

As Amended by House Committee

Session of 2023

HOUSE BILL No. 2288

By Committee on Health and Human Services

2-3

1 AN ACT concerning the behavioral sciences; relating to professional
2 counselors; enacting the counseling compact to provide interstate
3 practice privileges; **authorizing the behavioral sciences regulatory**
4 **board to establish a fee for a home-state license with interstate**
5 **practice privileges; amending K.S.A. 2022 Supp. 65-5808 and**
6 **repealing the existing section.**

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 **New Section 1.** This section shall be known and may be cited as the
10 counseling compact.

11 SECTION 1—PURPOSE

12 The purpose of this compact is to facilitate interstate practice of
13 licensed professional counselors with the goal of improving public access
14 to professional counseling services. The practice of professional
15 counseling occurs in the state where the client is located at the time of the
16 counseling services. The compact preserves the regulatory authority of
17 states to protect public health and safety through the current system of
18 state licensure. This compact is designed to achieve the following
19 objectives:

20 (a) Increase public access to professional counseling services by
21 providing for the mutual recognition of other member state licenses;

22 (b) enhance the states' ability to protect the public's health and safety;

23 (c) encourage the cooperation of member states in regulating
24 multistate practice for licensed professional counselors;

25 (d) support spouses of relocating active duty military personnel;

26 (e) enhance the exchange of licensure, investigative and disciplinary
27 information among member states;

28 (f) allow for the use of telehealth technology to facilitate increased
29 access to professional counseling services;

30 (g) support the uniformity of professional counseling licensure
31 requirements throughout the states to promote public safety and public
32 health benefits;

33 (h) invest all member states with the authority to hold a licensed
34 professional counselor accountable for meeting all state practice laws in
35 the state in which the client is located at the time care is rendered through
36 the mutual recognition of member state licenses;

- 1 (i) eliminate the necessity for licenses in multiple states; and
2 (j) provide opportunities for interstate practice by licensed
3 professional counselors who meet uniform licensure requirements.

4 SECTION 2—DEFINITIONS

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

7 (a) "Active duty military" means full-time duty status in the active
8 uniformed service of the United States, including members of the national
9 guard and reserve on active duty orders pursuant to 10 U.S.C. chapters
10 1209 and 1211.

11 (b) "Adverse action" means any administrative, civil, equitable or
12 criminal action permitted by a state's laws which is imposed by a licensing
13 board or other authority against a licensed professional counselor,
14 including actions against an individual's license or privilege to practice
15 such as revocation, suspension, probation, monitoring of the licensee,
16 limitation on the licensee's practice or any other encumbrance on licensure
17 affecting a licensed professional counselor's authorization to practice,
18 including issuance of a cease and desist action.

19 (c) "Alternative program" means a non-disciplinary monitoring or
20 practice remediation process approved by a professional counseling
21 licensing board to address impaired practitioners.

22 (d) "Continuing competence or education" means a requirement, as a
23 condition of license renewal, to provide evidence of participation in, or
24 completion of, educational and professional activities relevant to practice
25 or area of work.

26 (e) "Counseling compact commission" or "commission" means the
27 national administrative body whose membership consists of all states that
28 have enacted the compact.

29 (f) "Current significant investigative information" means:

30 (1) Investigative information that a licensing board, after a
31 preliminary inquiry that includes notification and an opportunity for the
32 licensed professional counselor to respond, if required by state law, has
33 reason to believe is not groundless and, if proved true, would indicate
34 more than a minor infraction; or

35 (2) investigative information that indicates that the licensed
36 professional counselor represents an immediate threat to public health and
37 safety regardless of whether the licensed professional counselor has been
38 notified and had an opportunity to respond.

39 (g) "Data system" means a repository of information about licensees,
40 including, but not limited to, continuing education, examination, licensure,
41 investigative, privilege to practice and adverse action information.

42 (h) "Encumbered license" means a license in which an adverse action
43 restricts the practice of licensed professional counseling by the licensee

1 and said adverse action has been reported to the national practitioners data
2 bank.

3 (i) "Encumbrance" means a revocation or suspension of, or any
4 limitation on, the full and unrestricted practice of licensed professional
5 counseling by a licensing board.

6 (j) "Executive committee" means a group of directors elected or
7 appointed to act on behalf of, and within the powers granted to them by,
8 the commission.

9 (k) "Home state" means the member state that is the licensee's
10 primary state of residence.

11 (l) "Impaired practitioner" means an individual who has a condition
12 or conditions that may impair such individual's ability to practice as a
13 licensed professional counselor without some type of intervention and may
14 include, but are not limited to, alcohol and drug dependence, mental health
15 impairment and neurological or physical impairments.

16 (m) "Investigative information" means information, records and
17 documents received or generated by a professional counseling licensing
18 board pursuant to an investigation.

19 (n) "Jurisprudence requirement" if required by a member state, means
20 the assessment of an individual's knowledge of the laws and rules
21 governing the practice of professional counseling in a state.

