
HOUSE BILL 1069

State of Washington

68th Legislature

2023 Regular Session

By Representatives Leavitt and Harris

Prefiled 12/22/22.

1 AN ACT Relating to the mental health counselor compact; and
2 adding a new chapter to Title 18 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The purpose of this compact is to
5 facilitate interstate practice of licensed professional counselors
6 with the goal of improving public access to professional counseling
7 services. The practice of professional counseling occurs in the state
8 where the client is located at the time of the counseling services.
9 The compact preserves the regulatory authority of states to protect
10 public health and safety through the current system of state
11 licensure.

12 This compact is designed to achieve the following objectives:

13 (1) Increase public access to professional counseling services by
14 providing for the mutual recognition of other member state licenses;

15 (2) Enhance the states' ability to protect the public's health
16 and safety;

17 (3) Encourage the cooperation of member states in regulating
18 multistate practice for licensed professional counselors;

19 (4) Support spouses of relocating active duty military personnel;

20 (5) Enhance the exchange of licensure, investigative, and
21 disciplinary information among member states;

1 (6) Allow for the use of telehealth technology to facilitate
2 increased access to professional counseling services;

3 (7) Support the uniformity of professional counseling licensure
4 requirements throughout the states to promote public safety and
5 public health benefits;

6 (8) Invest all member states with the authority to hold a
7 licensed professional counselor accountable for meeting all state
8 practice laws in the state in which the client is located at the time
9 care is rendered through the mutual recognition of member state
10 licenses;

11 (9) Eliminate the necessity for licenses in multiple states; and

12 (10) Provide opportunities for interstate practice by licensed
13 professional counselors who meet uniform licensure requirements.

14 NEW SECTION. **Sec. 2.** As used in this compact, and except as
15 otherwise provided, the following definitions shall apply:

16 (1) "Active duty military" means full-time duty status in the
17 active uniformed service of the United States, including members of
18 the National Guard and Reserve on active duty orders pursuant to 10
19 U.S.C. chapters 1209 and 1211.

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

29 (3) "Alternative program" means a nondisciplinary monitoring or
30 practice remediation process approved by a professional counseling
31 licensing board to address impaired practitioners.

32 (4) "Continuing competence/education" means a requirement, as a
33 condition of license renewal, to provide evidence of participation
34 in, and/or completion of, educational and professional activities
35 relevant to practice or area of work.

36 (5) "Counseling compact commission" or "commission" means the
37 national administrative body whose membership consists of all states
38 that have enacted the compact.

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

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

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

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

14 (8) "Encumbered license" means a license in which an adverse
15 action restricts the practice of licensed professional counseling by
16 the licensee and said adverse action has been reported to the
17 national practitioners data bank.

18 (9) "Encumbrance" means a revocation or suspension of, or any
19 limitation on, the full and unrestricted practice of licensed
20 professional counseling by a licensing board.

21 (10) "Executive committee" means a group of directors elected or
22 appointed to act on behalf of, and within the powers granted to them
23 by, the commission.

24 (11) "Home state" means the member state that is the licensee's
25 primary state of residence.

26 (12) "Impaired practitioner" means an individual who has a
27 condition(s) that may impair their ability to practice as a licensed
28 professional counselor without some type of intervention and may
29 include, but are not limited to, alcohol and drug dependence, mental
30 health impairment, and neurological or physical impairments.

31 (13) "Investigative information" means information, records, and
32 documents received or generated by a professional counseling
33 licensing board pursuant to an investigation.

34 (14) "Jurisprudence requirement," if required by a member state,
35 means the assessment of an individual's knowledge of the laws and
36 rules governing the practice of professional counseling in a state.

37 (15) "Licensed professional counselor" means a counselor licensed
38 by a member state, regardless of the title used by that state, to
39 independently assess, diagnose, and treat behavioral health
40 conditions.

1 (16) "Licensee" means an individual who currently holds an
2 authorization from the state to practice as a licensed professional
3 counselor.

4 (17) "Licensing board" means the agency of a state, or
5 equivalent, that is responsible for the licensing and regulation of
6 licensed professional counselors.

7 (18) "Member state" means a state that has enacted the compact.

