

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 ENGROSSED SENATE
5 BILL NO. 575

By: Stephens of the Senate

and

Randleman of the House

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11 An Act relating to professions and occupations;
12 creating the Janet Phillips Act of 2023; providing
13 short title; enacting the Counseling Compact and
14 authorizing Governor to enter into compact with
15 certain jurisdictions; setting forth form of certain
16 compact; providing for codification; providing for
17 noncodification; and providing an effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. NEW LAW A new section of law not to be
20 codified in the Oklahoma Statutes reads as follows:

21 This act shall be known and may be cited as the "Janet Phillips
22 Act of 2023".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1921.1 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 The Counseling Compact is hereby enacted into law and the
5 Governor shall enter into a compact on behalf of the State of
6 Oklahoma with any jurisdiction legally joined therein, in the form
7 substantially as set forth in Section 2 of this act.

8 SECTION 3. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1921.2 of Title 59, unless there
10 is created a duplication in numbering, reads as follows:

11 SECTION 1: PURPOSE

12 The purpose of this Compact is to facilitate interstate practice
13 of Licensed Professional Counselors with the goal of improving
14 public access to Professional Counseling services. The practice of
15 Professional Counseling occurs in the State where the client is
16 located at the time of the counseling services. The Compact
17 preserves the regulatory authority of States to protect public
18 health and safety through the current system of State licensure.

19 This Compact is designed to achieve the following objectives:

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

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

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

3 D. Support spouses of relocating Active Duty Military
4 personnel;

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

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

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

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

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

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

20 SECTION 2: DEFINITIONS

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

23 A. "Active Duty Military" means full-time duty status in the
24 active uniformed service of the United States, including members of

1 the National Guard and Reserve on active duty orders pursuant to 10
2 U.S.C. Chapters 1209 and 1211.

3 B. "Adverse Action" means any administrative, civil, equitable,
4 or criminal action permitted by a State's laws which is imposed by a
5 Licensing Board or other authority against a Licensed Professional
6 Counselor, including actions against an individual's license or
7 Privilege to Practice such as revocation, suspension, probation,
8 monitoring of the licensee, limitation on the licensee's practice,
9 or any other Encumbrance on licensure affecting a Licensed
10 Professional Counselor's authorization to practice, including
11 issuance of a cease and desist action.

12 C. "Alternative Program" means a non-disciplinary monitoring or
13 practice remediation process approved by a Professional Counseling
14 Licensing Board to address Impaired Practitioners.

15 D. "Continuing Competence/Education" means a requirement, as a
16 condition of license renewal, to provide evidence of participation
17 in, and/or completion of, educational and professional activities
18 relevant to practice or area of work.

19 E. "Counseling Compact Commission" or "Commission" means the
20 national administrative body whose membership consists of all States
21 that have enacted the Compact.

22 F. "Current Significant Investigative Information" means:

23 1. Investigative Information that a Licensing Board, after a
24 preliminary inquiry that includes notification and an opportunity

1 for the Licensed Professional Counselor to respond, if required by
2 State law, has reason to believe is not groundless and, if proved
3 true, would indicate more than a minor infraction; or

4 2. Investigative Information that indicates that the Licensed
5 Professional Counselor represents an immediate threat to public
6 health and safety regardless of whether the Licensed Professional
7 Counselor has been notified and had an opportunity to respond.

8 G. "Data System" means a repository of information about
9 Licensees, including, but not limited to, continuing education,
10 examination, licensure, investigative, Privilege to Practice, and
11 Adverse Action information.

12 H. "Encumbered License" means a license in which an Adverse
13 Action restricts the practice of Professional Counseling by the
14 Licensee and said Adverse Action has been reported to the National
15 Practitioner Data Bank (NPDB).

16 I. "Encumbrance" means a revocation or suspension of, or any
17 limitation on, the full and unrestricted practice of Professional
18 Counseling by a Licensing Board.

19 J. "Executive Committee" means a group of directors elected or
20 appointed to act on behalf of, and within the powers granted to them
21 by, the Commission.