22 (o) "Licensed professional counselor" means a counselor licensed by
23 a member state, regardless of the title used by that state, to independently
24 assess, diagnose and treat behavioral health conditions.

25 (p) "Licensee" means an individual who currently holds an
26 authorization from the state to practice as a licensed professional
27 counselor.

28 (q) "Licensing board" means the agency of a state, or equivalent, that
29 is responsible for the licensing and regulation of licensed professional
30 counselors.

31 (r) "Member state" means a state that has enacted the compact.

32 (s) "Privilege to practice" means a legal authorization, which is
33 equivalent to a license, permitting the practice of professional counseling
34 in a remote state.

35 (t) "Professional counseling" means the assessment, diagnosis and
36 treatment of behavioral health conditions by a licensed professional
37 counselor.

38 (u) "Remote state" means a member state other than the home state,
39 where a licensee is exercising or seeking to exercise the privilege to
40 practice.

41 (v) "Rule" means a regulation promulgated by the commission that
42 has the force of law.

43 (w) "Single-state license" means a licensed professional counselor

1 license issued by a member state that authorizes practice only within the
 2 issuing state and does not include a privilege to practice in any other
 3 member state.

4 (x) "State" means any state, commonwealth, district or territory of the
 5 United States of America that regulates the practice of professional
 6 counseling.

7 (y) "Telehealth" means the application of telecommunication
 8 technology to deliver professional counseling services remotely to assess,
 9 diagnose and treat behavioral health conditions.

10 (z) "Unencumbered license" means a license that authorizes a
 11 licensed professional counselor to engage in the full and unrestricted
 12 practice of professional counseling.

13 SECTION 3—STATE PARTICIPATION
 14 IN THE COMPACT

15 (a) To participate in the compact, a state must currently:

- 16 (1) License and regulate licensed professional counselors;
- 17 (2) require licensees to pass a nationally recognized exam approved
 18 by the commission;
- 19 (3) require licensees to have a 60 semester-hour, or 90 quarter-hour,
 20 master's degree in counseling or 60 semester hours, or 90 quarter hours, of
 21 graduate coursework including the following areas:
- 22 (A) Professional counseling orientation and ethical practice;
- 23 (B) social and cultural diversity;
- 24 (C) human growth and development;
- 25 (D) career development;
- 26 (E) counseling and helping relationships;
- 27 (F) group counseling and group work;
- 28 (G) diagnosis and treatment, assessment and testing;
- 29 (H) research and program evaluation; and
- 30 (I) other areas as determined by the commission.
- 31 (4) require licensees to complete a supervised postgraduate
 32 professional experience as defined by the commission; and
- 33 (5) have a mechanism in place for receiving and investigating
 34 complaints about licensees.

35 (b) A member state shall:

- 36 (1) Participate fully in the commission's data system, including using
 37 the commission's unique identifier as defined in rules;
- 38 (2) notify the commission, in compliance with the terms of the
 39 compact and rules, of any adverse action or the availability of investigative
 40 information regarding a licensee;
- 41 (3) implement or utilize procedures for considering the criminal
 42 history records of applicants for an initial privilege to practice. These
 43 procedures shall include the submission of fingerprints or other biometric-

1 based information by applicants for the purpose of obtaining an applicant's
2 criminal history record information from the federal bureau of
3 investigation and the agency responsible for retaining that state's criminal
4 records;

5 (A) a member state must fully implement a criminal background
6 check requirement, within a time frame established by rule, by receiving
7 the results of the federal bureau of investigation record search and shall
8 use the results in making licensure decisions; and

9 (B) communication between a member state, the commission and
10 among member states regarding the verification of eligibility for licensure
11 through the compact shall not include any information received from the
12 federal bureau of investigation relating to a federal criminal records check
13 performed by a member state under public law 92-544;

14 (4) comply with the rules of the commission;

15 (5) require an applicant to obtain or retain a license in the home state
16 and meet the home state's qualifications for licensure or renewal of
17 licensure as well as all other applicable state laws;

18 (6) grant the privilege to practice to a licensee holding a valid
19 unencumbered license in another member state in accordance with the
20 terms of the compact and rules; and

21 (7) provide for the attendance of the state's commissioner to the
22 counseling compact commission meetings.

23 (c) Member states may charge a fee for granting the privilege to
24 practice.

25 (d) Individuals not residing in a member state shall continue to be
26 able to apply for a member state's single-state license as provided under
27 the laws of each member state. However, the single-state license granted to
28 these individuals shall not be recognized as granting a privilege to practice
29 professional counseling in any other member state.

30 (e) Nothing in this compact shall affect the requirements established
31 by a member state for the issuance of a single-state license.

32 (f) A license issued to a licensed professional counselor by a home
33 state to a resident in that state shall be recognized by each member state as
34 authorizing a licensed professional counselor to practice professional
35 counseling, under a privilege to practice, in each member state.

