

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- SOCIAL WORK LICENSURE
COMPACT

Introduced By: Senators DiMario, Lauria, Pearson, Valverde, Murray, Lawson, Ujifusa,
Euer, and Bissaillon

Date Introduced: January 24, 2024

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"
2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 39.2

4 SOCIAL WORK LICENSURE COMPACT

5 **5-39.2-1. Purpose.**

6 (a) The purpose of this compact is to facilitate interstate practice of regulated social workers
7 by improving public access to competent social work services. The compact preserves the
8 regulatory authority of states to protect public health and safety through the current system of state
9 licensure.

10 (b) This compact is designed to achieve the following objectives:

11 (1) Increase public access to social work services;

12 (2) Reduce overly burdensome and duplicative requirements associated with holding
13 multiple licenses;

14 (3) Enhance the member states' ability to protect the public's health and safety;

15 (4) Encourage the cooperation of member states in regulating multistate practice;

16 (5) Promote mobility and address workforce shortages by eliminating the necessity for
17 licenses in multiple states by providing for the mutual recognition of other member state licenses;

18 (6) Support military families;

- 1 (7) Facilitate the exchange of licensure and disciplinary information among member states;
2 (8) Authorize all member states to hold a regulated social worker accountable for abiding
3 by a member state's laws, regulations, and applicable professional standards in the member state in
4 which the client is located at the time care is rendered; and
5 (9) Allow for the use of telehealth to facilitate increased access to regulated social work
6 services.

7 **5-39.2-2. Definitions.**

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

10 (1) "Active military member" means any individual with full-time duty status in the active
11 armed forces of the United States including members of the National Guard and Reserve.

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

18 (3) "Alternative program" means a non-disciplinary monitoring or practice remediation
19 process approved by a licensing authority to address practitioners with an impairment.

20 (4) "Charter member states" means member states who have enacted legislation to adopt
21 this compact where such legislation predates the effective date of this compact as described in § 5-
22 39.2-14.

23 (5) "Compact commission" or "commission" means the government agency whose
24 membership consists of all states that have enacted this compact, which is known as the social work
25 licensure compact commission, as described in § 5-39.2-10, and which shall operate as an
26 instrumentality of the member states.

27 (6) "Current significant investigative information" means:

28 (i) Investigative information that a licensing authority, after a preliminary inquiry that
29 includes notification and an opportunity for the regulated social worker to respond has reason to
30 believe is not groundless and, if proved true, would indicate more than a minor infraction as may
31 be defined by the commission; or

32 (ii) Investigative information that indicates that the regulated social worker represents an
33 immediate threat to public health and safety, as may be defined by the commission, regardless of
34 whether the regulated social worker has been notified and has had an opportunity to respond.

1 (7) "Data system" means a repository of information about licensees, including, continuing
2 education, examination, licensure, current significant investigative information, disqualifying
3 event, multistate license(s) and adverse action information or other information as required by the
4 commission.

5 (8) "Disqualifying event" means any adverse action or incident which results in an
6 encumbrance that disqualifies or makes the licensee ineligible to either obtain, retain or renew a
7 multistate license.

8 (9) "Domicile" means the jurisdiction in which the licensee resides and intends to remain
9 indefinitely.

10 (10) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and
11 unrestricted practice of social work licensed and regulated by a licensing authority.

12 (11) "Executive committee" means a group of delegates elected or appointed to act on
13 behalf of, and within the powers granted to them by, the compact and commission.

14 (12) "Home state" means the member state that is the licensee's primary domicile.

15 (13) "Impairment" means a condition(s) that may impair a practitioner's ability to engage
16 in full and unrestricted practice as a regulated social worker without some type of intervention and
17 may include alcohol and drug dependence, mental health impairment, and neurological or physical
18 impairments.

19 (14) "Licensee(s)" means an individual who currently holds a license from a state to
20 practice as a regulated social worker.

21 (15) "Licensing authority" means the board or agency of a member state, or equivalent,
22 that is responsible for the licensing and regulation of regulated social workers.

23 (16) "Member state" means a state, commonwealth, district, or territory of the United States
24 of America that has enacted this compact.

25 (17) "Multistate authorization to practice" means a legally authorized privilege to practice,
26 which is equivalent to a license, associated with a multistate license permitting the practice of social
27 work in a remote state.

28 (18) "Multistate license" means a license to practice as a regulated social worker issued by
29 a home state licensing authority that authorizes the regulated social worker to practice in all member
30 states under multistate authorization to practice.

31 (19) "Qualifying national exam" means a national licensing examination approved by the
32 commission.

33 (20) "Regulated social worker" means any clinical, master's or bachelor's social worker
34 licensed by a member state regardless of the title used by that member state.

1 (21) "Remote state" means a member state other than the licensee's home state.

2 (22) "Rule(s)" or "rule(s) of the commission" means a regulation or regulations duly
3 promulgated by the commission, as authorized by the compact, that has the force of law.

4 (23) "Single state license" means a social work license issued by any state that authorizes
5 practice only within the issuing state and does not include multistate authorization to practice in
6 any member state.

7 (24) "Social work" or "social work services" means the application of social work theory,
8 knowledge, methods, ethics, and the professional use of self to restore or enhance social,
9 psychosocial, or biopsychosocial functioning of individuals, couples, families, groups,
10 organizations, and communities through the care and services provided by a regulated social worker
11 as set forth in the member state's statutes and regulations in the state where the services are being
12 provided.

13 (25) "State" means any state, commonwealth, district, or territory of the United States of
14 America that regulates the practice of social work.