22 K. "Home State" means the Member State that is the Licensee's
23 primary State of residence.

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1 L. "Impaired Practitioner" means an individual who has a
2 condition(s) that may impair his or her ability to practice as a
3 Licensed Professional Counselor without some type of intervention
4 and may include, but are not limited to, alcohol and drug
5 dependence, mental health impairment, and neurological or physical
6 impairments.

7 M. "Investigative Information" means information, records, and
8 documents received or generated by a Professional Counseling
9 Licensing Board pursuant to an investigation.

10 N. "Jurisprudence Requirement" if required by a Member State,
11 means the assessment of an individual's knowledge of the laws and
12 Rules governing the practice of Professional Counseling in a State.

13 O. "Licensed Professional Counselor" means a counselor licensed
14 by a Member State, regardless of the title used by that State, to
15 independently assess, diagnose, and treat behavioral health
16 conditions.

17 P. "Licensee" means an individual who currently holds an
18 authorization from the State to practice as a Licensed Professional
19 Counselor.

20 Q. "Licensing Board" means the agency of a State, or
21 equivalent, that is responsible for the licensing and regulation of
22 Licensed Professional Counselors.

23 R. "Member State" means a State that has enacted the Compact.
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1 S. "Privilege to Practice" means a legal authorization, which
2 is equivalent to a license, permitting the practice of Professional
3 Counseling in a Remote State.

4 T. "Professional Counseling" means the assessment, diagnosis,
5 and treatment of behavioral health conditions by a Licensed
6 Professional Counselor.

7 U. "Remote State" means a Member State other than the Home
8 State, where a Licensee is exercising or seeking to exercise the
9 Privilege to Practice.

10 V. "Rule" means a regulation promulgated by the Commission that
11 has the force of law.

12 W. "Single State License" means a Licensed Professional
13 Counselor license issued by a Member State that authorizes practice
14 only within the issuing State and does not include a Privilege to
15 Practice in any other Member State.

16 X. "State" means any state, commonwealth, district, or
17 territory of the United States of America that regulates the
18 practice of Professional Counseling.

19 Y. "Telehealth" means the application of telecommunication
20 technology to deliver Professional Counseling services remotely to
21 assess, diagnose, and treat behavioral health conditions.

22 Z. "Unencumbered License" means a license that authorizes a
23 Licensed Professional Counselor to engage in the full and
24 unrestricted practice of Professional Counseling.

1 SECTION 3: STATE PARTICIPATION IN THE COMPACT

2 A. To Participate in the Compact, a State must currently:

3 1. License and regulate Licensed Professional Counselors;

4 2. Require Licensees to pass a nationally recognized exam
5 approved by the Commission;

6 3. Require Licensees to have a 60-semester-hour (or 90-quarter-
7 hour) master's degree in counseling or 60 semester hours (or 90
8 quarter hours) of graduate course work including the following topic
9 areas:

10 a. Professional Counseling Orientation and Ethical
11 Practice;

12 b. Social and Cultural Diversity;

13 c. Human Growth and Development;

14 d. Career Development;

15 e. Counseling and Helping Relationships;

16 f. Group Counseling and Group Work;

17 g. Diagnosis and Treatment; Assessment and Testing;

18 h. Research and Program Evaluation; and

19 i. Other areas as determined by the Commission;

20 4. Require Licensees to complete a supervised postgraduate
21 professional experience as defined by the Commission; and

22 5. Have a mechanism in place for receiving and investigating
23 complaints about Licensees.

24 B. A Member State shall:

- 1 1. Participate fully in the Commission's Data System, including
2 using the Commission's unique identifier as defined in Rules;
- 3 2. Notify the Commission, in compliance with the terms of the
4 Compact and Rules, of any Adverse Action or the availability of
5 Investigative Information regarding a Licensee;
- 6 3. Implement or utilize procedures for considering the criminal
7 history records of applicants for an initial Privilege to Practice.
8 These procedures shall include the submission of fingerprints or
9 other biometric-based information by applicants for the purpose of
10 obtaining an applicant's criminal history record information from
11 the Federal Bureau of Investigation and the agency responsible for
12 retaining that State's criminal records.
- 13 a. A member state must fully implement a criminal
14 background check requirement, within a time frame
15 established by rule, by receiving the results of the
16 Federal Bureau of Investigation record search and
17 shall use the results in making licensure decisions.
- 18 b. Communication between a Member State, the Commission,
19 and among Member States regarding the verification of
20 eligibility for licensure through the Compact shall
21 not include any information received from the Federal
22 Bureau of Investigation relating to a federal criminal
23 records check performed by a Member State under Public
24 Law 92-544;