36 SECTION 4—PRIVILEGE TO PRACTICE

37 (a) To exercise the privilege to practice under the terms and
38 provisions of the compact, the licensee shall:

39 (1) Hold a license in the home state;

40 (2) have a valid United States social security number or national
41 practitioner identifier;

42 (3) be eligible for a privilege to practice in any member state in
43 accordance with section 4(d), (g) and (h) of this compact;

1 (4) have not had any encumbrance or restriction against any license
2 or privilege to practice within the previous two years;

3 (5) notify the commission that the licensee is seeking the privilege to
4 practice within a remote state;

5 (6) pay any applicable fees, including any state fee, for the privilege
6 to practice;

7 (7) meet any continuing competence or education requirements
8 established by the home state;

9 (8) meet any jurisprudence requirements established by the remote
10 state in which the licensee is seeking a privilege to practice; and

11 (9) report to the commission any adverse action, encumbrance or
12 restriction on license taken by any non-member state within 30 days from
13 the date the action is taken.

14 (b) The privilege to practice is valid until the expiration date of the
15 home state license. The licensee must comply with the requirements of
16 section 4(a) of this compact to maintain the privilege to practice in the
17 remote state.

18 (c) A licensee providing professional counseling in a remote state
19 under the privilege to practice shall adhere to the laws and regulations of
20 the remote state.

21 (d) A licensee providing professional counseling services in a remote
22 state is subject to that state's regulatory authority. A remote state may, in
23 accordance with due process and that state's laws, remove a licensee's
24 privilege to practice in the remote state for a specific period of time,
25 impose fines or take any other necessary actions to protect the health and
26 safety of its citizens. The licensee may be ineligible for a privilege to
27 practice in any member state until the specific time for removal has passed
28 and all fines are paid.

29 (e) If a home state license is encumbered, the licensee shall lose the
30 privilege to practice in any remote state until the following occur:

31 (1) The home state license is no longer encumbered; and

32 (2) the licensee has not had any encumbrance or restriction against
33 any license or privilege to practice within the previous two years.

34 (f) Once an encumbered license in the home state is restored to good
35 standing, the licensee must meet the requirements of section 4(a) of this
36 compact to obtain a privilege to practice in any remote state.

37 (g) If a licensee's privilege to practice in any remote state is removed,
38 the individual may lose the privilege to practice in all other remote states
39 until the following occur:

40 (1) The specific period of time for which the privilege to practice was
41 removed has ended;

42 (2) all fines have been paid; and

43 (3) the individual has not had any encumbrance or restriction against

1 any license or privilege to practice within the previous two years.

2 (h) Once the requirements of section 4(g) of this compact have been
3 met, the licensee must meet the requirements in section 4(a) of this
4 compact to obtain a privilege to practice in a remote state.

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

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

10 (b) If a licensed professional counselor changes primary state of
11 residence by moving between two member states:

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

16 (2) Upon receipt of an application for obtaining a new home state
17 license by virtue of a privilege to practice, the new home state shall verify
18 that the licensed professional counselor meets the pertinent criteria
19 outlined in section 4 of this compact via the data system, without need for
20 primary source verification except for:

21 (A) A federal bureau of investigation fingerprint-based criminal
22 background check if not previously performed or updated pursuant to
23 applicable rules adopted by the commission in accordance with public law
24 92-544;

25 (B) other criminal background check as required by the new home
26 state; and

27 (C) completion of any requisite jurisprudence requirements of the
28 new home state.

29 (3) The former home state shall convert the former home state license
30 into a privilege to practice once the new home state has activated the new
31 home state license in accordance with applicable rules adopted by the
32 commission.

33 (4) Notwithstanding any other provision of this compact, if the
34 licensed professional counselor cannot meet the criteria in section 4 of this
35 compact, the new home state may apply its requirements for issuing a new
36 single-state license.

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

39 (c) If a licensed professional counselor changes primary state of
40 residence by moving from a member state to a non-member state, or from
41 a non-member state to a member state, the state criteria shall apply for
42 issuance of a single-state license in the new state.

43 (d) Nothing in this compact shall interfere with a licensee's ability to

1 hold a single-state license in multiple states, however for the purposes of
2 this compact, a licensee shall have only one home state license.

3 (e) Nothing in this compact shall affect the requirements established
4 by a member state for the issuance of a single-state license.

5 SECTION 6—ACTIVE DUTY MILITARY PERSONNEL
6 OR THEIR SPOUSES

7 Active duty military personnel, or their spouse, shall designate a home
8 state where the individual has a current license in good standing. The
9 individual may retain the home state designation during the period the
10 service member is on active duty. Subsequent to designating a home state,
11 the individual shall only change the individual's home state through
12 application for licensure in the new state or through the process outlined in
13 section 5 of this compact.