15 (26) "Unencumbered license" means a license that authorizes a regulated social worker to
16 engage in the full and unrestricted practice of social work.

17 **5-39.2-3. State participation in the compact.**

18 (a) To be eligible to participate in the compact, a potential member state shall currently
19 meet all of the following criteria:

20 (1) License and regulate the practice of social work at either the clinical, master's, or
21 bachelor's category;

22 (2) Require applicants for licensure to graduate from a program that is:

23 (i) Operated by a college or university recognized by the licensing authority;

24 (ii) Accredited, or in candidacy by an institution that subsequently becomes accredited, by
25 an accrediting agency recognized by either:

26 (A) The council for higher education accreditation, or its successor; or

27 (B) The United States Department of Education; and

28 (iii) Corresponds to the licensure sought as outlined in § 5-39.2-4;

29 (3) Require applicants for clinical licensure to complete a period of supervised practice;
30 and

31 (4) Have a mechanism in place for receiving, investigating, and adjudicating complaints
32 about licensees.

33 (b) To maintain membership in the compact, a member state shall:

34 (1) Require that applicants for a multistate license pass a qualifying national exam for the

1 corresponding category of multistate license sought as outlined in § 5-39.2-4;
2 (2) Participate fully in the commission's data system, including using the commission's
3 unique identifier as defined in rules;
4 (3) Notify the commission, in compliance with the terms of the compact and rules, of any
5 adverse action or the availability of current significant investigative information regarding a
6 licensee;
7 (4) Implement procedures for considering the criminal history records of applicants for a
8 multistate license. Such procedures shall include the submission of fingerprints or other biometric-
9 based information by applicants for the purpose of obtaining an applicant's criminal history record
10 information from the Federal Bureau of Investigation and the agency responsible for retaining that
11 state's criminal records;
12 (5) Comply with the rules of the commission;
13 (6) Require an applicant to obtain or retain a license in the home state and meet the home
14 state's qualifications for licensure or renewal of licensure, as well as all other applicable home state
15 laws;
16 (7) Authorize a licensee holding a multistate license in any member state to practice in
17 accordance with the terms of the compact and rules of the commission; and
18 (8) Designate a delegate to participate in the commission meetings.
19 (c) A member state meeting the requirements of §§ 5-39.2-3(a) and 5-39.2-3(b) shall
20 designate the categories of social work licensure that are eligible for issuance of a multistate license
21 for applicants in such member state. To the extent that any member state does not meet the
22 requirements for participation in the compact at any particular category of social work licensure,
23 such member state may choose, but is not obligated to, issue a multistate license to applicants that
24 otherwise meet the requirements of § 5-39.2-4 for issuance of a multistate license in such category
25 or categories of licensure.
26 (d) The home state may charge a fee for granting the multistate license.
27 **5-39.2-4. Social worker participation in the compact.**
28 (a) To be eligible for a multistate license under the terms and provisions of the compact,
29 an applicant, regardless of category shall:
30 (1) Hold or be eligible for an active, unencumbered license in the home state;
31 (2) Pay any applicable fees, including any state fee, for the multistate license;
32 (3) Submit, in connection with an application for a multistate license, fingerprints or other
33 biometric data for the purpose of obtaining criminal history record information from the Federal
34 Bureau of Investigation and the agency responsible for retaining that state's criminal records;

1 (4) Notify the home state of any adverse action, encumbrance, or restriction on any
2 professional license taken by any member state or non-member state within thirty (30) days from
3 the date the action is taken;

4 (5) Meet any continuing competence requirements established by the home state; and

5 (6) Abide by the laws, regulations, and applicable standards in the member state where the
6 client is located at the time care is rendered.

7 (b) An applicant for a clinical-category multistate license shall meet all of the following
8 requirements:

9 (1) Fulfill a competency requirement, which shall be satisfied by either:

10 (i) Passage of a clinical-category qualifying national exam; or

11 (ii) Licensure of the applicant in their home state at the clinical category, beginning prior
12 to such time as a qualifying national exam was required by the home state and accompanied by a
13 period of continuous social work licensure thereafter, all of which may be further governed by the
14 rules of the commission; or

15 (iii) The substantial equivalency of the foregoing competency requirements which the
16 commission may determine by rule;

17 (2) Attain at least a master's degree in social work from a program that is:

18 (i) Operated by a college or university recognized by the licensing authority; and

19 (ii) Accredited, or in candidacy that subsequently becomes accredited, by an accrediting
20 agency recognized by either:

21 (A) The council for higher education accreditation or its successor; or

22 (B) The United States Department of Education; and

23 (3) Fulfill a practice requirement, which shall be satisfied by demonstrating completion of
24 either:

25 (i) A period of postgraduate supervised clinical practice equal to a minimum of three
26 thousand (3,000) hours;

27 (ii) A minimum of two (2) years of full-time postgraduate supervised clinical practice; or

28 (iii) The substantial equivalency of the foregoing practice requirements which the
29 commission may determine by rule.

30 (c) An applicant for a master's-category multistate license shall meet all of the following
31 requirements:

32 (1) Fulfill a competency requirement, which shall be satisfied by either:

33 (i) Passage of a masters-category qualifying national exam;

34 (ii) Licensure of the applicant in their home state at the master's category, beginning prior

1 to such time as a qualifying national exam was required by the home state at the master's category
2 and accompanied by a continuous period of social work licensure thereafter, all of which may be
3 further governed by the rules of the commission; or

4 (iii) The substantial equivalency of the foregoing competency requirements which the
5 commission may determine by rule.