1 4. Comply with the Rules of the Commission;

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

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

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

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

12 D. Individuals not residing in a Member State shall continue to
13 be able to apply for a Member State's Single State License as
14 provided under the laws of each Member State. However, the Single
15 State License granted to these individuals shall not be recognized
16 as granting a Privilege to Practice Professional Counseling in any
17 other Member State.

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

21 F. A license issued to a Licensed Professional Counselor by a
22 Home State to a resident in that State shall be recognized by each
23 Member State as authorizing a Licensed Professional Counselor to
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1 practice Professional Counseling, under a Privilege to Practice, in
2 each Member State.

3 SECTION 4: PRIVILEGE TO PRACTICE

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

6 1. Hold a license in the Home State;

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

9 3. Be eligible for a Privilege to Practice in any Member State
10 in accordance with Section 4D, G, and H;

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

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

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

17 7. Meet any Continuing Competence/Education requirements
18 established by the Home State;

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

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

1 B. The Privilege to Practice is valid until the expiration date
2 of the Home State license. The Licensee must comply with the
3 requirements of Section 4A to maintain the Privilege to Practice in
4 the Remote State.

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

8 D. A Licensee providing Professional Counseling services in a
9 Remote State is subject to that State's regulatory authority. A
10 Remote State may, in accordance with due process and that State's
11 laws, remove a Licensee's Privilege to Practice in the Remote State
12 for a specific period of time, impose fines, and/or take any other
13 necessary actions to protect the health and safety of its citizens.
14 The Licensee may be ineligible for a Privilege to Practice in any
15 Member State until the specific time for removal has passed and all
16 fines are paid.

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

- 20 1. The Home State license is no longer encumbered; and
- 21 2. The Licensee has not had any Encumbrance or restriction
22 against any license or Privilege to Practice within the previous two
23 (2) years.

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1 F. Once an Encumbered License in the Home State is restored to
2 good standing, the Licensee must meet the requirements of Section 4A
3 to obtain a Privilege to Practice in any Remote State.

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

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

9 2. All fines have been paid; and

10 3. The Licensee has not had any Encumbrance or restriction
11 against any license or Privilege to Practice within the previous two
12 (2) years.

13 H. Once the requirements of Section 4G have been met, the
14 Licensee must meet the requirements in Section 4A to obtain a
15 Privilege to Practice in a Remote State.

16 SECTION 5: OBTAINING A NEW HOME STATE LICENSE BASED ON A
17 PRIVILEGE TO PRACTICE

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

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

23 1. The Licensed Professional Counselor shall file an
24 application for obtaining a new Home State license based on a

1 Privilege to Practice, pay all applicable fees, and notify the
2 current and new Home State in accordance with applicable Rules
3 adopted by the Commission.

4 2. Upon receipt of an application for obtaining a new Home
5 State license by virtue of a Privilege to Practice, the new Home
6 State shall verify that the Licensed Professional Counselor meets
7 the pertinent criteria outlined in Section 4 via the Data System,
8 without need for primary source verification except for:

- 9 a. a Federal Bureau of Investigation fingerprint based
10 criminal background check if not previously performed
11 or updated pursuant to applicable rules adopted by the
12 Commission in accordance with Public Law 92-544;
- 13 b. other criminal background check as required by the new
14 Home State; and
- 15 c. completion of any requisite Jurisprudence Requirements
16 of the new Home State.

17 3. The former Home State shall convert the former Home State
18 license into a Privilege to Practice once the new Home State has
19 activated the new Home State license in accordance with applicable
20 Rules adopted by the Commission.

21 4. Notwithstanding any other provision of this Compact, if the
22 Licensed Professional Counselor cannot meet the criteria in Section
23 4, the new Home State may apply its requirements for issuing a new
24 Single State License.

1 5. The Licensed Professional Counselor shall pay all applicable
2 fees to the new Home State in order to be issued a new Home State
3 license.

