

# COUNSELING COMPACT MODEL LEGISLATION

## 1 SECTION 1: PURPOSE

2 The purpose of this Compact is to facilitate interstate practice of Licensed Professional  
3 Counselors with the goal of improving public access to Professional Counseling services.

4 The practice of Professional Counseling occurs in the State where the client is located at the  
5 time of the counseling services. The Compact preserves the regulatory authority of States to  
6 protect public health and safety through the current system of State licensure.

7 This Compact is designed to achieve the following objectives:

- 8 A. Increase public access to Professional Counseling services by providing for the  
9 mutual recognition of other Member State licenses;
- 10 B. Enhance the States' ability to protect the public's health and safety;
- 11 C. Encourage the cooperation of Member States in regulating multistate practice for  
12 Licensed Professional Counselors;
- 13 D. Support spouses of relocating Active Duty Military personnel;
- 14 E. Enhance the exchange of licensure, investigative, and disciplinary information among  
15 Member States;
- 16 F. Allow for the use of Telehealth technology to facilitate increased access to  
17 Professional Counseling services;
- 18 G. Support the uniformity of Professional Counseling licensure requirements throughout  
19 the States to promote public safety and public health benefits;
- 20 H. Invest all Member States with the authority to hold a Licensed Professional Counselor  
21 accountable for meeting all State practice laws in the State in which the client is  
22 located at the time care is rendered through the mutual recognition of Member State  
23 licenses;
- 24 I. Eliminate the necessity for licenses in multiple States; and
- 25 J. Provide opportunities for interstate practice by Licensed Professional Counselors who  
26 meet uniform licensure requirements.

27 **SECTION 2. DEFINITIONS**

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

30 A. **“Active Duty Military”** means full-time duty status in the active uniformed service of the  
31 United States, including members of the National Guard and Reserve on active duty orders  
32 pursuant to 10 U.S.C. Chapters 1209 and 1211.

33 B. **“Adverse Action”** means any administrative, civil, equitable or criminal action permitted  
34 by a State’s laws which is imposed by a licensing board or other authority against a  
35 Licensed Professional Counselor, including actions against an individual’s license or  
36 Privilege to Practice such as revocation, suspension, probation, monitoring of the licensee,  
37 limitation on the licensee’s practice, or any other Encumbrance on licensure affecting a  
38 Licensed Professional Counselor’s authorization to practice, including issuance of a cease  
39 and desist action.

40 C. **“Alternative Program”** means a non-disciplinary monitoring or practice remediation  
41 process approved by a Professional Counseling Licensing Board to address Impaired  
42 Practitioners.

43 D. **“Continuing Competence/Education”** means a requirement, as a condition of license  
44 renewal, to provide evidence of participation in, and/or completion of, educational and  
45 professional activities relevant to practice or area of work.

46 E. **“Counseling Compact Commission” or “Commission”** means the national  
47 administrative body whose membership consists of all States that have enacted the  
48 Compact.

49 F. **“Current Significant Investigative Information”** means:

50 1. Investigative Information that a Licensing Board, after a preliminary inquiry that  
51 includes notification and an opportunity for the Licensed Professional Counselor  
52 to respond, if required by State law, has reason to believe is not groundless and,  
53 if proved true, would indicate more than a minor infraction; or

54 2. Investigative Information that indicates that the Licensed Professional Counselor  
55 represents an immediate threat to public health and safety regardless of whether

56 the Licensed Professional Counselor has been notified and had an opportunity to  
57 respond.

58 G. **“Data System”** means a repository of information about Licensees, including, but not  
59 limited to, continuing education, examination, licensure, investigative, Privilege to Practice  
60 and Adverse Action information.

61 H. **“Encumbered License”** means a license in which an Adverse Action restricts the  
62 practice of licensed Professional Counseling by the Licensee and said Adverse Action has  
63 been reported to the National Practitioners Data Bank (NPDB).

64 I. **“Encumbrance”** means a revocation or suspension of, or any limitation on, the full and  
65 unrestricted practice of Licensed Professional Counseling by a Licensing Board.