6 (b) Attain at least a master's degree in social work from a program that is:

7 (1) Operated by a college or university recognized by the licensing authority; and
8 (2) Accredited, or in candidacy that subsequently becomes accredited, by an accrediting
9 agency recognized by either:

10 (i) The council for higher education accreditation or its successor; or
11 (ii) The United States Department of Education.

12 (c) An applicant for a bachelor's-category multistate license shall meet all of the following
13 requirements:

14 (1) Fulfill a competency requirement, which shall be satisfied by either:

15 (i) Passage of a bachelor's-category qualifying national exam;
16 (ii) Licensure of the applicant in their home state at the bachelor's category, beginning prior
17 to such time as a qualifying national exam was required by the home state and accompanied by a
18 period of continuous social work licensure thereafter, all of which may be further governed by the
19 rules of the commission; or

20 (iii) The substantial equivalency of the foregoing competency requirements which the
21 commission may determine by rule.

22 (2) Attain at least a bachelor's degree in social work from a program that is:

23 (i) Operated by a college or university recognized by the licensing authority; and
24 (ii) Accredited, or in candidacy that subsequently becomes accredited, by an accrediting
25 agency recognized by either:

26 (A) The council for higher education accreditation or its successor; or
27 (B) The United States Department of Education.

28 (d) The multistate license for a regulated social worker is subject to the renewal
29 requirements of the home state. The regulated social worker shall maintain compliance with the
30 requirements of § 5-39.2-4(a) to be eligible to renew a multistate license.

31 (e) The regulated social worker's services in a remote state are subject to that member
32 state's regulatory authority. A remote state may, in accordance with due process and that member
33 state's laws, remove a regulated social worker's multistate authorization to practice in the remote
34 state for a specific period of time, impose fines, and take any other necessary actions to protect the

1 health and safety of its citizens.

2 (f) If a multistate license is encumbered, the regulated social worker's multistate
3 authorization to practice shall be deactivated in all remote states until the multistate license is no
4 longer encumbered.

5 (g) If a multistate authorization to practice is encumbered in a remote state, the regulated
6 social worker's multistate authorization to practice may be deactivated in that state until the
7 multistate authorization to practice is no longer encumbered.

8 **5-39.2-5. Issuance of a multistate license.**

9 (a) Upon receipt of an application for multistate license, the home state licensing authority
10 shall determine the applicant's eligibility for a multistate license in accordance with § 5-39.2-4.

11 (b) If such applicant is eligible pursuant to § 5-39.2-4, the home state licensing authority
12 shall issue a multistate license that authorizes the applicant or regulated social worker to practice
13 in all member states under a multistate authorization to practice.

14 (c) Upon issuance of a multistate license, the home state licensing authority shall designate
15 whether the regulated social worker holds a multistate license in the bachelor's, master's, or clinical
16 category of social work.

17 (d) A multistate license issued by a home state to a resident in that state shall be recognized
18 by all compact member states as authorizing social work practice under a multistate authorization
19 to practice corresponding to each category of licensure regulated in each member state.

20 **5-39.2-6. Authority of interstate compact commission and member state licensing**
21 **authorities.**

22 (a) Nothing in this compact, nor any rule of the commission, shall be construed to limit,
23 restrict, or in any way reduce the ability of a member state to enact and enforce laws, regulations,
24 or other rules related to the practice of social work in that state, where those laws, regulations, or
25 other rules are not inconsistent with the provisions of this compact.

26 (b) Nothing in this compact shall affect the requirements established by a member state for
27 the issuance of a single state license.

28 (c) Nothing in this compact, nor any rule of the commission, shall be construed to limit,
29 restrict, or in any way reduce the ability of a member state to take adverse action against a licensee's
30 single state license to practice social work in that state.

31 (d) Nothing in this compact, nor any rule of the commission, shall be construed to limit,
32 restrict, or in any way reduce the ability of a remote state to take adverse action against a licensee's
33 multistate authorization to practice in that state.

34 (e) Nothing in this compact, nor any rule of the commission, shall be construed to limit,

1 restrict, or in any way reduce the ability of a licensee's home state to take adverse action against a
2 licensee's multistate license based upon information provided by a remote state.

3 **5-39.2-7. Reissuance of a multistate license by a new home state.**

4 (a) A licensee can hold a multistate license, issued by their home state, in only one member
5 state at any given time.

6 (b) If a licensee changes their home state by moving between two (2) member states:

7 (1) The licensee shall immediately apply for the reissuance of their multistate license in
8 their new home state. The licensee shall pay all applicable fees and notify the prior home state in
9 accordance with the rules of the commission.

10 (2) Upon receipt of an application to reissue a multistate license, the new home state shall
11 verify that the multistate license is active, unencumbered and eligible for reissuance under the terms
12 of the compact and the rules of the commission. The multistate license issued by the prior home
13 state will be deactivated and all member states notified in accordance with the applicable rules
14 adopted by the commission.

15 (3) Prior to the reissuance of the multistate license, the new home state shall conduct
16 procedures for considering the criminal history records of the licensee. Such procedures shall
17 include the submission of fingerprints or other biometric-based information by applicants for the
18 purpose of obtaining an applicant's criminal history record information from the Federal Bureau of
19 Investigation and the agency responsible for retaining that state's criminal records.

20 (4) If required for initial licensure, the new home state may require completion of
21 jurisprudence requirements in the new home state.