8 (19) "Privilege to practice" means a legal authorization, which
9 is equivalent to a license, permitting the practice of professional
10 counseling in a remote state.

11 (20) "Professional counseling" means the assessment, diagnosis,
12 and treatment of behavioral health conditions by a licensed
13 professional counselor.

14 (21) "Remote state" means a member state other than the home
15 state, where a licensee is exercising or seeking to exercise the
16 privilege to practice.

17 (22) "Rule" means a regulation promulgated by the commission that
18 has the force of law.

19 (23) "Single state license" means a licensed professional
20 counselor license issued by a member state that authorizes practice
21 only within the issuing state and does not include a privilege to
22 practice in any other member state.

23 (24) "State" means any state, commonwealth, district, or
24 territory of the United States of America that regulates the practice
25 of professional counseling.

26 (25) "Telehealth" means the application of telecommunication
27 technology to deliver professional counseling services remotely to
28 assess, diagnose, and treat behavioral health conditions.

29 (26) "Unencumbered license" means a license that authorizes a
30 licensed professional counselor to engage in the full and
31 unrestricted practice of professional counseling.

32 NEW SECTION. **Sec. 3.** (1) To participate in the compact, a state
33 must currently:

34 (a) License and regulate licensed professional counselors;

35 (b) Require licensees to pass a nationally recognized exam
36 approved by the commission;

37 (c) Require licensees to have a 60 semester-hour (or 90 quarter-
38 hour) master's degree in counseling or 60 semester-hours (or 90

1 quarter-hours) of graduate course work including the following topic
2 areas:

- 3 (i) Professional counseling orientation and ethical practice;
- 4 (ii) Social and cultural diversity;
- 5 (iii) Human growth and development;
- 6 (iv) Career development;
- 7 (v) Counseling and helping relationships;
- 8 (vi) Group counseling and group work;
- 9 (vii) Diagnosis and treatment; assessment and testing;
- 10 (viii) Research and program evaluation; and
- 11 (ix) Other areas as determined by the commission;

12 (d) Require licensees to complete a supervised postgraduate
13 professional experience as defined by the commission;

14 (e) Have a mechanism in place for receiving and investigating
15 complaints about licensees.

16 (2) A member state shall:

17 (a) Participate fully in the commission's data system, including
18 using the commission's unique identifier as defined in rules;

19 (b) Notify the commission, in compliance with the terms of the
20 compact and rules, of any adverse action or the availability of
21 investigative information regarding a licensee;

22 (c) Implement or utilize procedures for considering the criminal
23 history records of applicants for an initial privilege to practice.
24 These procedures shall include the submission of fingerprints or
25 other biometric-based information by applicants for the purpose of
26 obtaining an applicant's criminal history record information from the
27 federal bureau of investigation and the agency responsible for
28 retaining that state's criminal records;

29 (i) A member state must fully implement a criminal background
30 check requirement, within a time frame established by rule, by
31 receiving the results of the federal bureau of investigation record
32 search and shall use the results in making licensure decisions.

33 (ii) Communication between a member state, the commission, and
34 among member states regarding the verification of eligibility for
35 licensure through the compact shall not include any information
36 received from the federal bureau of investigation relating to a
37 federal criminal records check performed by a member state under
38 Public Law 92-544;

39 (d) Comply with the rules of the commission;

1 (e) Require an applicant to obtain or retain a license in the
2 home state and meet the home state's qualifications for licensure or
3 renewal of licensure, as well as all other applicable state laws;

4 (f) Grant the privilege to practice to a licensee holding a valid
5 unencumbered license in another member state in accordance with the
6 terms of the compact and rules; and

7 (g) Provide for the attendance of the state's commissioner to the
8 counseling compact commission meetings.

9 (3) Member states may charge a fee for granting the privilege to
10 practice.

11 (4) Individuals not residing in a member state shall continue to
12 be able to apply for a member state's single state license as
13 provided under the laws of each member state. However, the single
14 state license granted to these individuals shall not be recognized as
15 granting a privilege to practice professional counseling in any other
16 member state.

17 (5) Nothing in this compact shall affect the requirements
18 established by a member state for the issuance of a single state
19 license.