66 J. **“Executive Committee”** means a group of directors elected or appointed to act on behalf  
67 of, and within the powers granted to them by, the Commission.

68 K. **“Home State”** means the Member State that is the Licensee’s primary State of residence.

69 L. **“Impaired Practitioner”** means an individual who has a condition(s) that may impair their  
70 ability to practice as a Licensed Professional Counselor without some type of intervention  
71 and may include, but are not limited to, alcohol and drug dependence, mental health  
72 impairment, and neurological or physical impairments.

73 M. **“Investigative Information”** means information, records, and documents received or  
74 generated by a Professional Counseling Licensing Board pursuant to an investigation.

75 N. **“Jurisprudence Requirement”** if required by a Member State, means the assessment of  
76 an individual’s knowledge of the laws and Rules governing the practice of Professional  
77 Counseling in a State.

78 O. **“Licensed Professional Counselor”** means a counselor licensed by a Member State,  
79 regardless of the title used by that State, to independently assess, diagnose, and treat  
80 behavioral health conditions.

81 P. **“Licensee”** means an individual who currently holds an authorization from the State to  
82 practice as a Licensed Professional Counselor.

83 Q. **“Licensing Board”** means the agency of a State, or equivalent, that is responsible for the  
84 licensing and regulation of Licensed Professional Counselors.

- 85 R. **“Member State”** means a State that has enacted the Compact.
- 86 S. **“Privilege to Practice”** means a legal authorization, which is equivalent to a license,  
87 permitting the practice of Professional Counseling in a Remote State.
- 88 T. **“Professional Counseling”** means the assessment, diagnosis, and treatment of  
89 behavioral health conditions by a Licensed Professional Counselor.
- 90 U. **“Remote State”** means a Member State other than the Home State, where a Licensee is  
91 exercising or seeking to exercise the Privilege to Practice.
- 92 V. **“Rule”** means a regulation promulgated by the Commission that has the force of law.
- 93 W. **“Single State License”** means a Licensed Professional Counselor license issued by a  
94 Member State that authorizes practice only within the issuing State and does not include a  
95 Privilege to Practice in any other Member State.
- 96 X. **“State”** means any state, commonwealth, district, or territory of the United States of  
97 America that regulates the practice of Professional Counseling.
- 98 Y. **“Telehealth”** means the application of telecommunication technology to deliver  
99 Professional Counseling services remotely to assess, diagnose, and treat behavioral  
100 health conditions.
- 101 Z. **“Unencumbered License”** means a license that authorizes a Licensed Professional  
102 Counselor to engage in the full and unrestricted practice of Professional Counseling.

### 103 **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

- 104 A. To Participate in the Compact, a State must currently:
- 105 1. License and regulate Licensed Professional Counselors;
- 106 2. Require Licensees to pass a nationally recognized exam approved by the  
107 Commission;
- 108 3. Require Licensees to have a 60 semester-hour (or 90 quarter-hour) master’s  
109 degree in counseling or 60 semester-hours (or 90 quarter-hours) of graduate  
110 course work including the following topic areas:
- 111 a. Professional Counseling Orientation and Ethical Practice;

- 112                   b. Social and Cultural Diversity;
- 113                   c. Human Growth and Development;
- 114                   d. Career Development;
- 115                   e. Counseling and Helping Relationships;
- 116                   f. Group Counseling and Group Work;
- 117                   g. Diagnosis and Treatment; Assessment and Testing;
- 118                   h. Research and Program Evaluation; and
- 119                   i. Other areas as determined by the Commission.
- 120           4. Require Licensees to complete a supervised postgraduate professional experience
- 121           as defined by the Commission;
- 122           5. Have a mechanism in place for receiving and investigating complaints about
- 123           Licensees.
- 124   B. A Member State shall:
- 125           1. Participate fully in the Commission's Data System, including using the
- 126           Commission's unique identifier as defined in Rules;
- 127           2. Notify the Commission, in compliance with the terms of the Compact and Rules, of
- 128           any Adverse Action or the availability of Investigative Information regarding a
- 129           Licensee;
- 130           3. Implement or utilize procedures for considering the criminal history records of
- 131           applicants for an initial Privilege to Practice. These procedures shall include the
- 132           submission of fingerprints or other biometric-based information by applicants for
- 133           the purpose of obtaining an applicant's criminal history record information from the
- 134           Federal Bureau of Investigation and the agency responsible for retaining that
- 135           State's criminal records;
- 136                   a. A member state must fully implement a criminal background check
- 137                   requirement, within a time frame established by rule, by receiving the
- 138                   results of the Federal Bureau of Investigation record search and shall use

