

HOUSE BILL No. 1397

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-23.6-2-8; IC 25-43; IC 34-30-2.1-191.5.

Synopsis: Professional counselors licensure compact. Requires the behavioral health and human services licensing board to administer the professional counselors licensure compact (compact). Adopts the compact. Sets forth requirements of a member state. Sets forth the duties and authority of the counseling compact commission (commission). Allows a counselor in a home state to practice via telehealth in a member state. Allows each member state to have one delegate on the commission. Establishes the procedure to withdraw from the compact. Makes conforming changes.

Effective: July 1, 2023.

**Andrade, Ledbetter, Vermilion,
Fleming**

January 17, 2023, read first time and referred to Committee on Public Health.



First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1397

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 25-23.6-2-8, AS AMENDED BY P.L.192-2017,
- 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2023]: Sec. 8. (a) The board shall adopt rules under IC 4-22-2
- 4 establishing standards for the following:
- 5 (1) The competent practice of marriage and family therapy,
- 6 bachelor's degree social work, social work, clinical social work,
- 7 mental health counseling, addiction counseling, and clinical
- 8 addiction counseling.
- 9 (2) The renewal of licenses issued under this article.
- 10 (3) Standards for the administration of this article.
- 11 (4) Continuing education requirements for an individual seeking
- 12 renewal of licensure as a bachelor's degree social worker, social
- 13 worker, clinical social worker, or marriage and family therapist.
- 14 (5) The retention of patient records and reports by a counselor.
- 15 (6) The approval of continuing education providers, programs,
- 16 courses, fees, and proof of course completion.
- 17 (b) The board shall establish fees under IC 25-1-8-2.



1 (c) The board shall do the following:

2 (1) Consider the qualifications of individuals who apply for a
3 license under this article.

4 (2) Provide for examinations required under this article.

5 (3) Subject to IC 25-1-8-6, renew licenses under this article.

6 (4) Conduct proceedings under IC 25-1-9.

7 **(5) Administer the professional counselors licensure compact**
8 **under IC 25-43, including appointing members to the**
9 **counseling compact commission and adopting any rules**
10 **necessary to administer the compact.**

11 SECTION 2. IC 25-43 IS ADDED TO THE INDIANA CODE AS
12 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
13 2023]:

14 **ARTICLE 43. PROFESSIONAL COUNSELORS LICENSURE**
15 **COMPACT**

16 **Chapter 1. Purpose**

17 **Sec. 1. The purpose of this compact is to facilitate interstate**
18 **practice of licensed professional counselors with the goal of**
19 **improving public access to professional counseling services. The**
20 **practice of professional counseling occurs in the state where the**
21 **client is located at the time of the counseling services. The compact**
22 **preserves the regulatory authority of states to protect public health**
23 **and safety through the current system of state licensure.**

24 **Sec. 2. This compact is designed to achieve the following**
25 **objectives:**

26 **(1) Increase public access to professional counseling services**
27 **by providing for the mutual recognition of other member**
28 **state licenses.**

29 **(2) Enhance the states' ability to protect the public's health**
30 **and safety.**

31 **(3) Encourage the cooperation of member states in regulating**
32 **multistate practice for licensed professional counselors.**

33 **(4) Support spouses of relocating active duty military**
34 **personnel.**

35 **(5) Enhance the exchange of licensure, investigative, and**
36 **disciplinary information among member states.**

37 **(6) Allow for the use of telehealth technology to facilitate**
38 **increased access to professional counseling services.**

39 **(7) Support the uniformity of professional counseling**
40 **licensure requirements throughout the states to promote**
41 **public safety and public health benefits.**

42 **(8) Invest all member states with the authority to hold a**



1 licensed professional counselor accountable for meeting all
 2 state practice laws in the state in which the client is located at
 3 the time care is rendered through the mutual recognition of
 4 member state licenses.

5 (9) Eliminate the necessity for licenses in multiple states.

6 (10) Provide opportunities for interstate practice by licensed
 7 professional counselors who meet uniform licensure
 8 requirements.

9 **Chapter 2. Definitions**

10 **Sec. 1.** The definitions in this chapter apply throughout this
 11 article.

12 **Sec. 2.** "Active duty military" means full-time duty status in the
 13 active uniformed service of the United States, including members
 14 of the National Guard and reserve components of the armed forces
 15 of the United States on active duty orders pursuant to 10 U.S.C.
 16 Chapters 1209 and 1211.

17 **Sec. 3.** "Adverse action" means any administrative, civil,
 18 equitable, or criminal action permitted by a state's laws that is
 19 imposed by a licensing board or other authority against a licensed
 20 professional counselor, including actions against an individual's
 21 license or privilege to practice, such as revocation, suspension,
 22 probation, monitoring of the licensee, limitation on the licensee's
 23 practice, or any other encumbrance on licensure affecting a
 24 licensed professional counselor's authorization to practice,
 25 including issuance of a cease and desist action.

26 **Sec. 4.** "Alternative program" means a nondisciplinary
 27 monitoring or practice remediation process approved by a
 28 professional counseling licensing board to address impaired
 29 practitioners.

30 **Sec. 5.** "Continuing competence/education" means a
 31 requirement, as a condition of license renewal, to provide evidence
 32 of:

33 (1) participation in or completion of; or

34 (2) participation in and completion of;

35 educational and professional activities relevant to practice or area
 36 of work.

37 **Sec. 6.** "Counseling compact commission" or "commission"
 38 means the national administrative body created and established by
 39 IC 25-43-9-1, whose membership consists of all states that have
 40 enacted the compact.

41 **Sec. 7.** "Current significant investigative information" means:

42 (1) investigative information that a licensing board, after a



1 preliminary inquiry that includes notification and an
 2 opportunity for the licensed professional counselor to
 3 respond, if required by state law, has reason to believe is not
 4 groundless and, if proved true, would indicate more than a
 5 minor infraction; or

6 (2) investigative information that indicates that the licensed
 7 professional counselor represents an immediate threat to
 8 public health and safety regardless of whether the licensed
 9 professional counselor has been notified and had an
 10 opportunity to respond.