4 C. If a Licensed Professional Counselor changes Primary State
5 of Residence by moving from a Member State to a non-Member State, or
6 from a non-Member State to a Member State, the State criteria shall
7 apply for issuance of a Single State License in the new State.

8 D. Nothing in this Compact shall interfere with a Licensee's
9 ability to hold a Single State License in multiple States, however
10 for the purposes of this Compact, a Licensee shall have only one
11 Home State license.

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

15 SECTION 6: ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

16 Active Duty Military personnel, or their spouse, shall designate
17 a Home State where the individual has a current license in good
18 standing. The individual may retain the Home State designation
19 during the period the service member is on active duty. Subsequent
20 to designating a Home State, the individual shall only change his or
21 her Home State through application for licensure in the new State,
22 or through the process outlined in Section 5.

23 SECTION 7: COMPACT PRIVILEGE TO PRACTICE TELEHEALTH
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1 A. Member States shall recognize the right of a Licensed
2 Professional Counselor, licensed by a Home State in accordance with
3 Section 3 and under Rules promulgated by the Commission, to practice
4 Professional Counseling in any Member State via Telehealth under a
5 Privilege to Practice as provided in the Compact and Rules
6 promulgated by the Commission.

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

10 SECTION 8: ADVERSE ACTIONS

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

- 14 1. Take Adverse Action against a Licensed Professional
15 Counselor's Privilege to Practice within that Member State; and
- 16 2. Issue subpoenas for both hearings and investigations that
17 require the attendance and testimony of witnesses as well as the
18 production of evidence. Subpoenas issued by a Licensing Board in a
19 Member State for the attendance and testimony of witnesses or the
20 production of evidence from another Member State shall be enforced
21 in the latter State by any court of competent jurisdiction,
22 according to the practice and procedure of that court applicable to
23 subpoenas issued in proceedings pending before it. The issuing
24 authority shall pay any witness fees, travel expenses, mileage, and

1 other fees required by the service statutes of the State in which
2 the witnesses or evidence are located.

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

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

11 C. The Home State shall complete any pending investigations of
12 a Licensed Professional Counselor who changes primary State of
13 residence during the course of the investigations. The Home State
14 shall also have the authority to take appropriate action(s) and
15 shall promptly report the conclusions of the investigations to the
16 administrator of the Data System. The administrator of the
17 coordinated licensure information system shall promptly notify the
18 new Home State of any Adverse Actions.

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

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

4 F. Joint Investigations.

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

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

12 G. If Adverse Action is taken by the Home State against the
13 license of a Licensed Professional Counselor, the Licensed
14 Professional Counselor's Privilege to Practice in all other Member
15 States shall be deactivated until all Encumbrances have been removed
16 from the State license. All Home State disciplinary orders that
17 impose Adverse Action against the license of a Licensed Professional
18 Counselor shall include a Statement that the Licensed Professional
19 Counselor's Privilege to Practice is deactivated in all Member
20 States during the pendency of the order.

21 H. If a Member State takes Adverse Action, it shall promptly
22 notify the administrator of the Data System. The administrator of
23 the Data System shall promptly notify the Home State of any Adverse
24 Actions by Remote States.

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

4 SECTION 9: ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

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

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

8 2. Venue is proper and judicial proceedings by or against the
9 Commission shall be brought solely and exclusively in a court of
10 competent jurisdiction where the principal office of the Commission
11 is located. The Commission may waive venue and jurisdictional
12 defenses to the extent it adopts or consents to participate in
13 alternative dispute resolution proceedings.

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

16 B. Membership, Voting, and Meetings.

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

19 2. The delegate shall be either:

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

23 b. An administrator of the Licensing Board.