- 139 the results in making licensure decisions.
- 140 b. Communication between a Member State, the Commission and among  
141 Member States regarding the verification of eligibility for licensure through  
142 the Compact shall not include any information received from the Federal  
143 Bureau of Investigation relating to a federal criminal records check  
144 performed by a Member State under Public Law 92-544.
- 145 4. Comply with the Rules of the Commission;
- 146 5. Require an applicant to obtain or retain a license in the Home State and meet  
147 the Home State's qualifications for licensure or renewal of licensure, as well as  
148 all other applicable State laws;
- 149 6. Grant the Privilege to Practice to a Licensee holding a valid Unencumbered  
150 License in another Member State in accordance with the terms of the Compact  
151 and Rules; and
- 152 7. Provide for the attendance of the State's commissioner to the Counseling  
153 Compact Commission meetings.
- 154 C. Member States may charge a fee for granting the Privilege to Practice.
- 155 D. Individuals not residing in a Member State shall continue to be able to apply for a Member  
156 State's Single State License as provided under the laws of each Member State. However,  
157 the Single State License granted to these individuals shall not be recognized as granting a  
158 Privilege to Practice Professional Counseling in any other Member State.
- 159 E. Nothing in this Compact shall affect the requirements established by a Member State for the  
160 issuance of a Single State License.
- 161 F. A license issued to a Licensed Professional Counselor by a Home State to a resident in  
162 that State shall be recognized by each Member State as authorizing a Licensed  
163 Professional Counselor to practice Professional Counseling, under a Privilege to Practice,  
164 in each Member State.

165 **SECTION 4. PRIVILEGE TO PRACTICE**

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

- 168 1. Hold a license in the Home State;
- 169 2. Have a valid United States Social Security Number or National Practitioner  
170 Identifier;
- 171 3. Be eligible for a Privilege to Practice in any Member State in accordance with  
172 Section 4(D), (G) and (H);
- 173 4. Have not had any Encumbrance or restriction against any license or Privilege to  
174 Practice within the previous two (2) years;
- 175 5. Notify the Commission that the Licensee is seeking the Privilege to Practice within  
176 a Remote State(s);
- 177 6. Pay any applicable fees, including any State fee, for the Privilege to Practice;
- 178 7. Meet any Continuing Competence/Education requirements established by the  
179 Home State;
- 180 8. Meet any Jurisprudence Requirements established by the Remote State(s) in  
181 which the Licensee is seeking a Privilege to Practice; and
- 182 9. Report to the Commission any Adverse Action, Encumbrance, or restriction on  
183 license taken by any non-Member State within 30 days from the date the action is  
184 taken.

185 B. The Privilege to Practice is valid until the expiration date of the Home State license. The  
186 Licensee must comply with the requirements of Section 4(A) to maintain the Privilege to  
187 Practice in the Remote State.

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

190 D. A Licensee providing Professional Counseling services in a Remote State is subject to  
191 that State's regulatory authority. A Remote State may, in accordance with due process  
192 and that State's laws, remove a Licensee's Privilege to Practice in the Remote State for a

193 specific period of time, impose fines, and/or take any other necessary actions to protect  
194 the health and safety of its citizens. The Licensee may be ineligible for a Privilege to  
195 Practice in any Member State until the specific time for removal has passed and all fines  
196 are paid.

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

199 1. The Home State license is no longer encumbered; and

200 2. Have not had any Encumbrance or restriction against any license or Privilege to  
201 Practice within the previous two (2) years.