11 Sec. 8. "Data system" means a repository of information about
 12 licensees, including, but not limited to, continuing education,
 13 examination, licensure, investigative, privilege to practice, and
 14 adverse action information.

15 Sec. 9. "Encumbered license" means a license in which an
 16 adverse action restricts the practice of licensed professional
 17 counseling by the licensee and the adverse action has been reported
 18 to the National Practitioner Data Bank (NPDB).

19 Sec. 10. "Encumbrance" means a revocation or suspension of,
 20 or any limitation on, the full and unrestricted practice of licensed
 21 professional counseling by a licensing board.

22 Sec. 11. "Executive committee" means a group of directors
 23 elected or appointed to act on behalf of, and within the powers
 24 granted to them by, the commission.

25 Sec. 12. "Home state" means the member state that is the
 26 licensee's primary state of residence.

27 Sec. 13. "Impaired practitioner" means an individual who has
 28 one (1) or more conditions that may impair the practitioner's
 29 ability to practice as a licensed professional counselor without
 30 some type of intervention and may include, but are not limited to,
 31 alcohol and drug dependence, mental health impairment, and
 32 neurological or physical impairments.

33 Sec. 14. "Investigative information" means information,
 34 records, and documents received or generated by a professional
 35 counseling licensing board pursuant to an investigation.

36 Sec. 15. "Jurisprudence requirement", if required by a member
 37 state, means the assessment of an individual's knowledge of the
 38 laws and rules governing the practice of professional counseling in
 39 a state.

40 Sec. 16. "Licensed professional counselor" means a counselor
 41 licensed by a member state, regardless of the title used by that
 42 state, to independently assess, diagnose, and treat behavioral health



- 1 conditions.
- 2 **Sec. 17. "Licensee"** means an individual who currently holds an
- 3 authorization from the state to practice as a licensed professional
- 4 counselor.
- 5 **Sec. 18. "Licensing board"** means the agency of a state, or
- 6 equivalent, that is responsible for the licensing and regulation of
- 7 licensed professional counselors.
- 8 **Sec. 19. "Member state"** means a state that has enacted the
- 9 compact.
- 10 **Sec. 20. "Privilege to practice"** means a legal authorization,
- 11 which is equivalent to a license, permitting the practice of
- 12 professional counseling in a remote state.
- 13 **Sec. 21. "Professional counseling"** means the assessment,
- 14 diagnosis, and treatment of behavioral health conditions by a
- 15 licensed professional counselor.
- 16 **Sec. 22. "Remote state"** means a member state other than the
- 17 home state, where a licensee is exercising or seeking to exercise the
- 18 privilege to practice.
- 19 **Sec. 23. "Rule"** means a regulation promulgated by the
- 20 commission that has the force of law.
- 21 **Sec. 24. "Single state license"** means a licensed professional
- 22 counselor license issued by a member state that authorizes practice
- 23 only within the issuing state and does not include a privilege to
- 24 practice in any other member state.
- 25 **Sec. 25. "State"** means any state, commonwealth, district, or
- 26 territory of the United States that regulates the practice of
- 27 professional counseling.
- 28 **Sec. 26. "Telehealth"** means the application of
- 29 telecommunication technology to deliver professional counseling
- 30 services remotely to assess, diagnose, and treat behavioral health
- 31 conditions.
- 32 **Sec. 27. "Unencumbered license"** means a license that
- 33 authorizes a licensed professional counselor to engage in the full
- 34 and unrestricted practice of professional counseling.
- 35 **Chapter 3. State Participation in the Compact**
- 36 **Sec. 1. To participate in the compact, a state must currently**
- 37 **meet the following requirements:**
- 38 **(1) License and regulate licensed professional counselors.**
- 39 **(2) Require licensees to pass a nationally recognized exam**
- 40 **approved by the commission.**
- 41 **(3) Require licensees to have a sixty (60) semester hour or**
- 42 **ninety (90) quarter hour master's degree in counseling or**



1 sixty (60) semester hours or ninety (90) quarter hours of
 2 graduate course work, including the following topic areas:

3 (A) Professional counseling orientation and ethical
 4 practice.

5 (B) Social and cultural diversity.

6 (C) Human growth and development.

7 (D) Career development.

8 (E) Counseling and helping relationships.

9 (F) Group counseling and group work.

10 (G) Diagnosis and treatment.

11 (H) Assessment and testing.

12 (I) Research and program evaluation.

13 (J) Other areas as determined by the commission.

14 (4) Require licensees to complete a supervised postgraduate
 15 professional experience as defined by the commission.

16 (5) Have a mechanism in place for receiving and investigating
 17 complaints about licensees.

18 **Sec. 2. A member state shall comply with the following:**

19 (1) Participate fully in the commission's data system,
 20 including using the commission's unique identifier as defined
 21 in rules.

22 (2) Notify the commission, in compliance with the terms of the
 23 compact and rules, of any adverse action or the availability of
 24 investigative information regarding a licensee.

25 (3) Implement or utilize procedures for considering the
 26 criminal history records of applicants for an initial privilege
 27 to practice. These procedures shall include the submission of
 28 fingerprints or other biometric based information by
 29 applicants for the purpose of obtaining an applicant's
 30 criminal history record information from the Federal Bureau
 31 of Investigation and the agency responsible for retaining that
 32 state's criminal records. The following requirements must be
 33 met:

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

39 (B) Communication between a member state, the
 40 commission, and among member states regarding the
 41 verification of eligibility for licensure through the compact
 42 shall not include any information received from the