14 SECTION 7—COMPACT PRIVILEGE
15 TO PRACTICE TELEHEALTH

16 (a) Member states shall recognize the right of a licensed professional
17 counselor, licensed by a home state in accordance with section 3 of this
18 compact and under rules promulgated by the commission, to practice
19 professional counseling in any member state via telehealth under a
20 privilege to practice as provided in the compact and rules promulgated by
21 the commission.

22 (b) A licensee providing professional counseling services in a remote
23 state under the privilege to practice shall adhere to the laws and
24 regulations of the remote state.

25 SECTION 8—ADVERSE ACTIONS

26 (a) In addition to the other powers conferred by state law, a remote
27 state shall have the authority, in accordance with existing state due process
28 law, to:

29 (1) Take adverse action against a licensed professional counselor's
30 privilege to practice within that member state; and

31 (2) issue subpoenas for both hearings and investigations that require
32 the attendance and testimony of witnesses as well as the production of
33 evidence. Subpoenas issued by a licensing board in a member state for the
34 attendance and testimony of witnesses or the production of evidence from
35 another member state shall be enforced in the latter state by any court of
36 competent jurisdiction, according to the practice and procedure of that
37 court applicable to subpoenas issued in proceedings pending before it. The
38 issuing authority shall pay any witness fees, travel expenses, mileage and
39 other fees required by the service statutes of the state in which the
40 witnesses or evidence are located.

41 (3) Only the home state shall have the power to take adverse action
42 against a licensed professional counselor's license issued by the home
43 state.

1 (b) For purposes of taking adverse action, the home state shall give
2 the same priority and effect to reported conduct received from a member
3 state as it would if the conduct had occurred within the home state. In so
4 doing, the home state shall apply its own state laws to determine
5 appropriate action.

6 (c) The home state shall complete any pending investigations of a
7 licensed professional counselor who changes primary state of residence
8 during the course of the investigations. The home state shall also have the
9 authority to take appropriate action and shall promptly report the
10 conclusions of the investigations to the administrator of the data system.
11 The administrator of the coordinated licensure information system shall
12 promptly notify the new home state of any adverse actions.

13 (d) A member state, if otherwise permitted by state law, may recover
14 from the affected licensed professional counselor the costs of
15 investigations and dispositions of cases resulting from any adverse action
16 taken against that licensed professional counselor.

17 (e) A member state may take adverse action based on the factual
18 findings of the remote state, provided that the member state follows its
19 own procedures for taking the adverse action.

20 (f) Joint investigations:

21 (1) In addition to the authority granted to a member state by its
22 respective professional counseling practice act or other applicable state
23 law, any member state may participate with other member states in joint
24 investigations of licensees.

25 (2) Member states shall share any investigative, litigation or
26 compliance materials in furtherance of any joint or individual investigation
27 initiated under the compact.

28 (g) If adverse action is taken by the home state against the license of a
29 licensed professional counselor, the licensed professional counselor's
30 privilege to practice in all other member states shall be deactivated until all
31 encumbrances have been removed from the state license. All home state
32 disciplinary orders that impose adverse action against the license of a
33 licensed professional counselor shall include a statement that the licensed
34 professional counselor's privilege to practice is deactivated in all member
35 states during the pendency of the order.

36 (h) If a member state takes adverse action, it shall promptly notify the
37 administrator of the data system. The administrator of the data system shall
38 promptly notify the home state of any adverse actions by remote states.

39 (i) Nothing in this compact shall override a member state's decision
40 that participation in an alternative program may be used in lieu of adverse
41 action.

1 (a) The compact member states hereby create and establish a joint
2 public agency known as the counseling compact commission:

3 (1) The commission is an instrumentality of the compact states.

4 (2) Venue is proper and judicial proceedings by or against the
5 commission shall be brought solely and exclusively in a court of
6 competent jurisdiction where the principal office of the commission is
7 located. The commission may waive venue and jurisdictional defenses to
8 the extent it adopts or consents to participate in alternative dispute
9 resolution proceedings.

10 (3) Nothing in this compact shall be construed to be a waiver of
11 sovereign immunity.

12 (b) Membership, voting and meetings. (1) Each member state shall
13 have and be limited to one delegate selected by that member state's
14 licensing board.

15 (2) The delegate shall be either:

16 (A) A current member of the licensing board at the time of
17 appointment, who is a licensed professional counselor or public member;
18 or

19 (B) an administrator of the licensing board.

20 (3) Any delegate may be removed or suspended from office as
21 provided by the law of the state from which the delegate is appointed.

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

24 (5) Each delegate shall be entitled to one vote with regard to the
25 promulgation of rules and creation of bylaws and shall otherwise have an
26 opportunity to participate in the business and affairs of the commission.

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

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

32 (8) The commission shall by rule establish a term of office for
33 delegates and may by rule establish term limits.