20 (6) A license issued to a licensed professional counselor by a
21 home state to a resident in that state shall be recognized by each
22 member state as authorizing a licensed professional counselor to
23 practice professional counseling, under a privilege to practice, in
24 each member state.

25 NEW SECTION. **Sec. 4.** (1) To exercise the privilege to practice
26 under the terms and provisions of the compact, the licensee shall:

27 (a) Hold a license in the home state;

28 (b) Have a valid United States social security number or national
29 practitioner identifier;

30 (c) Be eligible for a privilege to practice in any member state
31 in accordance with subsections (4), (7), and (8) of this section;

32 (d) Have not had any encumbrance or restriction against any
33 license or privilege to practice within the previous two years;

34 (e) Notify the commission that the licensee is seeking the
35 privilege to practice within a remote state(s);

36 (f) Pay any applicable fees, including any state fee, for the
37 privilege to practice;

38 (g) Meet any continuing competence/education requirements
39 established by the home state;

1 (h) Meet any jurisprudence requirements established by the remote
2 state(s) in which the licensee is seeking a privilege to practice;
3 and

4 (i) Report to the commission any adverse action, encumbrance, or
5 restriction on license taken by any nonmember state within 30 days
6 from the date the action is taken.

7 (2) The privilege to practice is valid until the expiration date
8 of the home state license. The licensee must comply with the
9 requirements of subsection (1) of this section to maintain the
10 privilege to practice in the remote state.

11 (3) A licensee providing professional counseling in a remote
12 state under the privilege to practice shall adhere to the laws and
13 regulations of the remote state.

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

23 (5) If a home state license is encumbered, the licensee shall
24 lose the privilege to practice in any remote state until the
25 following occur:

26 (a) The home state license is no longer encumbered; and

27 (b) Have not had any encumbrance or restriction against any
28 license or privilege to practice within the previous two years.

29 (6) Once an encumbered license in the home state is restored to
30 good standing, the licensee must meet the requirements of subsection
31 (1) of this section to obtain a privilege to practice in any remote
32 state.

33 (7) If a licensee's privilege to practice in any remote state is
34 removed, the individual may lose the privilege to practice in all
35 other remote states until the following occur:

36 (a) The specific period of time for which the privilege to
37 practice was removed has ended;

38 (b) All fines have been paid; and

39 (c) Have not had any encumbrance or restriction against any
40 license or privilege to practice within the previous two years.

1 (8) Once the requirements of subsection (7) of this section have
2 been met, the licensee must meet the requirements in subsection (1)
3 of this section to obtain a privilege to practice in a remote state.

4 NEW SECTION. **Sec. 5.** (1) A licensed professional counselor may
5 hold a home state license, which allows for a privilege to practice
6 in other member states, in only one member state at a time.

7 (2) If a licensed professional counselor changes primary state of
8 residence by moving between two member states:

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

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

19 (i) A federal bureau of investigation fingerprint based criminal
20 background check if not previously performed or updated pursuant to
21 applicable rules adopted by the commission in accordance with Public
22 Law 92-544;

23 (ii) Other criminal background check as required by the new home
24 state; and

25 (iii) Completion of any requisite jurisprudence requirements of
26 the new home state.

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

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

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

38 (3) If a licensed professional counselor changes primary state of
39 residence by moving from a member state to a nonmember state, or from

1 a nonmember state to a member state, the state criteria shall apply
2 for issuance of a single state license in the new state.

3 (4) Nothing in this compact shall interfere with a licensee's
4 ability to hold a single state license in multiple states, however
5 for the purposes of this compact, a licensee shall have only one home
6 state license.

7 (5) Nothing in this compact shall affect the requirements
8 established by a member state for the issuance of a single state
9 license.

10 NEW SECTION. **Sec. 6.** Active duty military personnel, or their
11 spouse, shall designate a home state where the individual has a
12 current license in good standing. The individual may retain the home
13 state designation during the period the service member is on active
14 duty. Subsequent to designating a home state, the individual shall
15 only change their home state through application for licensure in the
16 new state, or through the process outlined in section 5 of this act.

17 NEW SECTION. **Sec. 7.** (1) Member states shall recognize the
18 right of a licensed professional counselor, licensed by a home state
19 in accordance with section 3 of this act and under rules promulgated
20 by the commission, to practice professional counseling in any member
21 state via telehealth under a privilege to practice as provided in the
22 compact and rules promulgated by the commission.