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

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

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

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

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

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

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

19 1. Establish the fiscal year of the Commission;

20 2. Establish bylaws;

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

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

1 5. Promulgate Rules which shall be binding to the extent and in
2 the manner provided for in the Compact;

3 6. Bring and prosecute legal proceedings or actions in the name
4 of the Commission, provided that the standing of any State Licensing
5 Board to sue or be sued under applicable law shall not be affected;

6 7. Purchase and maintain insurance and bonds;

7 8. Borrow, accept, or contract for services of personnel,
8 including, but not limited to, employees of a Member State;

9 9. Hire employees, elect or appoint officers, fix compensation,
10 define duties, grant such individuals appropriate authority to carry
11 out the purposes of the Compact, and establish the Commission's
12 personnel policies and programs relating to conflicts of interest,
13 qualifications of personnel, and other related personnel matters;

14 10. Accept any and all appropriate donations and grants of
15 money, equipment, supplies, materials, and services, and to receive,
16 utilize, and dispose of the same; provided that at all times the
17 Commission shall avoid any appearance of impropriety and/or conflict
18 of interest;

19 11. Lease, purchase, accept appropriate gifts or donations of,
20 or otherwise own, hold, improve, or use, any property, real,
21 personal, or mixed; provided that at all times the Commission shall
22 avoid any appearance of impropriety;

23 12. Sell, convey, mortgage, pledge, lease, exchange, abandon,
24 or otherwise dispose of any property real, personal, or mixed;

1 13. Establish a budget and make expenditures;

2 14. Borrow money;

3 15. Appoint committees, including standing committees composed
4 of members, State regulators, State legislators or their
5 representatives, consumer representatives, and such other interested
6 persons as may be designated in this Compact and the bylaws;

7 16. Provide and receive information from, and cooperate with,
8 law enforcement agencies;

9 17. Establish and elect an Executive Committee; and

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

14 D. The Executive Committee.

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

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

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

21 b. Up to four ex-officio, nonvoting members from four
22 recognized national professional counselor
23 organizations.
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1 c. The ex-officio members will be selected by their
2 respective organizations.

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

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

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

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

13 b. Ensure Compact administration services are
14 appropriately provided, contractual or otherwise;

15 c. Prepare and recommend the budget;

16 d. Maintain financial records on behalf of the
17 Commission;

18 e. Monitor Compact compliance of Member States and
19 provide compliance reports to the Commission;

20 f. Establish additional committees as necessary; and

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

22 E. Meetings of the Commission.
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1 1. All meetings shall be open to the public, and public notice
2 of meetings shall be given in the same manner as required under the
3 Rulemaking provisions in Section 11.

4 2. The Commission or the Executive Committee or other
5 committees of the Commission may convene in a closed, non-public
6 meeting if the Commission or Executive Committee or other committees
7 of the Commission must discuss:

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

10 b. The employment, compensation, discipline or other
11 matters, practices or procedures related to specific
12 employees, or other matters related to the
13 Commission's internal personnel practices and
14 procedures;

15 c. Current, threatened, or reasonably anticipated
16 litigation;

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

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

21 f. Disclosure of trade secrets or commercial or financial
22 information that is privileged or confidential;

- 1 g. Disclosure of information of a personal nature where
2 disclosure would constitute a clearly unwarranted
3 invasion of personal privacy;
- 4 h. Disclosure of investigative records compiled for law
5 enforcement purposes;
- 6 i. Disclosure of information related to any investigative
7 reports prepared by or on behalf of or for use of the
8 Commission or other committee charged with
9 responsibility of investigation or determination of
10 compliance issues pursuant to the Compact; or
- 11 j. Matters specifically exempted from disclosure by
12 federal or Member State statute.

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

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

1 F. Financing of the Commission.

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

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

8 3. The Commission may levy on and collect an annual assessment
9 from each Member State or impose fees on other parties to cover the
10 cost of the operations and activities of the Commission and its
11 staff, which must be in a total amount sufficient to cover its
12 annual budget as approved each year for which revenue is not
13 provided by other sources. The aggregate annual assessment amount
14 shall be allocated based upon a formula to be determined by the
15 Commission, which shall promulgate a Rule binding upon all Member
16 States.

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

21 5. The Commission shall keep accurate accounts of all receipts
22 and disbursements. The receipts and disbursements of the Commission
23 shall be subject to the audit and accounting procedures established
24 under its bylaws. However, all receipts and disbursements of funds

1 handled by the Commission shall be audited yearly by a certified or
2 licensed public accountant, and the report of the audit shall be
3 included in and become part of the annual report of the Commission.