34 (c) The commission shall have the following powers and duties:

35 (1) Establish the fiscal year of the commission;

36 (2) establish bylaws;

37 (3) maintain its financial records in accordance with the bylaws;

38 (4) meet and take such actions as are consistent with the provisions of
39 this compact and the bylaws;

40 (5) promulgate rules, which shall be binding to the extent and in the
41 manner provided for in the compact;

42 (6) bring and prosecute legal proceedings or actions in the name of
43 the commission, provided that the standing of any state licensing board to

1 sue or be sued underapplicable law shall not be affected;

2 (7) purchase and maintain insurance and bonds;

3 (8) borrow, accept or contract for services of personnel, including, but
4 not limited to, employees of a member state;

5 (9) hire employees, elect or appoint officers, fix compensation, define
6 duties, grant such individuals appropriate authority to carry out the
7 purposes of the compact and establish the commission's personnel policies
8 and programs relating to conflicts of interest, qualifications of personnel
9 and other related personnel matters;

10 (10) accept any and all appropriate donations and grants of money,
11 equipment, supplies, materials and services and to receive, utilize and
12 dispose of the same; provided that at all times the commission shall avoid
13 any appearance of impropriety or conflict of interest;

14 (11) lease, purchase, accept appropriate gifts or donations of, or
15 otherwise to own, hold, improve or use, any property, real, personal or
16 mixed; provided that at all times the commission shall avoid any
17 appearance of impropriety;

18 (12) sell convey, mortgage, pledge, lease, exchange, abandon or
19 otherwise dispose of any property real, personal or mixed;

20 (13) establish a budget and make expenditures;

21 (14) borrow money;

22 (15) appoint committees, including standing committees composed of
23 members, state regulators, state legislators or their representatives and
24 consumer representatives, and such other interested persons as may be
25 designated in this compact and the bylaws;

26 (16) provide and receive information from, and cooperate with, law
27 enforcement agencies;

28 (17) establish and elect an executive committee; and

29 (18) perform such other functions as may be necessary or appropriate
30 to achieve the purposes of this compact consistent with the state regulation
31 of professional counseling licensure and practice.

32 (d) The executive committee. (1) The executive committee shall have
33 the power to act on behalf of the commission according to the terms of this
34 compact.

35 (2) The executive committee shall be composed of up to 11 members:

36 (A) Seven voting members who are elected by the commission from
37 the current membership of the commission; and

38 (B) up to four ex-officio, nonvoting members from four recognized
39 national professional counselor organizations.

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

42 (3) The commission may remove any member of the executive
43 committee as provided in bylaws.

1 (4) The executive committee shall meet at least annually.

2 (5) The executive committee shall have the following duties and
3 responsibilities:

4 (A) Recommend to the entire commission changes to the rules or
5 bylaws, changes to this compact legislation, fees paid by compact member
6 states such as annual dues and any commission compact fee charged to
7 licensees for the privilege to practice;

8 (B) ensure compact administration services are appropriately
9 provided, contractual or otherwise;

10 (C) prepare and recommend the budget;

11 (D) maintain financial records on behalf of the commission;

12 (E) monitor compact compliance of member states and provide
13 compliance reports to the commission;

14 (F) establish additional committees as necessary; and

15 (G) other duties as provided in rules or bylaws.

16 (e) Meetings of the commission.

17 (1) All meetings shall be open to the public, and public notice of
18 meetings shall be given in the same manner as required under the
19 rulemaking provisions in section 11 of this compact.

20 (2) The commission or the executive committee or other committees
21 of the commission may convene in a closed, non-public meeting if the
22 commission or executive committee or other committees of the
23 commission must discuss:

24 (A) Non-compliance of a member state with its obligations under the
25 compact;

26 (B) the employment, compensation, discipline or other matters,
27 practices or procedures related to specific employees or other matters
28 related to the commission's internal personnel practices and procedures;

29 (C) current, threatened or reasonably anticipated litigation;

30 (D) negotiation of contracts for the purchase, lease or sale of goods,
31 services or real estate;

32 (E) accusing any person of a crime or formally censuring any person;

33 (F) disclosure of trade secrets or commercial or financial information
34 that is privileged or confidential;

35 (G) disclosure of information of a personal nature where disclosure
36 would constitute a clearly unwarranted invasion of personal privacy;

37 (H) disclosure of investigative records compiled for law enforcement
38 purposes;

39 (I) disclosure of information related to any investigative reports
40 prepared by, on behalf of or for use of the commission or other committee
41 charged with responsibility of investigation or determination of
42 compliance issues pursuant to the compact; or

43 (J) matters specifically exempted from disclosure by federal or

1 member state statute.

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

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

13 (f) Financing of the commission.

14 (1) The commission shall pay, or provide for the payment of, the
15 reasonable expenses of its establishment, organization and ongoing
16 activities.