22 (5) Notwithstanding any other provision of this compact, if a licensee does not meet the
23 requirements set forth in this compact for the reissuance of a multistate license by the new home
24 state, then the licensee shall be subject to the new home state requirements for the issuance of a
25 single state license in that state.

26 (c) If a licensee changes their primary state of residence by moving from a member state
27 to a non-member state, or from a non-member state to a member state, then the licensee shall be
28 subject to the state requirements for the issuance of a single state license in the new home state.

29 (d) Nothing in this compact shall interfere with a licensee's ability to hold a single state
30 license in multiple states; however, for the purposes of this compact, a licensee shall have only one
31 home state, and only one multistate license.

32 (e) Nothing in this compact shall interfere with the requirements established by a member
33 state for the issuance of a single state license.

34 **5-39.2-8. Military families.**

1 An active military member or their spouse shall designate a home state where the individual
2 has a multistate license. The individual may retain their home state designation during the period
3 the service member is on active duty.

4 **5-39.2-9. Adverse actions.**

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

7 (1) Take adverse action against a regulated social worker's multistate authorization to
8 practice only within that member state, and issue subpoenas for both hearings and investigations
9 that require the attendance and testimony of witnesses as well as the production of evidence.
10 Subpoenas issued by a licensing authority in a member state for the attendance and testimony of
11 witnesses or the production of evidence from another member state shall be enforced in the latter
12 state by any court of competent jurisdiction, according to the practice and procedure of that court
13 applicable to subpoenas issued in proceedings pending before it. The issuing licensing authority
14 shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes
15 of the state in which the witnesses or evidence are located.

16 (2) Only the home state shall have the power to take adverse action against a regulated
17 social worker's multistate license.

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

22 (c) The home state shall complete any pending investigations of a regulated social worker
23 who changes their home state during the course of the investigations. The home state shall also
24 have the authority to take appropriate action(s) and shall promptly report the conclusions of the
25 investigations to the administrator of the data system. The administrator of the data system shall
26 promptly notify the new home state of any adverse actions.

27 (d) A member state, if otherwise permitted by state law, may recover from the affected
28 regulated social worker the costs of investigations and dispositions of cases resulting from any
29 adverse action taken against that regulated social worker.

30 (e) A member state may take adverse action based on the factual findings of another
31 member state; provided that, the member state follows its own procedures for taking the adverse
32 action.

33 (f) Joint investigations:

34 (1) In addition to the authority granted to a member state by its respective social work

1 practice act or other applicable state law, any member state may participate with other member
2 states in joint investigations of licensees.

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

5 (g) If adverse action is taken by the home state against the multistate license of a regulated
6 social worker, the regulated social worker's multistate authorization to practice in all other member
7 states shall be deactivated until all encumbrances have been removed from the multistate license.
8 All home state disciplinary orders that impose adverse action against the license of a regulated
9 social worker shall include a statement that the regulated social worker's multistate authorization
10 to practice is deactivated in all member states until all conditions of the decision, order or agreement
11 are satisfied.

12 (h) If a member state takes adverse action, it shall promptly notify the administrator of the
13 data system, the administrator of the data system shall promptly notify the home state and all other
14 member states of any adverse actions by remote states.

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

17 (j) Nothing in this compact shall authorize a member state to demand the issuance of
18 subpoenas for attendance and testimony of witnesses or the production of evidence from another
19 member state for lawful actions within that member state.

20 (k) Nothing in this compact shall authorize a member state to impose discipline against a
21 regulated social worker who holds a multistate authorization to practice for lawful actions within
22 another member state.

23 **5-39.2-10. Establishment of social work licensure compact commission.**

24 (a) The compact member states hereby create and establish a joint government agency
25 whose membership consists of all member states that have enacted the compact known as the social
26 work licensure compact commission. The commission is an instrumentality of the compact states
27 acting jointly and not an instrumentality of any one state. The commission shall come into existence
28 on or after the effective date of the compact as set forth in § 5-39.2-14.

29 (b) Membership, voting, and meetings.

30 (1) Each member state shall have and be limited to one delegate selected by that member
31 state's state licensing authority.

32 (2) The delegate shall be either:

33 (i) A current member of the state licensing authority at the time of appointment, who is a
34 regulated social worker or public member of the state licensing authority; or

- 1 (ii) An administrator of the state licensing authority or their designee.
- 2 (3) The commission shall by rule or bylaw establish a term of office for delegates and may
3 by rule or bylaw establish term limits.
- 4 (4) The commission may recommend removal or suspension of any delegate from office.
- 5 (5) A member state's state licensing authority shall fill any vacancy of its delegate occurring
6 on the commission within sixty (60) days of the vacancy.
- 7 (6) Each delegate shall be entitled to one vote on all matters before the commission
8 requiring a vote by commission delegates.
- 9 (7) A delegate shall vote in person or by such other means as provided in the bylaws. The
10 bylaws may provide for delegates to meet by telecommunication, videoconference, or other means
11 of communication.
- 12 (8) The commission shall meet at least once during each calendar year. Additional meetings
13 may be held as set forth in the bylaws. The commission may meet by telecommunication,
14 videoconference or other similar electronic means.
- 15 (c) The commission shall have the following powers:
- 16 (1) Establish the fiscal year of the commission;
- 17 (2) Establish code of conduct and conflict of interest policies;
- 18 (3) Establish and amend rules and bylaws;
- 19 (4) Maintain its financial records in accordance with the bylaws;
- 20 (5) Meet and take such actions as are consistent with the provisions of this compact, the
21 commission's rules, and the bylaws;
- 22 (6) Initiate and conclude legal proceedings or actions in the name of the commission;
23 provided that, the standing of any state licensing board to sue or be sued under applicable law shall
24 not be affected;
- 25 (7) Maintain and certify records and information provided to a member state as the
26 authenticated business records of the commission, and designate an agent to do so on the
27 commission's behalf;
- 28 (8) Purchase and maintain insurance and bonds;
- 29 (9) Borrow, accept, or contract for services of personnel, including, but not limited to,
30 employees of a member state;
- 31 (10) Conduct an annual financial review;
- 32 (11) Hire employees, elect or appoint officers, fix compensation, define duties, grant such
33 individuals appropriate authority to carry out the purposes of the compact, and establish the
34 commission's personnel policies and programs relating to conflicts of interest, qualifications of

