitioning the U.S.
660 District Court for the District of Columbia or the federal district where the Commission has its
661 principal offices. The prevailing member shall be awarded all costs of such litigation, 638
662 including reasonable attorney's fees.

663 (h) Dispute Resolution:

664 (1) Upon request by a Member State, the Commission shall attempt to resolve
665 disputes related to the Compact that arise among Member States and between member and non-
666 Member States.

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

669 (i) Enforcement:

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

672 (2) By majority vote, the Commission may initiate legal action in the United
673 States District Court for the District of Columbia or the federal district where the Commission
674 has its principal offices against a Member State in default to enforce compliance with the
675 provisions of the Compact and its promulgated Rules and bylaws. The relief sought may include

676 both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing
677 member shall be awarded all costs of such litigation, including reasonable attorney's fees.

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

680 Sec. 13. Date of implementation of the Counseling Compact Commission and associated
681 rules, withdrawal, and amendment.

682 (a) The Compact shall come into effect on the date on which the Compact statute is
683 enacted into law in the tenth Member State. The provisions, which become effective at that time,
684 shall be limited to the powers granted to the Commission relating to assembly and the
685 promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking powers
686 necessary to the implementation and administration of the Compact.

687 (b) Any State that joins the Compact subsequent to the Commission's initial adoption of
688 the Rules shall be subject to the Rules as they exist on the date on which the Compact becomes
689 law in that State. Any Rule that has been previously adopted by the Commission shall have the
690 full force and effect of law on the day the Compact becomes law in that State.

691 (c) Any Member State may withdraw from this Compact by enacting a statute repealing
692 the same.

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

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

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

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

705 Sec. 14. Construction and severability.

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

715 Sec. 15. Binding effect of Compact and other laws.

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

719 (b) Nothing herein prevents the enforcement of any other law of a Member State that is
720 not inconsistent with the Compact.

721 (c) Any laws in a Member State in conflict with the Compact are superseded to the extent
722 of the conflict.

723 (d) Any lawful actions of the Commission, including all Rules and bylaws properly
724 promulgated by the Commission, are binding upon the Member States.

725 (e) All permissible agreements between the Commission and the Member States are
726 binding in accordance with their terms.

727 (f) In the event any provision of the Compact exceeds the constitutional limits imposed
728 on the legislature of any Member State, the provision shall be ineffective to the extent of the
729 conflict with the constitutional provision in question in that Member State.”

730 Sec. 16. Fiscal impact statement.

731 The Council adopts the fiscal impact statement in the committee report as the fiscal
732 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
733 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

734 Sec. 17. Effective date.

735 This act shall take effect following approval by the Mayor (or in the event of veto by the
736 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
737 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

738 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
739 Columbia Register.