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

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

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

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

39 (g) Qualified immunity, defense and indemnification. (1) The
40 members, officers, executive director, employees and representatives of
41 the commission shall be immune from suit and liability, either personally
42 or in their official capacity, for any claim for damage to or loss of property
43 or personal injury or other civil liability caused by or arising out of any

1 actual or alleged act, error or omission that occurred, or that the person
2 against whom the claim is made had a reasonable basis for believing
3 occurred within the scope of commission employment, duties or
4 responsibilities; provided that nothing in this paragraph shall be construed
5 to protect any such person from suit or liability for any damage, loss,
6 injury or liability caused by the intentional or willful or wanton
7 misconduct of that person.

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

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

28 SECTION 10—DATA SYSTEM

29 (a) The commission shall provide for the development, maintenance,
30 operation and utilization of a coordinated database and reporting system
31 containing licensure, adverse action and investigative information on all
32 licensed individuals in member states.

33 (b) Notwithstanding any other provision of state law to the contrary, a
34 member state shall submit a uniform data set to the data system on all
35 individuals to whom this compact is applicable as required by the rules of
36 the commission, including:

- 37 (1) Identifying information;
- 38 (2) licensure data;
- 39 (3) adverse actions against a license or privilege to practice;
- 40 (4) non-confidential information related to alternative program
41 participation;
- 42 (5) any denial of application for licensure, and the reasons for such
43 denial;

1 (6) current significant investigative information; and
2 (7) other information that may facilitate the administration of this
3 compact, as determined by the rules of the commission.

4 (c) Investigative information pertaining to a licensee in any member
5 state will only be available to other member states.

6 (d) The commission shall promptly notify all member states of any
7 adverse action taken against a licensee or an individual applying for a
8 license. Adverse action information pertaining to a licensee in any member
9 state will be available to any other member state.

10 (e) Member states contributing information to the data system may
11 designate information that may not be shared with the public without the
12 express permission of the contributing state.

13 (f) Any information submitted to the data system that is subsequently
14 required to be expunged by the laws of the member state contributing the
15 information shall be removed from the data system.

16 SECTION 11—RULEMAKING

17 (a) The commission shall promulgate reasonable rules in order to
18 effectively and efficiently achieve the purpose of the compact.
19 Notwithstanding the foregoing, in the event the commission exercises its
20 rulemaking authority in a manner that is beyond the scope of the purposes
21 of the compact, or the powers granted hereunder, then such an action by
22 the commission shall be invalid and have no force or effect.

23 (b) The commission shall exercise its rulemaking powers pursuant to
24 the criteria set forth in this section and the rules adopted thereunder. Rules
25 and amendments shall become binding as of the date specified in each rule
26 or amendment.

27 (c) If a majority of the legislatures of the member states rejects a rule,
28 by enactment of a statute or resolution in the same manner used to adopt
29 the compact within four years of the date of adoption of the rule, then such
30 rule shall have no further force and effect in any member state.

31 (d) Rules or amendments to the rules shall be adopted at a regular or
32 special meeting of the commission.

33 (e) Prior to promulgation and adoption of a final rule or rules by the
34 commission, and at least 30 days in advance of the meeting at which the
35 rule will be considered and voted upon, the commission shall file a notice
36 of proposed rulemaking:

37 (1) On the website of the commission or other publicly accessible
38 platform; and

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

42 (f) The notice of proposed rulemaking shall include:

43 (1) The proposed time, date and location of the meeting in which the

1 rule will be considered and voted upon;

2 (2) the text of the proposed rule or amendment and the reason for the
3 proposed rule;

4 (3) a request for comments on the proposed rule from any interested
5 person; and

6 (4) the manner in which interested persons may submit notice to the
7 commission of their intention to attend the public hearing and any written
8 comments.

9 (g) Prior to adoption of a proposed rule, the commission shall allow
10 persons to submit written data, facts, opinions and arguments, which shall
11 be made available to the public.

12 (h) The commission shall grant an opportunity for a public hearing
13 before it adopts a rule or amendment if a hearing is requested by:

14 (1) At least 25 persons;

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

16 (3) an association having at least 25 members.

17 (i) If a hearing is held on the proposed rule or amendment, the
18 commission shall publish the place, time and date of the scheduled public
19 hearing. If the hearing is held via electronic means, the commission shall
20 publish the mechanism for access to the electronic hearing.

21 (1) All persons wishing to be heard at the hearing shall notify the
22 executive director of the commission or other designated member in
23 writing of their desire to appear and testify at the hearing not less than five
24 business days before the scheduled date of the hearing.

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

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

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

33 (j) Following the scheduled hearing date, or by the close of business
34 on the scheduled hearing date if the hearing was not held, the commission
35 shall consider all written and oral comments received.

36 (k) If no written notice of intent to attend the public hearing by
37 interested parties is received, the commission may proceed with
38 promulgation of the proposed Rule without a public hearing.

39 (l) The commission shall, by majority vote of all members, take final
40 action on the proposed rule and shall determine the effective date of the
41 rule, if any, based on the rulemaking record and the full text of the rule.