- 1 personnel, and other related personnel matters;
- 2 (12) Assess and collect fees;
- 3 (13) Accept any and all appropriate gifts, donations, grants of money, other sources of
4 revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same;
5 provided that, at all times the commission shall avoid any appearance of impropriety or conflict of
6 interest;
- 7 (14) Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or
8 mixed, or any undivided interest therein;
- 9 (15) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
10 property real, personal, or mixed;
- 11 (16) Establish a budget and make expenditures;
- 12 (17) Borrow money;
- 13 (18) Appoint committees, including standing committees, composed of members, state
14 regulators, state legislators or their representatives, and consumer representatives, and such other
15 interested persons as may be designated in this compact and the bylaws;
- 16 (19) Provide and receive information from, and cooperate with, law enforcement agencies;
- 17 (20) Establish and elect an executive committee, including a chair and a vice chair;
- 18 (21) Determine whether a state's adopted language is materially different from the model
19 compact language such that the state would not qualify for participation in the compact; and
- 20 (22) Perform such other functions as may be necessary or appropriate to achieve the
21 purposes of this compact.
- 22 (d) The executive committee.
- 23 (1) The executive committee shall have the power to act on behalf of the commission
24 according to the terms of this compact. The powers, duties, and responsibilities of the executive
25 committee shall include:
- 26 (i) Oversee the day-to-day activities of the administration of the compact including
27 enforcement and compliance with the provisions of the compact, its rules and bylaws, and other
28 such duties as deemed necessary;
- 29 (ii) Recommend to the commission changes to the rules or bylaws, changes to this compact,
30 fees charged to compact member states, fees charged to licensees, and other fees;
- 31 (iii) Ensure compact administration services are appropriately provided, including by
32 contract;
- 33 (iv) Prepare and recommend the budget;
- 34 (v) Maintain financial records on behalf of the commission;

1 (vi) Monitor compact compliance of member states and provide compliance reports to the
2 commission;

3 (vii) Establish additional committees as necessary;

4 (viii) Exercise the powers and duties of the commission during the interim between
5 commission meetings, except for adopting or amending rules, adopting or amending bylaws, and
6 exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and

7 (ix) Other duties as provided in the rules or bylaws of the commission.

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

9 (i) The chair and vice chair of the commission shall be voting members of the executive
10 committee; and

11 (ii) The commission shall elect five (5) voting members from the current membership of
12 the commission.

13 (iii) Up to four (4) ex officio , nonvoting members from four (4) recognized national social
14 work organizations.

15 (iv) The ex officio members will be selected by their respective organizations.

16 (3) The commission may remove any member of the executive committee as provided in
17 the commission's bylaws.

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

19 (i) Executive committee meetings shall be open to the public, except that the executive
20 committee may meet in a closed, non-public meeting as provided in § 5-39.2-10(f)(2).

21 (ii) The executive committee shall give seven (7) days' notice of its meetings, posted on its
22 website and as determined to provide notice to persons with an interest in the business of the
23 commission.

24 (iii) The executive committee may hold a special meeting in accordance with § 5-39.2-
25 10(f)(2).

26 (e) The commission shall adopt and provide to the member states an annual report.

27 (f) Meetings of the commission.

28 (1) All meetings shall be open to the public, except that the commission may meet in a
29 closed, non-public meeting as provided in § 5-39.2-10(f)(2).

30 (i) Public notice for all meetings of the full commission of meetings shall be given in the
31 same manner as required under the rulemaking provisions in § 5-39.2-12, except that the
32 commission may hold a special meeting as provided in § 5-39.2-10(f)(2).

33 (ii) The commission may hold a special meeting when it must meet to conduct emergency
34 business by giving forty-eight (48) hours' notice to all commissioners, on the commission's website,

1 and other means as provided in the commission's rules. The commission's legal counsel shall certify
2 that the commission's need to meet qualifies as an emergency.

3 (2) The commission or the executive committee or other committees of the commission
4 may convene in a closed, non-public meeting for the commission or executive committee or other
5 committees of the commission to receive legal advice or to discuss:

6 (i) Non-compliance of a member state with its obligations under the compact;

7 (ii) The employment, compensation, discipline or other matters, practices or procedures
8 related to specific employees;

9 (iii) Current or threatened discipline of a licensee by the commission or by a member state's
10 licensing authority;

11 (iv) Current, threatened, or reasonably anticipated litigation;

12 (v) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

13 (vi) Accusing any person of a crime or formally censuring any person;

14 (vii) Trade secrets or commercial or financial information that is privileged or confidential;

15 (viii) Information of a personal nature where disclosure would constitute a clearly
16 unwarranted invasion of personal privacy;

17 (ix) Investigative records compiled for law enforcement purposes;

18 (x) Information related to any investigative reports prepared by or on behalf of or for use
19 of the commission or other committee charged with responsibility of investigation or determination
20 of compliance issues pursuant to the compact;

21 (xi) Matters specifically exempted from disclosure by federal or member state law; or

22 (xii) Other matters as promulgated by the commission by rule.