4 G. Qualified Immunity, Defense, and Indemnification.

5 1. The members, officers, executive director, employees, and
6 representatives of the Commission shall be immune from suit and
7 liability, either personally or in their official capacity, for any
8 claim for damage to or loss of property or personal injury or other
9 civil liability caused by or arising out of any actual or alleged
10 act, error, or omission that occurred, or that the person against
11 whom the claim is made had a reasonable basis for believing occurred
12 within the scope of Commission employment, duties, or
13 responsibilities; provided that nothing in this paragraph shall be
14 construed to protect any such person from suit and/or liability for
15 any damage, loss, injury, or liability caused by the intentional or
16 willful or wanton misconduct of that person.

17 2. The Commission shall defend any member, officer, executive
18 director, employee, or representative of the Commission in any civil
19 action seeking to impose liability arising out of any actual or
20 alleged act, error, or omission that occurred within the scope of
21 Commission employment, duties, or responsibilities, or that the
22 person against whom the claim is made had a reasonable basis for
23 believing occurred within the scope of Commission employment,
24 duties, or responsibilities; provided that nothing herein shall be

1 construed to prohibit that person from retaining his or her own
2 counsel; and provided further, that the actual or alleged act,
3 error, or omission did not result from that person's intentional or
4 willful or wanton misconduct.

5 3. The Commission shall indemnify and hold harmless any member,
6 officer, executive director, employee, or representative of the
7 Commission for the amount of any settlement or judgment obtained
8 against that person arising out of any actual or alleged act, error,
9 or omission that occurred within the scope of Commission employment,
10 duties, or responsibilities, or that such person had a reasonable
11 basis for believing occurred within the scope of Commission
12 employment, duties, or responsibilities, provided that the actual or
13 alleged act, error, or omission did not result from the intentional
14 or willful or wanton misconduct of that person.

15 SECTION 10: DATA SYSTEM

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

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

- 1 1. Identifying information;
- 2 2. Licensure data;
- 3 3. Adverse Actions against a license or Privilege to Practice;
- 4 4. Non-confidential information related to Alternative Program
- 5 participation;
- 6 5. Any denial of application for licensure, and the reason(s)
- 7 for such denial;
- 8 6. Current Significant Investigative Information; and
- 9 7. Other information that may facilitate the administration of
- 10 this Compact, as determined by the Rules of the Commission.

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

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

18 E. Member States contributing information to the Data System
19 may designate information that may not be shared with the public
20 without the express permission of the contributing State.

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

24 SECTION 11: RULEMAKING

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

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

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

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

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

23 1. On the website of the Commission or other publicly
24 accessible platform; and

1 2. On the website of each Member State Professional Counseling
2 Licensing Board or other publicly accessible platform or the
3 publication in which each State would otherwise publish proposed
4 Rules.

5 F. The Notice of Proposed Rulemaking shall include:

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

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

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

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

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

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

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

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

23 3. An association having at least twenty-five (25) members.
24

1 I. If a hearing is held on the proposed Rule or amendment, the
2 Commission shall publish the place, time, and date of the scheduled
3 public hearing. If the hearing is held via electronic means, the
4 Commission shall publish the mechanism for access to the electronic
5 hearing.

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

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

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

16 4. Nothing in this Section shall be construed as requiring a
17 separate hearing on each Rule. Rules may be grouped for the
18 convenience of the Commission at hearings required by this Section.

19 J. Following the scheduled hearing date, or by the close of
20 business on the scheduled hearing date if the hearing was not held,
21 the Commission shall consider all written and oral comments
22 received.

23

24

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

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

8 M. Upon determination that an emergency exists, the Commission
9 may consider and adopt an emergency Rule without prior notice,
10 opportunity for comment, or hearing, provided that the usual
11 Rulemaking procedures provided in the Compact and in this Section
12 shall be retroactively applied to the Rule as soon as reasonably
13 possible, in no event later than ninety (90) days after the
14 effective date of the Rule. For the purposes of this provision, an
15 emergency Rule is one that must be adopted immediately in order to:

16 1. Meet an imminent threat to public health, safety, or
17 welfare;

18 2. Prevent a loss of Commission or Member State funds;

19 3. Meet a deadline for the promulgation of an administrative
20 Rule that is established by federal law or Rule; or

21 4. Protect public health and safety.