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

26 NEW SECTION. **Sec. 8.** (1) In addition to the other powers
27 conferred by state law, a remote state shall have the authority, in
28 accordance with existing state due process law, to:

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

31 (b) Issue subpoenas for both hearings and investigations that
32 require the attendance and testimony of witnesses as well as the
33 production of evidence. Subpoenas issued by a licensing board in a
34 member state for the attendance and testimony of witnesses or the
35 production of evidence from another member state shall be enforced in
36 the latter state by any court of competent jurisdiction, according to
37 the practice and procedure of that court applicable to subpoenas

1 issued in proceedings pending before it. The issuing authority shall
2 pay any witness fees, travel expenses, mileage, and other fees
3 required by the service statutes of the state in which the witnesses
4 or evidence are located.

5 Only the home state shall have the power to take adverse action
6 against a licensed professional counselor's license issued by the
7 home state.

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

13 (3) The home state shall complete any pending investigations of a
14 licensed professional counselor who changes primary state of
15 residence during the course of the investigations. The home state
16 shall also have the authority to take appropriate action(s) and shall
17 promptly report the conclusions of the investigations to the
18 administrator of the data system. The administrator of the
19 coordinated licensure information system shall promptly notify the
20 new home state of any adverse actions.

21 (4) A member state, if otherwise permitted by state law, may
22 recover from the affected licensed professional counselor the costs
23 of investigations and dispositions of cases resulting from any
24 adverse action taken against that licensed professional counselor.

25 (5) A member state may take adverse action based on the factual
26 findings of the remote state, provided that the member state follows
27 its own procedures for taking the adverse action.

28 (6) Joint investigations.

29 (a) In addition to the authority granted to a member state by its
30 respective professional counseling practice act or other applicable
31 state law, any member state may participate with other member states
32 in joint investigations of licensees.

33 (b) Member states shall share any investigative, litigation, or
34 compliance materials in furtherance of any joint or individual
35 investigation initiated under the compact.

36 (7) If adverse action is taken by the home state against the
37 license of a licensed professional counselor, the licensed
38 professional counselor's privilege to practice in all other member
39 states shall be deactivated until all encumbrances have been removed
40 from the state license. All home state disciplinary orders that

1 impose adverse action against the license of a licensed professional
2 counselor shall include a statement that the licensed professional
3 counselor's privilege to practice is deactivated in all member states
4 during the pendency of the order.

5 (8) If a member state takes adverse action, it shall promptly
6 notify the administrator of the data system. The administrator of the
7 data system shall promptly notify the home state of any adverse
8 actions by remote states.

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

12 NEW SECTION. **Sec. 9.** (1) The compact member states hereby
13 create and establish a joint public agency known as the counseling
14 compact commission:

15 (a) The commission is an instrumentality of the compact states.

16 (b) Venue is proper and judicial proceedings by or against the
17 commission shall be brought solely and exclusively in a court of
18 competent jurisdiction where the principal office of the commission
19 is located. The commission may waive venue and jurisdictional
20 defenses to the extent it adopts or consents to participate in
21 alternative dispute resolution proceedings.

22 (c) Nothing in this compact shall be construed to be a waiver of
23 sovereign immunity.

24 (2) Membership, voting, and meetings.

25 (a) Each member state shall have and be limited to one delegate
26 selected by that member state's licensing board.

27 (b) The delegate shall be either:

28 (i) A current member of the licensing board at the time of
29 appointment, who is a licensed professional counselor or public
30 member; or

31 (ii) An administrator of the licensing board.

32 (c) Any delegate may be removed or suspended from office as
33 provided by the law of the state from which the delegate is
34 appointed.

35 (d) The member state licensing board shall fill any vacancy
36 occurring on the commission within 60 days.

37 (e) Each delegate shall be entitled to one vote with regard to
38 the promulgation of rules and creation of bylaws and shall otherwise

1 have an opportunity to participate in the business and affairs of the
2 commission.