- 1 **Federal Bureau of Investigation relating to a federal**
 2 **criminal records check performed by a member state**
 3 **under federal Public Law 92-544.**
- 4 **(4) Comply with the rules of the commission.**
- 5 **(5) Require an applicant to obtain or retain a license in the**
 6 **home state and meet the home state's qualifications for**
 7 **licensure or renewal of licensure, as well as all other**
 8 **applicable state laws.**
- 9 **(6) Grant the privilege to practice to a licensee holding a valid**
 10 **unencumbered license in another member state in accordance**
 11 **with the terms of the compact and rules.**
- 12 **(7) Provide for the attendance of the state's commissioner to**
 13 **the counseling compact commission meetings.**
- 14 **Sec. 3. Member states may charge a fee for granting the**
 15 **privilege to practice.**
- 16 **Sec. 4. Individuals not residing in a member state shall continue**
 17 **to be able to apply for a member state's single state license as**
 18 **provided under the laws of each member state. However, the single**
 19 **state license granted to these individuals shall not be recognized as**
 20 **granting a privilege to practice professional counseling in any**
 21 **other member state.**
- 22 **Sec. 5. Nothing in this compact shall affect the requirements**
 23 **established by a member state for the issuance of a single state**
 24 **license.**
- 25 **Sec. 6. A license issued to a licensed professional counselor by a**
 26 **home state to a resident in that state shall be recognized by each**
 27 **member state as authorizing a licensed professional counselor to**
 28 **practice professional counseling, under a privilege to practice, in**
 29 **each member state.**
- 30 **Chapter 4. Privilege to Practice**
- 31 **Sec. 1. To exercise the privilege to practice under the terms and**
 32 **provisions of the compact, the licensee shall meet the following**
 33 **requirements:**
- 34 **(1) Hold a license in the home state.**
- 35 **(2) Have a valid United States Social Security number or**
 36 **National Practitioner Identifier (NPI).**
- 37 **(3) Be eligible for a privilege to practice in any member state**
 38 **in accordance with sections 4, 7, and 8 of this chapter.**
- 39 **(4) Have not had any encumbrance or restriction against any**
 40 **license or privilege to practice within the previous two (2)**
 41 **years.**
- 42 **(5) Notify the commission that the licensee is seeking the**



1 privilege to practice within a remote state.

2 (6) Pay any applicable fees, including any state fee, for the
3 privilege to practice.

4 (7) Meet any continuing competence/education requirements
5 established by the home state.

6 (8) Meet any jurisprudence requirements established by each
7 remote state in which the licensee is seeking a privilege to
8 practice.

9 (9) Report to the commission any adverse action,
10 encumbrance, or restriction on a license taken by any
11 nonmember state within thirty (30) days from the date the
12 action is taken.

13 **Sec. 2.** The privilege to practice is valid until the expiration date
14 of the home state license. The licensee must comply with the
15 requirements of section 1 of this chapter to maintain the privilege
16 to practice in the remote state.

17 **Sec. 3.** A licensee providing professional counseling in a remote
18 state under the privilege to practice shall adhere to the laws and
19 regulations of the remote state.

20 **Sec. 4.** A licensee providing professional counseling services in
21 a remote state is subject to that state's regulatory authority. A
22 remote state may, in accordance with due process and that state's
23 laws, take any or all of the following actions:

24 (1) Remove a licensee's privilege to practice in the remote
25 state for a specific period of time.

26 (2) Impose fines.

27 (3) Any other necessary actions to protect the health and
28 safety of its citizens.

29 The licensee may be ineligible for a privilege to practice in any
30 member state until the specific time for removal has passed and all
31 fines are paid.

32 **Sec. 5.** If a home state license is encumbered, the licensee shall
33 lose the privilege to practice in any remote state until all the
34 following occur:

35 (1) The home state license is no longer encumbered.

36 (2) Have not had any encumbrance or restriction against any
37 license or privilege to practice within the previous two (2)
38 years.

39 **Sec. 6.** Once an encumbered license in the home state is restored
40 to good standing, the licensee must meet the requirements of
41 section 1 of this chapter to obtain a privilege to practice in any
42 remote state.



1 **Sec. 7. If a licensee's privilege to practice in any remote state is**
 2 **removed, the individual may lose the privilege to practice in all**
 3 **other remote states until all the following occur:**

- 4 **(1) The specific period of time for which the privilege to**
 5 **practice was removed has ended.**
 6 **(2) All fines have been paid.**
 7 **(3) Have not had any encumbrance or restriction against any**
 8 **license or privilege to practice within the previous two (2)**
 9 **years.**

10 **Sec. 8. Once the requirements of section 7 of this chapter have**
 11 **been met, the licensee must meet the requirements of section 1 of**
 12 **this chapter to obtain a privilege to practice in a remote state.**

13 **Chapter 5. Obtaining a New Home State License Based on a**
 14 **Privilege to Practice**

15 **Sec. 1. A licensed professional counselor may hold a home state**
 16 **license, which allows for a privilege to practice in other member**
 17 **states, in only one (1) member state at a time.**

18 **Sec. 2. If a licensed professional counselor changes primary**
 19 **state of residence by moving between two (2) member states, the**
 20 **following conditions must be met:**

21 **(1) The licensed professional counselor shall file an**
 22 **application for obtaining a new home state license based on a**
 23 **privilege to practice, pay all applicable fees, and notify the**
 24 **current and new home state in accordance with applicable**
 25 **rules adopted by the commission.**

26 **(2) Upon receipt of an application for obtaining a new home**
 27 **state license by virtue of a privilege to practice, the new home**
 28 **state shall verify that the licensed professional counselor**
 29 **meets the pertinent criteria outlined in IC 25-43-4 via the data**
 30 **system, without need for primary source verification except**
 31 **for:**

32 **(A) a Federal Bureau of Investigation fingerprint based**
 33 **criminal background check if not previously performed or**
 34 **updated pursuant to applicable rules adopted by the**
 35 **commission in accordance with federal Public Law 92-544;**

36 **(B) other criminal background checks as required by the**
 37 **new home state; and**

38 **(C) completion of any requisite jurisprudence**
 39 **requirements of the new home state.**

40 **(3) The former home state shall convert the former home state**
 41 **license into a privilege to practice once the new home state has**
 42 **activated the new home state license in accordance with**



1 applicable rules adopted by the commission.

2 (4) Notwithstanding any other provision of this compact, if the
3 licensed professional counselor cannot meet the criteria in
4 IC 25-43-4, the new home state may apply its requirements
5 for issuing a new single state license.

6 (5) The licensed professional counselor shall pay all applicable
7 fees to the new home state in order to be issued a new home
8 state license.