42 (m) Upon determination that an emergency exists, the commission
43 may consider and adopt an emergency rule without prior notice,

1 opportunity for comment or hearing, provided that the usual rulemaking
2 procedures provided in the compact and in this section shall be
3 retroactively applied to the rule as soon as reasonably possible, in no event
4 later than 90 days after the effective date of the rule. For the purposes of
5 this provision, an emergency rule is one that must be adopted immediately
6 in order to:

- 7 (1) Meet an imminent threat to public health, safety or welfare;
- 8 (2) prevent a loss of commission or member state funds;
- 9 (3) meet a deadline for the promulgation of an administrative rule that
10 is established by federal law or rule; or
- 11 (4) protect public health and safety.

12 (n) The commission or an authorized committee of the commission
13 may direct revisions to a previously adopted rule or amendment for
14 purposes of correcting typographical errors, errors in format, errors in
15 consistency or grammatical errors. Public notice of any revisions shall be
16 posted on the website of the commission. The revision shall be subject to
17 challenge by any person for a period of 30 days after posting. The revision
18 may be challenged only on grounds that the revision results in a material
19 change to a rule. A challenge shall be made in writing and delivered to the
20 chair of the commission prior to the end of the notice period. If no
21 challenge is made, the revision will take effect without further action. If
22 the revision is challenged, the revision may not take effect without the
23 approval of the commission.

24 SECTION 12—OVERSIGHT,
25 DISPUTE RESOLUTION AND ENFORCEMENT

26 (a) Oversight. (1) The executive, legislative and judicial branches of
27 state government in each member state shall enforce this compact and take
28 all actions necessary and appropriate to effectuate the compact's purposes
29 and intent. The provisions of this compact and the rules promulgated
30 hereunder shall have standing as statutory law.

31 (2) All courts shall take judicial notice of the compact and the rules in
32 any judicial or administrative proceeding in a member state pertaining to
33 the subject matter of this compact which may affect the powers,
34 responsibilities or actions of the commission.

35 (3) The commission shall be entitled to receive service of process in
36 any such proceeding and shall have standing to intervene in such a
37 proceeding for all purposes. Failure to provide service of process to the
38 commission shall render a judgment or order void as to the commission,
39 this compact or promulgated rules.

40 (b) Default, technical assistance and termination. (1) If the
41 commission determines that a member state has defaulted in the
42 performance of its obligations or responsibilities under this compact or the
43 promulgated rules, the commission shall:

1 (A) Provide written notice to the defaulting state and other member
2 states of the nature of the default, the proposed means of curing the default
3 and any other action to be taken by the commission; and

4 (B) provide remedial training and specific technical assistance
5 regarding the default.

6 (c) If a state in default fails to cure the default, the defaulting state
7 may be terminated from the compact upon an affirmative vote of a
8 majority of the member states, and all rights, privileges and benefits
9 conferred by this compact may be terminated on the effective date of
10 termination. A cure of the default does not relieve the offending state of
11 obligations or liabilities incurred during the period of default.

12 (d) Termination of membership in the compact shall be imposed only
13 after all other means of securing compliance have been exhausted. Notice
14 of intent to suspend or terminate shall be given by the commission to the
15 governor, the majority and minority leaders of the defaulting state's
16 legislature and each of the member states.

17 (e) A state that has been terminated is responsible for all assessments,
18 obligations and liabilities incurred through the effective date of
19 termination, including obligations that extend beyond the effective date of
20 termination.

21 (f) The commission shall not bear any costs related to a state that is
22 found to be in default or that has been terminated from the compact, unless
23 agreed upon in writing between the commission and the defaulting state.

24 (g) The defaulting state may appeal the action of the commission by
25 petitioning the United States district court for the District of Columbia or
26 the federal district where the commission has its principal offices. The
27 prevailing member shall be awarded all costs of such litigation, including
28 reasonable attorney fees.

29 (h) Dispute resolution. (1) Upon request by a member state, the
30 commission shall attempt to resolve disputes related to the compact that
31 arise among member states and between member and non-member states.

32 (2) The commission shall promulgate a rule providing for both
33 mediation and binding dispute resolution for disputes as appropriate.

34 (i) Enforcement. (1) The commission, in the reasonable exercise of its
35 discretion, shall enforce the provisions and rules of this compact.

36 (2) By majority vote, the commission may initiate legal action in the
37 United States district court for the District of Columbia or the federal
38 district where the commission has its principal offices against a member
39 state in default to enforce compliance with the provisions of the compact
40 and its promulgated rules and bylaws. The relief sought may include both
41 injunctive relief and damages. In the event judicial enforcement is
42 necessary, the prevailing member shall be awarded all costs of such
43 litigation, including reasonable attorney fees.

1 (3) The remedies herein shall not be the exclusive remedies of the
2 commission. The commission may pursue any other remedies available
3 under federal or state law.