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

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

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

11 (3) The commission shall have the following powers and duties:

12 (a) Establish the fiscal year of the commission;

13 (b) Establish bylaws;

14 (c) Maintain its financial records in accordance with the bylaws;

15 (d) Meet and take such actions as are consistent with the
16 provisions of this compact and the bylaws;

17 (e) Promulgate rules which shall be binding to the extent and in
18 the manner provided for in the compact;

19 (f) Bring and prosecute legal proceedings or actions in the name
20 of the commission, provided that the standing of any state licensing
21 board to sue or be sued under applicable law shall not be affected;

22 (g) Purchase and maintain insurance and bonds;

23 (h) Borrow, accept, or contract for services of personnel
24 including, but not limited to, employees of a member state;

25 (i) Hire employees, elect or appoint officers, fix compensation,
26 define duties, grant such individuals appropriate authority to carry
27 out the purposes of the compact, and establish the commission's
28 personnel policies and programs relating to conflicts of interest,
29 qualifications of personnel, and other related personnel matters;

30 (j) Accept any and all appropriate donations and grants of money,
31 equipment, supplies, materials, and services, and to receive,
32 utilize, and dispose of the same; provided that at all times the
33 commission shall avoid any appearance of impropriety and/or conflict
34 of interest;

35 (k) Lease, purchase, accept appropriate gifts or donations of, or
36 otherwise to own, hold, improve, or use, any property, real,
37 personal, or mixed; provided that at all times the commission shall
38 avoid any appearance of impropriety;

39 (l) Sell, convey, mortgage, pledge, lease, exchange, abandon, or
40 otherwise dispose of any property real, personal, or mixed;

1 (m) Establish a budget and make expenditures;

2 (n) Borrow money;

3 (o) Appoint committees, including standing committees composed of
4 members, state regulators, state legislators or their
5 representatives, and consumer representatives, and such other
6 interested persons as may be designated in this compact and the
7 bylaws;

8 (p) Provide and receive information from, and cooperate with, law
9 enforcement agencies;

10 (q) Establish and elect an executive committee; and

11 (r) Perform such other functions as may be necessary or
12 appropriate to achieve the purposes of this compact consistent with
13 the state regulation of professional counseling licensure and
14 practice.

15 (4) The executive committee.

16 (a) The executive committee shall have the power to act on behalf
17 of the commission according to the terms of this compact.

18 (b) The executive committee shall be composed of up to 11
19 members:

20 (i) Seven voting members who are elected by the commission from
21 the current membership of the commission;

22 (ii) Up to four ex-officio, nonvoting members from four
23 recognized national professional counselor organizations. The ex-
24 officio members will be selected by their respective organizations.

25 (c) The commission may remove any member of the executive
26 committee as provided in bylaws.

27 (d) The executive committee shall meet at least annually.

28 (e) The executive committee shall have the following duties and
29 responsibilities:

30 (i) Recommend to the entire commission changes to the rules or
31 bylaws, changes to this compact legislation, fees paid by compact
32 member states such as annual dues, and any commission compact fee
33 charged to licensees for the privilege to practice;

34 (ii) Ensure compact administration services are appropriately
35 provided, contractual or otherwise;

36 (iii) Prepare and recommend the budget;

37 (iv) Maintain financial records on behalf of the commission;

38 (v) Monitor compact compliance of member states and provide
39 compliance reports to the commission;

40 (vi) Establish additional committees as necessary; and

1 (vii) Other duties as provided in rules or bylaws.

2 (5) Meetings of the commission.

3 (a) All meetings shall be open to the public, and public notice
4 of meetings shall be given in the same manner as required under the
5 rule-making provisions in section 11 of this act.

6 (b) The commission or the executive committee or other committees
7 of the commission may convene in a closed, nonpublic meeting if the
8 commission or executive committee or other committees of the
9 commission must discuss:

10 (i) Noncompliance of a member state with its obligations under
11 the compact;

12 (ii) The employment, compensation, discipline, or other matters,
13 practices, or procedures related to specific employees or other
14 matters related to the commission's internal personnel practices and
15 procedures;

16 (iii) Current, threatened, or reasonably anticipated litigation;

17 (iv) Negotiation of contracts for the purchase, lease, or sale of
18 goods, services, or real estate;

19 (v) Accusing any person of a crime or formally censuring any
20 person;

21 (vi) Disclosure of trade secrets or commercial or financial
22 information that is privileged or confidential;

23 (vii) Disclosure of information of a personal nature where
24 disclosure would constitute a clearly unwarranted invasion of
25 personal privacy;

26 (viii) Disclosure of investigative records compiled for law
27 enforcement purposes;

28 (ix) Disclosure of information related to any investigative
29 reports prepared by or on behalf of or for use of the commission or
30 other committee charged with responsibility of investigation or
31 determination of compliance issues pursuant to the compact; or

32 (x) Matters specifically exempted from disclosure by federal or
33 member state statute.