9 **Sec. 3. If a licensed professional counselor changes primary**
10 **state of residence by moving from a member state to a nonmember**
11 **state, or from a nonmember state to a member state, the state**
12 **criteria shall apply for issuance of a single state license in the new**
13 **state.**

14 **Sec. 4. Nothing in this compact shall interfere with a licensee's**
15 **ability to hold a single state license in multiple states. However, for**
16 **the purposes of this compact, a licensee shall have only one (1)**
17 **home state license.**

18 **Sec. 5. Nothing in this compact shall affect the requirements**
19 **established by a member state for the issuance of a single state**
20 **license.**

21 **Chapter 6. Active Duty Military Personnel or Their Spouses**

22 **Sec. 1. Active duty military personnel or their spouses shall**
23 **designate a home state where the individual has a current license**
24 **in good standing. The individual may retain the home state**
25 **designation during the period the service member is on active duty.**
26 **Subsequent to designating a home state, the individual shall only**
27 **change their home state through application for licensure in the**
28 **new state or through the process outlined in IC 25-43-5.**

29 **Chapter 7. Compact Privilege to Practice Telehealth**

30 **Sec. 1. Member states shall recognize the right of a licensed**
31 **professional counselor, licensed by a home state in accordance with**
32 **IC 25-43-3 and under rules promulgated by the commission, to**
33 **practice professional counseling in any member state via telehealth**
34 **under a privilege to practice as provided in the compact and rules**
35 **promulgated by the commission.**

36 **Sec. 2. A licensee providing professional counseling services in**
37 **a remote state under the privilege to practice shall adhere to the**
38 **laws and regulations of the remote state.**

39 **Chapter 8. Adverse Actions**

40 **Sec. 1. In addition to the other powers conferred by state law, a**
41 **remote state shall have the authority, in accordance with existing**
42 **state due process law, to do the following:**



- 1 (1) Take adverse action against a licensed professional
- 2 counselor's privilege to practice within that member state.
- 3 (2) Issue subpoenas for both hearings and investigations that
- 4 require the attendance and testimony of witnesses as well as
- 5 the production of evidence. Subpoenas issued by a licensing
- 6 board in a member state for the attendance and testimony of
- 7 witnesses or the production of evidence from another member
- 8 state shall be enforced in the latter state by any court of
- 9 competent jurisdiction, according to the practice and
- 10 procedure of that court applicable to subpoenas issued in
- 11 proceedings pending before it. The issuing authority shall pay
- 12 any witness fees, travel expenses, mileage, and other fees
- 13 required by the service statutes of the state in which the
- 14 witnesses or evidence are located.
- 15 (3) Only the home state shall have the power to take adverse
- 16 action against a licensed professional counselor's license
- 17 issued by the home state.

18 **Sec. 2.** For purposes of taking adverse action, the home state
 19 shall give the same priority and effect to reported conduct received
 20 from a member state as it would if the conduct had occurred within
 21 the home state. In so doing, the home state shall apply its own state
 22 laws to determine appropriate action.

23 **Sec. 3.** The home state shall complete any pending investigations
 24 of a licensed professional counselor who changes primary state of
 25 residence during the course of the investigations. The home state
 26 shall also have the authority to take all appropriate actions and
 27 shall promptly report the conclusions of the investigations to the
 28 administrator of the data system. The administrator of the
 29 coordinated licensure information system shall promptly notify the
 30 new home state of any adverse actions.

31 **Sec. 4.** A member state, if otherwise permitted by state law, may
 32 recover from the affected licensed professional counselor the costs
 33 of investigations and dispositions of cases resulting from any
 34 adverse action taken against that licensed professional counselor.

35 **Sec. 5.** A member state may take adverse action based on the
 36 factual findings of the remote state, provided that the member state
 37 follows its own procedures for taking the adverse action.

38 **Sec. 6. (a)** In addition to the authority granted to a member state
 39 by its respective professional counseling practice act or other
 40 applicable state law, any member state may participate with other
 41 member states in joint investigations of licensees.

42 **(b)** Member states shall share any investigative, litigation, or



1 compliance materials in furtherance of any joint or individual
2 investigation initiated under the compact.

3 Sec. 7. If adverse action is taken by the home state against the
4 license of a licensed professional counselor, the licensed
5 professional counselor's privilege to practice in all other member
6 states shall be deactivated until all encumbrances have been
7 removed from the state license. All home state disciplinary orders
8 that impose adverse action against the license of a licensed
9 professional counselor shall include a statement that the licensed
10 professional counselor's privilege to practice is deactivated in all
11 member states during the pendency of the order.

12 Sec. 8. If a member state takes adverse action, it shall promptly
13 notify the administrator of the data system. The administrator of
14 the data system shall promptly notify the home state of any adverse
15 actions by remote states.

16 Sec. 9. Nothing in this compact shall override a member state's
17 decision that participation in an alternative program may be used
18 in lieu of adverse action.

19 Chapter 9. Establishment of Counseling Compact Commission

20 Sec. 1. (a) The compact member states hereby create and
21 establish a joint public agency known as the counseling compact
22 commission.

23 (b) The commission is an instrumentality of the compact states.

24 (c) Venue is proper and judicial proceedings by or against the
25 commission shall be brought solely and exclusively in a court of
26 competent jurisdiction where the principal office of the commission
27 is located. The commission may waive venue and jurisdictional
28 defenses to the extent it adopts or consents to participate in
29 alternative dispute resolution proceedings.

30 (d) Nothing in this compact shall be construed to be a waiver of
31 sovereign immunity.

32 Sec. 2. (a) Each member state shall have and be limited to one
33 (1) delegate selected by that member state's licensing board.

34 (b) The delegate shall be either:

35 (1) a current member of the licensing board at the time of
36 appointment, who is a licensed professional counselor or
37 public member; or

38 (2) an administrator of the licensing board.

39 (c) Any delegate may be removed or suspended from office as
40 provided by the law of the state from which the delegate is
41 appointed.

42 (d) The member state licensing board shall fill any vacancy



1 occurring on the commission within sixty (60) days.