4 SECTION 13—DATE OF IMPLEMENTATION OF
5 THE COUNSELING COMPACT COMMISSION
6 AND ASSOCIATED RULES, WITHDRAWAL AND AMENDMENT

7 (a) The compact shall come into effect on the date on which the
8 compact statute is enacted into law in the 10th member state. The
9 provisions, which become effective at that time, shall be limited to the
10 powers granted to the commission relating to assembly and the
11 promulgation of rules. Thereafter, the commission shall meet and exercise
12 rulemaking powers necessary to the implementation and administration of
13 the compact.

14 (b) Any state that joins the compact subsequent to the commission's
15 initial adoption of the rules shall be subject to the rules as they exist on the
16 date on which the compact becomes law in that state. Any rule that has
17 been previously adopted by the commission shall have the full force and
18 effect of law on the day the compact becomes law in that state.

19 (c) Any member state may withdraw from this compact by enacting a
20 statute repealing the same.

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

23 (2) Withdrawal shall not affect the continuing requirement of the
24 withdrawing state's professional counseling licensing board to comply
25 with the investigative and adverse action reporting requirements of this act
26 prior to the effective date of withdrawal.

27 (d) Nothing contained in this compact shall be construed to invalidate
28 or prevent any professional counseling licensure agreement or other
29 cooperative arrangement between a member state and a non-member state
30 that does not conflict with the provisions of this compact.

31 (e) This compact may be amended by the member states. No
32 amendment to this compact shall become effective and binding upon any
33 member state until it is enacted into the laws of all member states.

34 SECTION 14—CONSTRUCTION AND SEVERABILITY

35 This compact shall be liberally construed so as to effectuate the
36 purposes thereof. The provisions of this compact shall be severable and if
37 any phrase, clause, sentence or provision of this compact is declared to be
38 contrary to the constitution of any member state or of the United States or
39 the applicability thereof to any government, agency, person or
40 circumstance is held invalid, the validity of the remainder of this compact
41 and the applicability thereof to any government, agency, person or
42 circumstance shall not be affected thereby. If this compact shall be held
43 contrary to the constitution of any member state, the compact shall remain

1 in full force and effect as to the remaining member states and in full force
2 and effect as to the member state affected as to all severable matters.

3 SECTION 15—BINDING EFFECT OF
4 COMPACT AND OTHER LAWS

5 (a) A licensee providing professional counseling services in a remote
6 state under the privilege to practice shall adhere to the laws and
7 regulations, including scope of practice, of the remote state.

8 (b) Nothing herein prevents the enforcement of any other law of a
9 member state that is not inconsistent with the compact.

10 (c) Any laws in a member state in conflict with the compact are
11 superseded to the extent of the conflict.

12 (d) Any lawful actions of the commission, including all rules and
13 bylaws properly promulgated by the commission, are binding upon the
14 member states.

15 (e) All permissible agreements between the commission and the
16 member states are binding in accordance with their terms.

17 (f) In the event any provision of the compact exceeds the
18 constitutional limits imposed on the legislature of any member state, the
19 provision shall be ineffective to the extent of the conflict with the
20 constitutional provision in question in that member state.

21 **{Sec. 2. K.S.A. 2022 Supp. 65-5808 is hereby amended to read as**
22 **follows: 65-5808. (a) The board may ~~fix~~ set the following fees, and any**
23 **such fees shall be established by rules and regulations adopted by the**
24 **board:**

25 **(1) For application for licensure as a professional counselor, not**
26 **more than \$100;**

27 **(2) for an original license as a professional counselor, not more**
28 **than \$175;**

29 **(3) for a temporary license as a professional counselor, not more**
30 **than \$175;**

31 **(4) for renewal for licensure as a professional counselor, not more**
32 **than \$150;**

33 **(5) for application for licensure as a clinical professional**
34 **counselor, not more than \$175;**

35 **(6) for licensure as a clinical professional counselor, not more**
36 **than \$175;**

37 **(7) for renewal for licensure as a clinical professional counselor,**
38 **not more than \$175;**

39 **(8) for a home-state license with privilege to practice under the**
40 **counseling compact, not more than \$25 in addition to any other applicable**
41 **fee;**

42 **(9) for late renewal penalty, an amount equal to the fee for**
43 **renewal of a license;**

- 1 ~~(9)~~(10) for reinstatement of a license, not more than \$175;
2 ~~(10)~~(11) for replacement of a license, not more than \$20;
3 ~~(11)~~(12) for a wallet card license, not more than \$5; and
4 ~~(12)~~(13) for application as a board-approved clinical supervisor,
5 not more than \$50.
6 **(b) Fees paid to the board are not refundable.}**
7 **Sec. 3. K.S.A. 2022 Supp. 65-5808 is hereby repealed.**
8 ~~Sec. 2.~~ **4.** This act shall take effect and be in force from and after its
9 publication in the statute book.