202 F. Once an Encumbered License in the Home State is restored to good standing, the Licensee  
203 must meet the requirements of Section 4(A) to obtain a Privilege to Practice in any Remote  
204 State.

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

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

209 2. All fines have been paid; and

210 3. Have not had any Encumbrance or restriction against any license or Privilege to  
211 Practice within the previous two (2) years.

212 H. Once the requirements of Section 4(G) have been met, the Licensee must meet the  
213 requirements in Section 4(A) to obtain a Privilege to Practice in a Remote State.

214 **SECTION 5: OBTAINING A NEW HOME STATE LICENSE BASED ON A**  
215 **PRIVILEGE TO PRACTICE**

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

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

- 220 1. The Licensed Professional Counselor shall file an application for obtaining a new  
221 Home State license based on a Privilege to Practice, pay all applicable fees, and  
222 notify the current and new Home State in accordance with applicable Rules adopted  
223 by the Commission.
- 224 2. Upon receipt of an application for obtaining a new Home State license by virtue of a  
225 Privilege to Practice, the new Home State shall verify that the Licensed Professional  
226 Counselor meets the pertinent criteria outlined in Section 4 via the Data System,  
227 without need for primary source verification except for:
- 228 a. a Federal Bureau of Investigation fingerprint based criminal background  
229 check if not previously performed or updated pursuant to applicable rules  
230 adopted by the Commission in accordance with Public Law 92-544;
- 231 b. other criminal background check as required by the new Home State; and
- 232 c. completion of any requisite Jurisprudence Requirements of the new Home  
233 State.
- 234 3. The former Home State shall convert the former Home State license into a Privilege  
235 to Practice once the new Home State has activated the new Home State license in  
236 accordance with applicable Rules adopted by the Commission.
- 237 4. Notwithstanding any other provision of this Compact, if the Licensed Professional  
238 Counselor cannot meet the criteria in Section 4, the new Home State may apply its  
239 requirements for issuing a new Single State License.
- 240 5. The Licensed Professional Counselor shall pay all applicable fees to the new Home  
241 State in order to be issued a new Home State license.
- 242 C. If a Licensed Professional Counselor changes Primary State of Residence by moving from a  
243 Member State to a non-Member State, or from a non-Member State to a Member State, the  
244 State criteria shall apply for issuance of a Single State License in the new State.
- 245 D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State  
246 License in multiple States, however for the purposes of this Compact, a Licensee shall have  
247 only one Home State license.
- 248 E. Nothing in this Compact shall affect the requirements established by a Member State for the  
249 issuance of a Single State License.

250 **SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

251 Active Duty Military personnel, or their spouse, shall designate a Home State where the  
252 individual has a current license in good standing. The individual may retain the Home State  
253 designation during the period the service member is on active duty. Subsequent to designating  
254 a Home State, the individual shall only change their Home State through application for  
255 licensure in the new State, or through the process outlined in Section 5.

256 **SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH**

- 257 A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a  
258 Home State in accordance with Section 3 and under Rules promulgated by the Commission,  
259 to practice Professional Counseling in any Member State via Telehealth under a Privilege to  
260 Practice as provided in the Compact and Rules promulgated by the Commission.
- 261 B. A Licensee providing Professional Counseling services in a Remote State under the  
262 Privilege to Practice shall adhere to the laws and regulations of the Remote State.

263 **SECTION 8. ADVERSE ACTIONS**

- 264 A. In addition to the other powers conferred by State law, a Remote State shall have the  
265 authority, in accordance with existing State due process law, to:
- 266 1. Take Adverse Action against a Licensed Professional Counselor's Privilege to  
267 Practice within that Member State, and
  - 268 2. Issue subpoenas for both hearings and investigations that require the attendance  
269 and testimony of witnesses as well as the production of evidence. Subpoenas  
270 issued by a Licensing Board in a Member State for the attendance and testimony of  
271 witnesses or the production of evidence from another Member State shall be  
272 enforced in the latter State by any court of competent jurisdiction, according to the  
273 practice and procedure of that court applicable to subpoenas issued in proceedings  
274 pending before it. The issuing authority shall pay any witness fees, travel expenses,  
275 mileage, and other fees required by the service statutes of the State in which the  
276 witnesses or evidence are located.
  - 277 3. Only the Home State shall have the power to take Adverse Action against a  
278 Licensed Professional Counselor's license issued by the Home State.