2 (e) Each delegate shall be entitled to one (1) vote with regard to
3 the promulgation of rules and creation of bylaws and shall
4 otherwise have an opportunity to participate in the business and
5 affairs of the commission.

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

10 (g) The commission shall meet at least once during each
11 calendar year. Additional meetings shall be held as set forth in the
12 bylaws.

13 (h) The commission shall by rule establish a term of office for
14 delegates and may by rule establish term limits.

15 **Sec. 3. The commission shall have the following powers and**
16 **duties:**

17 (1) Establish the fiscal year of the commission.

18 (2) Establish bylaws.

19 (3) Maintain its financial records in accordance with the
20 bylaws.

21 (4) Meet and take such actions as are consistent with the
22 provisions of this compact and the bylaws.

23 (5) Promulgate rules that shall be binding to the extent and in
24 the manner provided for in the compact.

25 (6) Bring and prosecute legal proceedings or actions in the
26 name of the commission, provided that the standing of any
27 state licensing board to sue or be sued under applicable law
28 shall not be affected.

29 (7) Purchase and maintain insurance and bonds.

30 (8) Borrow, accept, or contract for services of personnel,
31 including, but not limited to, employees of a member state.

32 (9) Hire employees, elect or appoint officers, fix
33 compensation, define duties, grant such individuals
34 appropriate authority to carry out the purposes of the
35 compact, and establish the commission's personnel policies
36 and programs relating to conflicts of interest, qualifications
37 of personnel, and other related personnel matters.

38 (10) Accept any and all appropriate donations and grants of
39 money, equipment, supplies, materials, and services, and to
40 receive, utilize, and dispose of the same, provided that at all
41 times, the commission shall avoid any appearance of
42 impropriety or conflict of interest.



- 1 (11) Lease, purchase, accept appropriate gifts or donations of,
 2 or otherwise own, hold, improve, or use, any property, real,
 3 personal or mixed, provided that at all times the commission
 4 shall avoid any appearance of impropriety.
 5 (12) Sell convey, mortgage, pledge, lease, exchange, abandon,
 6 or otherwise dispose of any property real, personal, or mixed.
 7 (13) Establish a budget and make expenditures.
 8 (14) Borrow money.
 9 (15) Appoint committees, including standing committees
 10 composed of members, state regulators, state legislators or
 11 their representatives, and consumer representatives, and such
 12 other interested persons as may be designated in this compact
 13 and the bylaws.
 14 (16) Provide and receive information from, and cooperate
 15 with, law enforcement agencies.
 16 (17) Establish and elect an executive committee.
 17 (18) Perform such other functions as may be necessary or
 18 appropriate to achieve the purposes of this compact consistent
 19 with the state regulation of professional counseling licensure
 20 and practice.
- 21 **Sec. 4. (a) The executive committee shall have the power to act**
 22 **on behalf of the commission according to the terms of this compact.**
- 23 **(b) The executive committee shall be composed of up to eleven**
 24 **(11) members subject to the following:**
- 25 **(1) Seven (7) voting members who are elected by the**
 26 **commission from the current membership of the commission.**
 27 **(2) Up to four (4) ex officio, nonvoting members from four (4)**
 28 **recognized national professional counselor organizations.**
 29 **(3) The ex officio members will be selected by their respective**
 30 **organizations.**
- 31 **(c) The commission may remove any member of the executive**
 32 **committee as provided in the bylaws.**
- 33 **(d) The executive committee shall meet at least annually.**
- 34 **(e) The executive committee shall have the following duties and**
 35 **responsibilities:**
- 36 **(1) Recommend to the entire commission changes to the rules**
 37 **or bylaws, changes to this compact legislation, fees paid by**
 38 **compact member states such as annual dues, and any**
 39 **commission compact fee charged to licensees for the privilege**
 40 **to practice.**
 41 **(2) Ensure compact administration services are appropriately**
 42 **provided, contractual or otherwise.**



- 1 **(3) Prepare and recommend the budget.**
- 2 **(4) Maintain financial records on behalf of the commission.**
- 3 **(5) Monitor compact compliance of member states and**
- 4 **provide compliance reports to the commission.**
- 5 **(6) Establish additional committees as necessary.**
- 6 **(7) Other duties as provided in rules or bylaws.**
- 7 **Sec. 5. (a) All meetings shall be open to the public, and public**
- 8 **notice of meetings shall be given in the same manner as required**
- 9 **under the rulemaking provisions in IC 25-43-11.**
- 10 **(b) The commission, the executive committee, or other**
- 11 **committees of the commission may convene in a closed, nonpublic**
- 12 **meeting if the commission, executive committee, or other**
- 13 **committees of the commission must discuss any of the following:**
- 14 **(1) Noncompliance of a member state with its obligations**
- 15 **under the compact.**
- 16 **(2) The employment, compensation, discipline or other**
- 17 **matters, practices, or procedures related to specific employees**
- 18 **or other matters related to the commission's internal**
- 19 **personnel practices and procedures.**
- 20 **(3) Current, threatened, or reasonably anticipated litigation.**
- 21 **(4) Negotiation of contracts for the purchase, lease, or sale of**
- 22 **goods, services, or real estate.**
- 23 **(5) Accusing any person of a crime or formally censuring any**
- 24 **person.**
- 25 **(6) Disclosure of trade secrets or commercial or financial**
- 26 **information that is privileged or confidential.**
- 27 **(7) Disclosure of information of a personal nature where**
- 28 **disclosure would constitute a clearly unwarranted invasion of**
- 29 **personal privacy.**
- 30 **(8) Disclosure of investigative records compiled for law**
- 31 **enforcement purposes.**
- 32 **(9) Disclosure of information related to any investigative**
- 33 **reports prepared by or on behalf of or for use of the**
- 34 **commission or other committee charged with responsibility of**
- 35 **investigation or determination of compliance issues pursuant**
- 36 **to the compact.**
- 37 **(10) Matters specifically exempted from disclosure by federal**
- 38 **or member state statute.**
- 39 **(c) If a meeting, or portion of a meeting, is closed pursuant to**
- 40 **this section, the commission's legal counsel or designee shall certify**
- 41 **that the meeting may be closed and shall reference each relevant**
- 42 **exempting provision.**



1 (d) The commission shall keep minutes that fully and clearly
2 describe all matters discussed in a meeting and shall provide a full
3 and accurate summary of actions taken, and the reasons therefore,
4 including a description of the views expressed. All documents
5 considered in connection with an action shall be identified in such
6 minutes. All minutes and documents of a closed meeting shall
7 remain under seal, subject to release by a majority vote of the
8 commission or order of a court of competent jurisdiction.