22 N. The Commission or an authorized committee of the Commission
23 may direct revisions to a previously adopted Rule or amendment for
24 purposes of correcting typographical errors, errors in format,

1 errors in consistency, or grammatical errors. Public notice of any
2 revisions shall be posted on the website of the Commission. The
3 revision shall be subject to challenge by any person for a period of
4 thirty (30) days after posting. The revision may be challenged only
5 on grounds that the revision results in a material change to a Rule.
6 A challenge shall be made in writing and delivered to the chair of
7 the Commission prior to the end of the notice period. If no
8 challenge is made, the revision will take effect without further
9 action. If the revision is challenged, the revision may not take
10 effect without the approval of the Commission.

11 SECTION 12: OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

12 A. Oversight.

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

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

22 3. The Commission shall be entitled to receive service of
23 process in any such proceeding and shall have standing to intervene
24 in such a proceeding for all purposes. Failure to provide service

1 of process to the Commission shall render a judgment or order void
2 as to the Commission, this Compact, or promulgated Rules.

3 B. Default, Technical Assistance, and Termination.

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

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

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

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

20 D. Termination of membership in the Compact shall be imposed
21 only after all other means of securing compliance have been
22 exhausted. Notice of intent to suspend or terminate shall be given
23 by the Commission to the governor, the majority and minority leaders
24

1 of the defaulting State's legislature, and each of the Member
2 States.

3 E. A State that has been terminated is responsible for all
4 assessments, obligations, and liabilities incurred through the
5 effective date of termination, including obligations that extend
6 beyond the effective date of termination.

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

11 G. The defaulting State may appeal the action of the Commission
12 by petitioning the United States District Court for the District of
13 Columbia or the federal district where the Commission has its
14 principal offices. The prevailing member shall be awarded all costs
15 of such litigation, including reasonable attorney's fees.

16 H. Dispute Resolution.

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

20 2. The Commission shall promulgate a Rule providing for both
21 mediation and binding dispute resolution for disputes as
22 appropriate.

23 I. Enforcement.

24

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

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

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

15 SECTION 13: DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT
16 COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

17 A. The Compact shall come into effect on the date on which the
18 Compact statute is enacted into law in the tenth Member State. The
19 provisions, which become effective at that time, shall be limited to
20 the powers granted to the Commission relating to assembly and the
21 promulgation of Rules. Thereafter, the Commission shall meet and
22 exercise Rulemaking powers necessary to the implementation and
23 administration of the Compact.

24

1 B. Any State that joins the Compact subsequent to the
2 Commission's initial adoption of the Rules shall be subject to the
3 Rules as they exist on the date on which the Compact becomes law in
4 that State. Any Rule that has been previously adopted by the
5 Commission shall have the full force and effect of law on the day
6 the Compact becomes law in that State.

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

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

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

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

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

24 SECTION 14: CONSTRUCTION AND SEVERABILITY

1 This Compact shall be liberally construed so as to effectuate
2 the purposes thereof. The provisions of this Compact shall be
3 severable and if any phrase, clause, sentence, or provision of this
4 Compact is declared to be contrary to the Constitution of any Member
5 State or of the United States or the applicability thereof to any
6 government, agency, person, or circumstance is held invalid, the
7 validity of the remainder of this Compact and the applicability
8 thereof to any government, agency, person or circumstance shall not
9 be affected thereby. If this Compact shall be held contrary to the
10 Constitution of any Member State, the Compact shall remain in full
11 force and effect as to the remaining Member States and in full force
12 and effect as to the Member State affected as to all severable
13 matters.

14 SECTION 15: BINDING EFFECT OF COMPACT AND OTHER LAWS

15 A. A Licensee providing Professional Counseling services in a
16 Remote State under the Privilege to Practice shall adhere to the
17 laws and regulations, including scope of practice, of the Remote
18 State.

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

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

23

24

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

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

6 F. In the event any provision of the Compact exceeds the
7 constitutional limits imposed on the legislature of any Member
8 State, the provision shall be ineffective to the extent of the
9 conflict with the constitutional provision in question in that
10 Member State.

11 SECTION 4. This act shall become effective November 1, 2023.

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13 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 04/13/2023 -
14 DO PASS.

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