23 (3) If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the
24 meeting will be closed and reference each relevant exempting provision, and such reference shall
25 be recorded in the minutes.

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

32 (g) Financing of the commission.

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

1 (2) The commission may accept any and all appropriate revenue sources as provided in
2 subsection (c)(13) of this section.

3 (3) The commission may levy on and collect an annual assessment from each member state
4 and impose fees on licensees of member states to whom it grants a multistate license to cover the
5 cost of the operations and activities of the commission and its staff, which shall be in a total amount
6 sufficient to cover its annual budget as approved each year for which revenue is not provided by
7 other sources. The aggregate annual assessment amount for member states shall be allocated based
8 upon a formula that the commission shall promulgate by rule.

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

12 (5) The commission shall keep accurate accounts of all receipts and disbursements. the
13 receipts and disbursements of the commission shall be subject to the financial review and
14 accounting procedures established under its bylaws. However, all receipts and disbursements of
15 funds handled by the commission shall be subject to an annual financial review by a certified or
16 licensed public accountant, and the report of the financial review shall be included in and become
17 part of the annual report of the commission.

18 (h) Qualified immunity, defense, and indemnification.

19 (1) The members, officers, executive director, employees and representatives of the
20 commission shall be immune from suit and liability, both personally and in their official capacity,
21 for any claim for damage to or loss of property or personal injury or other civil liability caused by
22 or arising out of any actual or alleged act, error, or omission that occurred, or that the person against
23 whom the claim is made had a reasonable basis for believing occurred within the scope of
24 commission employment, duties or responsibilities; provided that, nothing in this section shall be
25 construed to protect any such person from suit or liability for any damage, loss, injury, or liability
26 caused by the intentional or willful or wanton misconduct of that person. The procurement of
27 insurance of any type by the commission shall not in any way compromise or limit the immunity
28 granted hereunder.

29 (2) The commission shall defend any member, officer, executive director, employee, and
30 representative of the commission in any civil action seeking to impose liability arising out of any
31 actual or alleged act, error, or omission that occurred within the scope of commission employment,
32 duties, or responsibilities, or as determined by the commission that the person against whom the
33 claim is made had a reasonable basis for believing occurred within the scope of commission
34 employment, duties, or responsibilities; provided that, nothing herein shall be construed to prohibit

1 that person from retaining their own counsel at their own expense; and provided further, that the
2 actual or alleged act, error, or omission did not result from that person's intentional or willful or
3 wanton misconduct.

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

11 (4) Nothing in this section shall be construed as a limitation on the liability of any licensee
12 for professional malpractice or misconduct, which shall be governed solely by any other applicable
13 state laws.

14 (5) Nothing in this compact shall be interpreted to waive or otherwise abrogate a member
15 state's state action immunity or state action affirmative defense with respect to antitrust claims
16 under the Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law
17 or regulation.

18 (6) Nothing in this compact shall be construed to be a waiver of sovereign immunity by the
19 member states or by the commission.

20 **5-39.2-11. Data system.**

21 (a) The commission shall provide for the development, maintenance, operation, and
22 utilization of a coordinated data system.

23 (b) The commission shall assign each applicant for a multistate license a unique identifier,
24 as determined by the rules of the commission.

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

28 (1) Identifying information;

29 (2) Licensure data;

30 (3) Adverse actions against a license and information related thereto;

31 (4) Non-confidential information related to alternative program participation, the
32 beginning and ending dates of such participation, and other information related to such participation
33 not made confidential under member state law;

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

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

4 (d) The records and information provided to a member state pursuant to this compact or
5 through the data system, when certified by the commission or an agent thereof, shall constitute the
6 authenticated business records of the commission, and shall be entitled to any associated hearsay
7 exception in any relevant judicial, quasi-judicial or administrative proceedings in a member state.

8 (e) Current significant investigative information pertaining to a licensee in any member
9 state will only be available to other member states.

10 (1) It is the responsibility of the member states to report any adverse action against a
11 licensee and to monitor the database to determine whether adverse action has been taken against a
12 licensee. Adverse action information pertaining to a licensee in any member state will be available
13 to any other member state.

14 (f) Member states contributing information to the data system may designate information
15 that may not be shared with the public without the express permission of the contributing state.

16 (g) Any information submitted to the data system that is subsequently expunged pursuant
17 to federal law or the laws of the member state contributing the information shall be removed from
18 the data system.

19 **5-39.2-12. Rulemaking.**

20 (a) The commission shall promulgate reasonable rules in order to effectively and efficiently
21 implement and administer the purposes and provisions of the compact. A rule shall be invalid and
22 have no force or effect only if a court of competent jurisdiction holds that the rule is invalid because
23 the commission exercised its rulemaking authority in a manner that is beyond the scope and
24 purposes of the compact, or the powers granted hereunder, or based upon another applicable
25 standard of review.

26 (b) The rules of the commission shall have the force of law in each member state; provided
27 however, that where the rules of the commission conflict with the laws of the member state that
28 establish the member state's laws, regulations, and applicable standards that govern the practice of
29 social work as held by a court of competent jurisdiction, the rules of the commission shall be
30 ineffective in that state to the extent of the conflict.