9 Sec. 6. (a) The commission shall pay, or provide for the payment
10 of, the reasonable expenses of the commission's establishment,
11 organization, and ongoing activities.

12 (b) The commission may accept any and all appropriate revenue
13 sources, donations, and grants of money, equipment, supplies,
14 materials, and services.

15 (c) The commission may levy on and collect an annual
16 assessment from each member state or impose fees on other parties
17 to cover the cost of the operations and activities of the commission
18 and its staff, which must be in a total amount sufficient to cover its
19 annual budget as approved each year for which revenue is not
20 provided by other sources. The aggregate annual assessment
21 amount shall be allocated based upon a formula to be determined
22 by the commission, which shall promulgate a rule binding upon all
23 member states.

24 (d) The commission shall not incur obligations of any kind prior
25 to securing the funds adequate to meet the same nor shall the
26 commission pledge the credit of any of the member states, except
27 by and with the authority of the member state.

28 (e) The commission shall keep accurate accounts of all receipts
29 and disbursements. The receipts and disbursements of the
30 commission shall be subject to the audit and accounting procedures
31 established under its bylaws. However, all receipts and
32 disbursements of funds handled by the commission shall be audited
33 yearly by a certified or licensed public accountant, and the report
34 of the audit shall be included in and become part of the annual
35 report of the commission.

36 Sec. 7. (a) The members, officers, executive director, employees
37 and representatives of the commission shall be immune from suit
38 and liability, either personally or in their official capacity, for any
39 claim for damage to or loss of property or personal injury or other
40 civil liability caused by or arising out of any actual or alleged act,
41 error, or omission that occurred, or that the person against whom
42 the claim is made had a reasonable basis for believing occurred



1 within the scope of commission employment, duties, or
 2 responsibilities. However, nothing in this section shall be construed
 3 to protect any such person from suit or liability for any damage,
 4 loss, injury, or liability caused by the intentional or willful or
 5 wanton misconduct of that person.

6 (b) The commission shall defend any member, officer, executive
 7 director, employee, or representative of the commission in any civil
 8 action seeking to impose liability arising out of any actual or
 9 alleged act, error, or omission that occurred within the scope of
 10 commission employment, duties, or responsibilities, or that the
 11 person against whom the claim is made had a reasonable basis for
 12 believing occurred within the scope of commission employment,
 13 duties, or responsibilities. However, nothing herein shall be
 14 construed to prohibit that person from retaining his or her own
 15 counsel, and provided further, that the actual or alleged act, error,
 16 or omission did not result from that person's intentional, willful, or
 17 wanton misconduct.

18 (c) The commission shall indemnify and hold harmless any
 19 member, officer, executive director, employee, or representative of
 20 the commission for the amount of any settlement or judgment
 21 obtained against that person arising out of any actual or alleged
 22 act, error, or omission that occurred within the scope of
 23 commission employment, duties, or responsibilities, or that such
 24 person had a reasonable basis for believing occurred within the
 25 scope of commission employment, duties, or responsibilities,
 26 provided that the actual or alleged act, error, or omission did not
 27 result from the intentional or willful or wanton misconduct of that
 28 person.

29 **Chapter 10. Data System**

30 **Sec. 1.** The commission shall provide for the development,
 31 maintenance, operation, and utilization of a coordinated data base
 32 and reporting system containing licensure, adverse action, and
 33 investigative information on all licensed individuals in member
 34 states.

35 **Sec. 2.** Notwithstanding any other provision of state law to the
 36 contrary, a member state shall submit a uniform data set to the
 37 data system on all individuals to whom this compact is applicable
 38 as required by the rules of the commission, including the following:

- 39 (1) Identifying information.
- 40 (2) Licensure data.
- 41 (3) Adverse actions against a license or privilege to practice.
- 42 (4) Nonconfidential information related to alternative



1 **program participation.**

2 **(5) Any denial of application for licensure, and the reasons for**
3 **the denial.**

4 **(6) Current significant investigative information.**

5 **(7) Other information that may facilitate the administration**
6 **of this compact, as determined by the rules of the commission.**

7 **Sec. 3. Investigative information pertaining to a licensee in any**
8 **member state will only be available to other member states.**

9 **Sec. 4. The commission shall promptly notify all member states**
10 **of any adverse action taken against a licensee or an individual**
11 **applying for a license. Adverse action information pertaining to a**
12 **licensee in any member state will be available to any other member**
13 **state.**

14 **Sec. 5. Member states contributing information to the data**
15 **system may designate information that may not be shared with the**
16 **public without the express permission of the contributing state.**

17 **Sec. 6. Any information submitted to the data system that is**
18 **subsequently required to be expunged by the laws of the member**
19 **state contributing the information shall be removed from the data**
20 **system.**

21 **Chapter 11. Rulemaking**

22 **Sec. 1. (a) The commission shall promulgate reasonable rules in**
23 **order to effectively and efficiently achieve the purpose of the**
24 **compact.**

25 **(b) Notwithstanding subsection (a), in the event the commission**
26 **exercises its rulemaking authority in a manner that is beyond the**
27 **scope of the purposes of the compact, or the powers granted**
28 **hereunder, then the action by the commission shall be invalid and**
29 **have no force or effect.**

30 **Sec. 2. The commission shall exercise its rulemaking powers**
31 **pursuant to the criteria set forth in this section and the rules**
32 **adopted thereunder. Rules and amendments shall become binding**
33 **as of the date specified in each rule or amendment.**

34 **Sec. 3. If a majority of the legislatures of the member states**
35 **rejects a rule, by enactment of a statute or resolution in the same**
36 **manner used to adopt the compact within four (4) years of the date**
37 **of adoption of the rule, then such rule shall have no further force**
38 **and effect in any member state.**

39 **Sec. 4. Rules or amendments to the rules shall be adopted at a**
40 **regular or special meeting of the commission.**

41 **Sec. 5. Prior to promulgation and adoption of a final rule or**
42 **rules by the commission, and at least thirty (30) days in advance of**



1 the meeting at which the rule will be considered and voted upon,
2 the commission shall file a notice of proposed rulemaking:

3 (1) on the website of the commission or other publicly
4 accessible platform; and

5 (2) on the website of each member state professional
6 counseling licensing board or other publicly accessible
7 platform or the publication in which each state would
8 otherwise publish proposed rules.