34 (c) If a meeting, or portion of a meeting, is closed pursuant to
35 this provision, the commission's legal counsel or designee shall
36 certify that the meeting may be closed and shall reference each
37 relevant exempting provision.

38 (d) The commission shall keep minutes that fully and clearly
39 describe all matters discussed in a meeting and shall provide a full
40 and accurate summary of actions taken, and the reasons therefore,

1 including a description of the views expressed. All documents
2 considered in connection with an action shall be identified in such
3 minutes. All minutes and documents of a closed meeting shall remain
4 under seal, subject to release by a majority vote of the commission
5 or order of a court of competent jurisdiction.

6 (6) Financing of the commission.

7 (a) The commission shall pay, or provide for the payment of, the
8 reasonable expenses of its establishment, organization, and ongoing
9 activities.

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

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

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

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

32 (7) Qualified immunity, defense, and indemnification.

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

1 responsibilities; provided, that nothing in this subsection shall be
2 construed to protect any such person from suit and/or liability for
3 any damage, loss, injury, or liability caused by the intentional or
4 willful or wanton misconduct of that person.

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

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

27 NEW SECTION. **Sec. 10.** (1) The commission shall provide for the
28 development, maintenance, operation, and utilization of a coordinated
29 database and reporting system containing licensure, adverse action,
30 and investigative information on all licensed individuals in member
31 states.

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

36 (a) Identifying information;

37 (b) Licensure data;

38 (c) Adverse actions against a license or privilege to practice;

1 (d) Nonconfidential information related to alternative program
2 participation;

3 (e) Any denial of application for licensure, and the reason(s)
4 for such denial;

5 (f) Current significant investigative information; and

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

8 (3) Investigative information pertaining to a licensee in any
9 member state will only be available to other member states.

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

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

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

20 NEW SECTION. **Sec. 11.** (1) The commission shall promulgate
21 reasonable rules in order to effectively and efficiently achieve the
22 purpose of the compact. Notwithstanding the foregoing, in the event
23 the commission exercises its rule-making authority in a manner that
24 is beyond the scope of the purposes of the compact, or the powers
25 granted hereunder, then such an action by the commission shall be
26 invalid and have no force or effect.

27 (2) The commission shall exercise its rule-making powers pursuant
28 to the criteria set forth in this section and the rules adopted
29 thereunder. Rules and amendments shall become binding as of the date
30 specified in each rule or amendment.

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

36 (4) Rules or amendments to the rules shall be adopted at a
37 regular or special meeting of the commission.

38 (5) Prior to promulgation and adoption of a final rule or rules
39 by the commission, and at least 30 days in advance of the meeting at

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

3 (a) On the website of the commission or other publicly accessible
4 platform; and

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

9 (6) The notice of proposed rule making shall include:

10 (a) The proposed time, date, and location of the meeting in which
11 the rule will be considered and voted upon;

12 (b) The text of the proposed rule or amendment and the reason for
13 the proposed rule;

14 (c) A request for comments on the proposed rule from any
15 interested person; and

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

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

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

25 (a) At least 25 persons;

26 (b) A state or federal governmental subdivision or agency; or

27 (c) An association having at least 25 members.

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

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

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

1 (c) All hearings will be recorded. A copy of the recording will
2 be made available on request.

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

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

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

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

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

24 (a) Meet an imminent threat to public health, safety, or welfare;

25 (b) Prevent a loss of commission or member state funds;

26 (c) Meet a deadline for the promulgation of an administrative
27 rule that is established by federal law or rule; or

28 (d) Protect public health and safety.