31 (c) The commission shall exercise its rulemaking powers pursuant to the criteria set forth
32 in this section and the rules adopted thereunder. Rules shall become binding on the day following
33 adoption or the date specified in the rule or amendment, whichever is later.

34 (d) If a majority of the legislatures of the member states rejects a rule or portion of a rule,

1 by enactment of a statute or resolution in the same manner used to adopt the compact within four
2 (4) years of the date of adoption of the rule, then such rule shall have no further force and effect in
3 any member state.

4 (e) Rules shall be adopted at a regular or special meeting of the commission.

5 (f) Prior to adoption of a proposed rule, the commission shall hold a public hearing and
6 allow persons to provide oral and written comments, data, facts, opinions, and arguments.

7 (g) Prior to adoption of a proposed rule by the commission, and at least thirty (30) days in
8 advance of the meeting at which the commission will hold a public hearing on the proposed rule,
9 the commission shall provide a notice of proposed rulemaking:

10 (1) On the website of the commission or other publicly accessible platform;

11 (2) To persons who have requested notice of the commission's notices of proposed
12 rulemaking, and

13 (3) In such other way(s) as the commission may by rule specify.

14 (h) The notice of proposed rulemaking shall include:

15 (1) The time, date, and location of the public hearing at which the commission will hear
16 public comments on the proposed rule and, if different, the time, date, and location of the meeting
17 where the commission will consider and vote on the proposed rule;

18 (2) If the hearing is held via telecommunication, videoconference, or other electronic
19 means, the commission shall include the mechanism for access to the hearing in the notice of
20 proposed rulemaking;

21 (3) The text of the proposed rule and the reason therefor;

22 (4) A request for comments on the proposed rule from any interested person; and

23 (5) The manner in which interested persons may submit written comments.

24 (i) All hearings will be recorded. A copy of the recording and all written comments and
25 documents received by the commission in response to the proposed rule shall be available to the
26 public.

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

29 (k) The commission shall, by majority vote of all members, take final action on the
30 proposed rule based on the rulemaking record and the full text of the rule.

31 (1) The commission may adopt changes to the proposed rule provided the changes do not
32 enlarge the original purpose of the proposed rule.

33 (2) The commission shall provide an explanation of the reasons for substantive changes
34 made to the proposed rule as well as reasons for substantive changes not made that were

1 recommended by commenters.

2 (3) The commission shall determine a reasonable effective date for the rule. Except for an
3 emergency as provided in §§ 5-39.2-12(l)(1) through 5-39.2-12(l)(4), the effective date of the rule
4 shall be no sooner than thirty (30) days after issuing the notice that it adopted or amended the rule.

5 (l) Upon determination that an emergency exists, the commission may consider and adopt
6 an emergency rule with forty-eight (48) hours' notice, with opportunity to comment; provided that,
7 the usual rulemaking procedures provided in the compact and in this section shall be retroactively
8 applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the
9 effective date of the rule. For the purposes of this provision, an emergency rule is one that must be
10 adopted immediately in order to:

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

12 (2) Prevent a loss of commission or member state funds;

13 (3) Meet a deadline for the promulgation of a rule that is established by federal law or rule;

14 or

15 (4) Protect public health and safety.

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

25 (n) No member state's rulemaking requirements shall apply under this compact.

26 **5-39.2-13. Oversight, dispute resolution, and enforcement.**

27 (a) Oversight.

28 (1) The executive and judicial branches of state government in each member state shall
29 enforce this compact and take all actions necessary and appropriate to implement the compact.

30 (2) Except as otherwise provided in this compact, venue is proper and judicial proceedings
31 by or against the commission shall be brought solely and exclusively in a court of competent
32 jurisdiction where the principal office of the commission is located. The commission may waive
33 venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative
34 dispute resolution proceedings. Nothing in this section shall affect or limit the selection or propriety

1 of venue in any action against a licensee for professional malpractice, misconduct or any such
2 similar matter.

3 (3) The commission shall be entitled to receive service of process in any proceeding
4 regarding the enforcement or interpretation of the compact and shall have standing to intervene in
5 such a proceeding for all purposes. Failure to provide the commission service of process shall
6 render a judgment or order void as to the commission, this compact, or promulgated rules.

7 (b) Default, technical assistance, and termination.

8 (1) If the commission determines that a member state has defaulted in the performance of
9 its obligations or responsibilities under this compact or the promulgated rules, the commission shall
10 provide written notice to the defaulting state. The notice of default shall describe the default, the
11 proposed means of curing the default, and any other action that the commission may take, and shall
12 offer training and specific technical assistance regarding the default.

13 (2) The commission shall provide a copy of the notice of default to the other member states.

14 (c) If a state in default fails to cure the default, the defaulting state may be terminated from
15 the compact upon an affirmative vote of a majority of the delegates of the member states, and all
16 rights, privileges and benefits conferred on that state by this compact may be terminated on the
17 effective date of termination. A cure of the default does not relieve the offending state of obligations
18 or liabilities incurred during the period of default.

19 (d) Termination of membership in the compact shall be imposed only after all other means
20 of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given
21 by the commission to the governor, the majority and minority leaders of the defaulting state's
22 legislature, the defaulting state's state licensing authority and each of the member states' state
23 licensing authority.

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

27 (f) Upon the termination of a state's membership from this compact, that state shall
28 immediately provide notice to all licensees within that state of such termination. The terminated
29 state shall continue to recognize all licenses granted pursuant to this compact for a minimum of six
30 (6) months after the date of said notice of termination.