9 Sec. 6. The notice of proposed rulemaking shall include the
10 following:

11 (1) The proposed time, date, and location of the meeting in
12 which the rule will be considered and voted upon.

13 (2) The text of the proposed rule or amendment and the
14 reason for the proposed rule.

15 (3) A request for comments on the proposed rule from any
16 interested person.

17 (4) The manner in which interested persons may submit
18 notice to the commission of their intention to attend the public
19 hearing and any written comments.

20 Sec. 7. Prior to adoption of a proposed rule, the commission
21 shall allow persons to submit written data, facts, opinions, and
22 arguments, which shall be made available to the public.

23 Sec. 8. The commission shall grant an opportunity for a public
24 hearing before it adopts a rule or amendment if a hearing is
25 requested by:

26 (1) at least twenty-five (25) persons;

27 (2) a state or federal governmental subdivision or agency; or

28 (3) an association having at least twenty-five (25) members.

29 Sec. 9. (a) If a hearing is held on the proposed rule or
30 amendment, the commission shall publish the place, time, and date
31 of the scheduled public hearing. If the hearing is held via electronic
32 means, the commission shall publish the mechanism for access to
33 the electronic hearing.

34 (b) All persons wishing to be heard at the hearing shall notify
35 the executive director of the commission or other designated
36 member in writing of their desire to appear and testify at the
37 hearing not less than five (5) business days before the scheduled
38 date of the hearing.

39 (c) Hearings shall be conducted in a manner providing each
40 person who wishes to comment a fair and reasonable opportunity
41 to comment orally or in writing.

42 (d) All hearings will be recorded. A copy of the recording will be



1 made available on request.

2 (e) Nothing in this section shall be construed as requiring a
3 separate hearing on each rule. Rules may be grouped for the
4 convenience of the commission at hearings required by this section.

5 Sec. 10. Following the scheduled hearing date, or by the close of
6 business on the scheduled hearing date if the hearing was not held,
7 the commission shall consider all written and oral comments
8 received.

9 Sec. 11. If no written notice of intent to attend the public
10 hearing by interested parties is received, the commission may
11 proceed with promulgation of the proposed rule without a public
12 hearing.

13 Sec. 12. The commission shall, by majority vote of all members,
14 take final action on the proposed rule and shall determine the
15 effective date of the rule, if any, based on the rulemaking record
16 and the full text of the rule.

17 Sec. 13. Upon determination that an emergency exists, the
18 commission may consider and adopt an emergency rule without
19 prior notice, opportunity for comment, or hearing, provided that
20 the usual rulemaking procedures provided in the compact and in
21 this section shall be retroactively applied to the rule as soon as
22 reasonably possible, in no event later than ninety (90) days after
23 the effective date of the rule. For the purposes of this section, an
24 emergency rule is a rule that must be adopted immediately in order
25 to:

- 26 (1) meet an imminent threat to public health, safety, or
27 welfare;
28 (2) prevent a loss of commission or member state funds;
29 (3) meet a deadline for the promulgation of an administrative
30 rule that is established by federal law or rule; or
31 (4) protect public health and safety.

32 Sec. 14. The commission or an authorized committee of the
33 commission may direct revisions to a previously adopted rule or
34 amendment for purposes of correcting typographical errors, errors
35 in format, errors in consistency, or grammatical errors. Public
36 notice of any revisions shall be posted on the website of the
37 commission. The revision shall be subject to challenge by any
38 person for a period of thirty (30) days after posting. The revision
39 may be challenged only on grounds that the revision results in a
40 material change to a rule. A challenge shall be made in writing and
41 delivered to the chair of the commission prior to the end of the
42 notice period. If no challenge is made, the revision will take effect



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

3 **Chapter 12. Oversight, Dispute Resolution, and Enforcement**

4 **Sec. 1. (a) The executive, legislative, and judicial branches of**
5 **state government in each member state shall enforce this compact**
6 **and take all actions necessary and appropriate to effectuate the**
7 **compact's purposes and intent. The provisions of this compact and**
8 **the rules promulgated hereunder shall have standing as statutory**
9 **law.**

10 **(b) All courts shall take judicial notice of the compact and the**
11 **rules in any judicial or administrative proceeding in a member**
12 **state pertaining to the subject matter of this compact, which may**
13 **affect the powers, responsibilities, or actions of the commission.**

14 **(c) The commission shall be entitled to receive service of process**
15 **in any such proceeding and shall have standing to intervene in such**
16 **a proceeding for all purposes. Failure to provide service of process**
17 **to the commission shall render a judgment or order void as to the**
18 **commission, this compact, or promulgated rules.**

19 **Sec. 2. If the commission determines that a member state has**
20 **defaulted in the performance of its obligations or responsibilities**
21 **under this compact or the promulgated rules, the commission shall:**

22 **(1) provide written notice to the defaulting state and other**
23 **member states of the nature of the default, the proposed**
24 **means of curing the default and any other action to be taken**
25 **by the commission; and**

26 **(2) provide remedial training and specific technical assistance**
27 **regarding the default.**

28 **Sec. 3. If a state in default fails to cure the default, the defaulting**
29 **state may be terminated from the compact upon an affirmative**
30 **vote of a majority of the member states, and all rights, privileges**
31 **and benefits conferred by this compact may be terminated on the**
32 **effective date of termination. A cure of the default does not relieve**
33 **the offending state of obligations or liabilities incurred during the**
34 **period of default.**

35 **Sec. 4. Termination of membership in the compact shall be**
36 **imposed only after all other means of securing compliance have**
37 **been exhausted. Notice of intent to suspend or terminate shall be**
38 **given by the commission to the governor, the majority and**
39 **minority leaders of the defaulting state's legislature, and each of**
40 **the member states.**

41 **Sec. 5. A state that has been terminated is responsible for all**
42 **assessments, obligations, and liabilities incurred through the**



1 effective date of termination, including obligations that extend
2 beyond the effective date of termination.