29 (14) The commission or an authorized committee of the commission
30 may direct revisions to a previously adopted rule or amendment for
31 purposes of correcting typographical errors, errors in format, errors
32 in consistency, or grammatical errors. Public notice of any revisions
33 shall be posted on the website of the commission. The revision shall
34 be subject to challenge by any person for a period of 30 days after
35 posting. The revision may be challenged only on grounds that the
36 revision results in a material change to a rule. A challenge shall be
37 made in writing and delivered to the chair of the commission prior to
38 the end of the notice period. If no challenge is made, the revision
39 will take effect without further action. If the revision is

1 challenged, the revision may not take effect without the approval of
2 the commission.

3 NEW SECTION. **Sec. 12.** (1) Oversight.

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

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

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

18 (2) Default, technical assistance, and termination. If the
19 commission determines that a member state has defaulted in the
20 performance of its obligations or responsibilities under this compact
21 or the promulgated rules, the commission shall:

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

26 (b) Provide remedial training and specific technical assistance
27 regarding the default.

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

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

1 (5) A state that has been terminated is responsible for all
2 assessments, obligations, and liabilities incurred through the
3 effective date of termination, including obligations that extend
4 beyond the effective date of termination.

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

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

14 (8) Dispute resolution.

15 (a) Upon request by a member state, the commission shall attempt
16 to resolve disputes related to the compact that arise among member
17 states and between member and nonmember states.

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

20 (9) Enforcement.

21 (a) The commission, in the reasonable exercise of its discretion,
22 shall enforce the provisions and rules of this compact.

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

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

35 NEW SECTION. **Sec. 13.** (1) The compact shall come into effect on
36 the date on which the compact statute is enacted into law in the 10th
37 member state. The provisions, which become effective at that time,
38 shall be limited to the powers granted to the commission relating to
39 assembly and the promulgation of rules. Thereafter, the commission

1 shall meet and exercise rule-making powers necessary to the
2 implementation and administration of the compact.

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

9 (3) Any member state may withdraw from this compact by enacting a
10 statute repealing the same.

11 (a) A member state's withdrawal shall not take effect until six
12 months after enactment of the repealing statute.

13 (b) Withdrawal shall not affect the continuing requirement of the
14 withdrawing state's professional counseling licensing board to comply
15 with the investigative and adverse action reporting requirements of
16 this compact prior to the effective date of withdrawal.

17 (4) Nothing contained in this compact shall be construed to
18 invalidate or prevent any professional counseling licensure agreement
19 or other cooperative arrangement between a member state and a
20 nonmember state that does not conflict with the provisions of this
21 compact.

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

25 NEW SECTION. **Sec. 14.** This compact shall be liberally construed
26 so as to effectuate the purposes thereof. The provisions of this
27 compact shall be severable and if any phrase, clause, sentence, or
28 provision of this compact is declared to be contrary to the
29 Constitution of any member state or of the United States or the
30 applicability thereof to any government, agency, person, or
31 circumstance is held invalid, the validity of the remainder of this
32 compact and the applicability thereof to any government, agency,
33 person, or circumstance shall not be affected thereby. If this
34 compact shall be held contrary to the Constitution of any member
35 state, the compact shall remain in full force and effect as to the
36 remaining member states and in full force and effect as to the member
37 state affected as to all severable matters.

1 NEW SECTION. **Sec. 15.** (1) A licensee providing professional
2 counseling services in a remote state under the privilege to practice
3 shall adhere to the laws and regulations, including scope of
4 practice, of the remote state.

5 (2) Nothing herein prevents enforcement of any other law of a
6 member state that is not inconsistent with the compact.

7 (3) Any laws in a member state in conflict with the compact are
8 superseded to the extent of the conflict.

9 (4) Any lawful actions of the commission, including all rules and
10 bylaws properly promulgated by the commission, are binding upon the
11 member states.

12 (5) All permissible agreements between the commission and the
13 member states are binding in accordance with their terms.

14 (6) In the event any provision of the compact exceeds the
15 constitutional limits imposed on the legislature of any member state,
16 the provision shall be ineffective to the extent of the conflict with
17 the constitutional provision in question in that member state.

18 NEW SECTION. **Sec. 16.** Sections 1 through 15 of this act
19 constitute a new chapter in Title 18 RCW.

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