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

34 (h) The defaulting state may appeal the action of the commission by petitioning the United

1 States District Court for the District of Columbia or the federal district where the commission has
2 its principal offices. The prevailing party shall be awarded all costs of such litigation, including
3 reasonable attorney's fees.

4 (i) Dispute resolution.

5 (1) Upon request by a member state, the commission shall attempt to resolve disputes
6 related to the compact that arise among member states and between member and non-member
7 states.

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

10 (j) Enforcement.

11 (1) By majority vote as provided by rule, the commission may initiate legal action against
12 a member state in default in the United States District Court for the District of Columbia or the
13 federal district where the commission has its principal offices to enforce compliance with the
14 provisions of the compact and its promulgated rules. The relief sought may include both injunctive
15 relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be
16 awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein shall
17 not be the exclusive remedies of the commission. The commission may pursue any other remedies
18 available under federal or the defaulting member state's law.

19 (2) A member state may initiate legal action against the commission in the United States
20 District Court for the District of Columbia or the federal district where the commission has its
21 principal offices to enforce compliance with the provisions of the compact and its promulgated
22 rules. The relief sought may include both injunctive relief and damages. In the event judicial
23 enforcement is necessary, the prevailing party shall be awarded all costs of such litigation,
24 including reasonable attorney's fees.

25 (3) No person other than a member state shall enforce this compact against the commission.

26 **5-39.2-14. Effective date, withdrawal, and amendment.**

27 (a) The compact shall come into effect on the date on which the compact statute is enacted
28 into law in the seventh member state.

29 (1) On or after the effective date of the compact, the commission shall convene and review
30 the enactment of each of the first seven (7) member states ("charter member states") to determine
31 if the statute enacted by each such charter member state is materially different than the model
32 compact statute.

33 (i) A charter member state whose enactment is found to be materially different from the
34 model compact statute shall be entitled to the default process set forth in § 5-39.2-13.

1 (ii) If any member state is later found to be in default, or is terminated or withdraws from
2 the compact, the commission shall remain in existence and the compact shall remain in effect even
3 if the number of member states should be less than seven (7).

4 (2) Member states enacting the compact subsequent to the seven initial charter member
5 states shall be subject to the process set forth in § 5-39.2-10(c)(21) to determine if their enactments
6 are materially different from the model compact statute and whether they qualify for participation
7 in the compact.

8 (3) All actions taken for the benefit of the commission or in furtherance of the purposes of
9 the administration of the compact prior to the effective date of the compact or the commission
10 coming into existence shall be considered to be actions of the commission unless specifically
11 repudiated by the commission.

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

16 (b) Any member state may withdraw from this compact by enacting a statute repealing the
17 same.

18 (1) A member state's withdrawal shall not take effect until one hundred eighty (180) days
19 after enactment of the repealing statute.

20 (2) Withdrawal shall not affect the continuing requirement of the withdrawing state's
21 licensing authority to comply with the investigative and adverse action reporting requirements of
22 this compact prior to the effective date of withdrawal.

23 (3) Upon the enactment of a statute withdrawing from this compact, a state shall
24 immediately provide notice of such withdrawal to all licensees within that state. Notwithstanding
25 any subsequent statutory enactment to the contrary, such withdrawing state shall continue to
26 recognize all licenses granted pursuant to this compact for a minimum of one hundred eighty (180)
27 days after the date of such notice of withdrawal.

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

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

34 **5-39.2-15. Construction and severability.**

1 (a) This compact and the commission's rulemaking authority shall be liberally construed in
2 order to effectuate the purposes, and the implementation and administration of the compact.
3 Provisions of the compact expressly authorizing or requiring the promulgation of rules shall not be
4 construed to limit the commission's rulemaking authority solely for those purposes.

5 (b) The provisions of this compact shall be severable and if any phrase, clause, sentence or
6 provision of this compact is held by a court of competent jurisdiction to be contrary to the
7 constitution of any member state, a state seeking participation in the compact, or of the United
8 States, or the applicability thereof to any government, agency, person or circumstance is held to be
9 unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact
10 and the applicability thereof to any other government, agency, person or circumstance shall not be
11 affected thereby.

12 (c) Notwithstanding subsection (b) of this section, the commission may deny a state's
13 participation in the compact or, in accordance with the requirements of § 5-39.2-13(b), terminate a
14 member state's participation in the compact, if it determines that a constitutional requirement of a
15 member state is a material departure from the compact. Otherwise, if this compact shall be held to
16 be contrary to the constitution of any member state, the compact shall remain in full force and effect
17 as to the remaining member states and in full force and effect as to the member state affected as to
18 all severable matters.

19 **5-39.2-16. Consistent effect and conflict with other state laws.**

20 (a) A licensee providing services in a remote state under a multistate authorization to
21 practice shall adhere to the laws and regulations, including laws, regulations, and applicable
22 standards, of the remote state where the client is located at the time care is rendered.

23 (b) Nothing in this section shall prevent or inhibit the enforcement of any other law of a
24 member state that is not inconsistent with the compact.

25 (c) Any laws, statutes, regulations, or other legal requirements in a member state in conflict
26 with the compact are superseded to the extent of the conflict.

27 (d) All permissible agreements between the commission and the member states are binding
28 in accordance with their terms.

29 SECTION 2. This act shall take effect upon passage.

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LC003525
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- SOCIAL WORK LICENSURE
COMPACT

- 1 This act would adopt model legislation facilitating the interstate practice of regulated social
- 2 workers.
- 3 This act would take effect upon passage.

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LC003525
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