3 **Sec. 6.** The commission shall not bear any costs related to a state
4 that is found to be in default or that has been terminated from the
5 compact, unless agreed upon in writing between the commission
6 and the defaulting state.

7 **Sec. 7.** The defaulting state may appeal the action of the
8 commission by petitioning the United States District Court for the
9 District of Columbia or the federal district where the commission
10 has its principal offices. The prevailing member shall be awarded
11 all costs of such litigation, including reasonable attorney's fees.

12 **Sec. 8. (a)** Upon request by a member state, the commission
13 shall attempt to resolve disputes related to the compact that arise
14 among member states and between member and nonmember
15 states.

16 **(b)** The commission shall promulgate a rule providing for both
17 mediation and binding dispute resolution for disputes as
18 appropriate.

19 **Sec. 9. (a)** The commission, in the reasonable exercise of its
20 discretion, shall enforce the provisions and rules of this compact.

21 **(b)** By majority vote, the commission may initiate legal action
22 in the United States District Court for the District of Columbia or
23 the federal district where the commission has its principal offices
24 against a member state in default to enforce compliance with the
25 provisions of the compact and its promulgated rules and bylaws.
26 The relief sought may include both injunctive relief and damages.
27 In the event judicial enforcement is necessary, the prevailing
28 member shall be awarded all costs of such litigation, including
29 reasonable attorney's fees.

30 **(c)** The remedies herein shall not be the exclusive remedies of
31 the commission. The commission may pursue any other remedies
32 available under federal or state law.

33 **Chapter 13. Date of Implementation of the Counseling Compact**
34 **Commission and Associated Rules, Withdrawal, and Amendment**

35 **Sec. 1.** The compact shall come into effect on the date on which
36 the compact statute is enacted into law in the tenth member state.
37 The provisions, which become effective at that time, shall be
38 limited to the powers granted to the commission relating to
39 assembly and the promulgation of rules. Thereafter, the
40 commission shall meet and exercise rulemaking powers necessary
41 to the implementation and administration of the compact.

42 **Sec. 2.** Any state that joins the compact subsequent to the



1 commission's initial adoption of the rules shall be subject to the
 2 rules as they exist on the date on which the compact becomes law
 3 in that state. Any rule that has been previously adopted by the
 4 commission shall have the full force and effect of law on the day the
 5 compact becomes law in that state.

6 **Sec. 3. (a) Any member state may withdraw from this compact**
 7 **by enacting a statute repealing the same.**

8 **(b) A member state's withdrawal shall not take effect until six**
 9 **(6) months after enactment of the repealing statute.**

10 **(c) Withdrawal shall not affect the continuing requirement of**
 11 **the withdrawing state's professional counseling licensing board to**
 12 **comply with the investigative and adverse action reporting**
 13 **requirements of this act prior to the effective date of withdrawal.**

14 **Sec. 4. Nothing contained in this compact shall be construed to**
 15 **invalidate or prevent any professional counseling licensure**
 16 **agreement or other cooperative arrangement between a member**
 17 **state and a nonmember state that does not conflict with the**
 18 **provisions of this compact.**

19 **Sec. 5. This compact may be amended by the member states. No**
 20 **amendment to this compact shall become effective and binding**
 21 **upon any member state until it is enacted into the laws of all**
 22 **member states.**

23 **Chapter 14. Construction and Severability**

24 **Sec. 1. This compact shall be liberally construed so as to**
 25 **effectuate the purposes thereof. The provisions of this compact**
 26 **shall be severable and if any phrase, clause, sentence, or provision**
 27 **of this compact is declared to be contrary to the constitution of any**
 28 **member state or of the United States or the applicability thereof to**
 29 **any government, agency, person, or circumstance is held invalid,**
 30 **the validity of the remainder of this compact and the applicability**
 31 **thereof to any government, agency, person, or circumstance shall**
 32 **not be affected thereby. If this compact shall be held contrary to**
 33 **the constitution of any member state, the compact shall remain in**
 34 **full force and effect as to the remaining member states and in full**
 35 **force and effect as to the member state affected as to all severable**
 36 **matters.**

37 **Chapter 15. Binding Effect of Compact and Other Laws**

38 **Sec. 1. A licensee providing professional counseling services in**
 39 **a remote state under the privilege to practice shall adhere to the**
 40 **laws and regulations, including scope of practice, of the remote**
 41 **state.**

42 **Sec. 2. Nothing herein prevents the enforcement of any other**



1 law of a member state that is not inconsistent with the compact.
2 **Sec. 3. Any laws in a member state in conflict with the compact**
3 **are superseded to the extent of the conflict.**
4 **Sec. 4. Any lawful actions of the commission, including all rules**
5 **and bylaws properly promulgated by the commission, are binding**
6 **upon the member states.**
7 **Sec. 5. All permissible agreements between the commission and**
8 **the member states are binding in accordance with their terms.**
9 **Sec. 6. In the event any provision of the compact exceeds the**
10 **constitutional limits imposed on the legislature of any member**
11 **state, the provision shall be ineffective to the extent of the conflict**
12 **with the constitutional provision in question in that member state.**
13 SECTION 3. IC 34-30-2.1-191.5 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2023]: **Sec. 191.5. IC 25-43-9-7 (Concerning**
16 **officers, employees, and representatives of the counseling compact**
17 **commission under the professional counselors licensure compact).**