- 279 B. For purposes of taking Adverse Action, the Home State shall give the same priority and  
280 effect to reported conduct received from a Member State as it would if the conduct had  
281 occurred within the Home State. In so doing, the Home State shall apply its own State  
282 laws to determine appropriate action.
- 283 C. The Home State shall complete any pending investigations of a Licensed Professional  
284 Counselor who changes primary State of residence during the course of the investigations.  
285 The Home State shall also have the authority to take appropriate action(s) and shall  
286 promptly report the conclusions of the investigations to the administrator of the Data  
287 System. The administrator of the coordinated licensure information system shall promptly  
288 notify the new Home State of any Adverse Actions.
- 289 D. A Member State, if otherwise permitted by State law, may recover from the affected  
290 Licensed Professional Counselor the costs of investigations and dispositions of cases  
291 resulting from any Adverse Action taken against that Licensed Professional Counselor.
- 292 E. A Member State may take Adverse Action based on the factual findings of the Remote  
293 State, provided that the Member State follows its own procedures for taking the Adverse  
294 Action.
- 295 F. Joint Investigations:
- 296 1. In addition to the authority granted to a Member State by its respective Professional  
297 Counseling practice act or other applicable State law, any Member State may  
298 participate with other Member States in joint investigations of Licensees.
- 299 2. Member States shall share any investigative, litigation, or compliance materials  
300 in furtherance of any joint or individual investigation initiated under the  
301 Compact.
- 302 G. If Adverse Action is taken by the Home State against the license of a Licensed  
303 Professional Counselor, the Licensed Professional Counselor's Privilege to Practice in all  
304 other Member States shall be deactivated until all Encumbrances have been removed from  
305 the State license. All Home State disciplinary orders that impose Adverse Action against  
306 the license of a Licensed Professional Counselor shall include a Statement that the  
307 Licensed Professional Counselor's Privilege to Practice is deactivated in all Member States  
308 during the pendency of the order.

309 H. If a Member State takes Adverse Action, it shall promptly notify the administrator of the  
310 Data System. The administrator of the Data System shall promptly notify the Home State  
311 of any Adverse Actions by Remote States.

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

## 314 **SECTION 9. ESTABLISHMENT OF COUNSELING COMPACT COMMISSION**

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

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

318 2. Venue is proper and judicial proceedings by or against the Commission shall be  
319 brought solely and exclusively in a court of competent jurisdiction where the principal  
320 office of the Commission is located. The Commission may waive venue and  
321 jurisdictional defenses to the extent it adopts or consents to participate in alternative  
322 dispute resolution proceedings.

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

324 B. Membership, Voting, and Meetings

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

327 2. The delegate shall be either:

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

330 b. An administrator of the Licensing Board.

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

333 4. The Member State Licensing Board shall fill any vacancy occurring on the  
334 Commission within 60 days.

335 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of

336 Rules and creation of bylaws and shall otherwise have an opportunity to participate  
337 in the business and affairs of the Commission.

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

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

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

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

346 1. Establish the fiscal year of the Commission;

347 2. Establish bylaws;

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

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

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

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

356 7. Purchase and maintain insurance and bonds;

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

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

- 363 10. Accept any and all appropriate donations and grants of money, equipment, supplies,  
364 materials, and services, and to receive, utilize, and dispose of the same; provided  
365 that at all times the Commission shall avoid any appearance of impropriety and/or  
366 conflict of interest;
- 367 11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold,  
368 improve or use, any property, real, personal or mixed; provided that at all times the  
369 Commission shall avoid any appearance of impropriety;
- 370 12. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of  
371 any property real, personal, or mixed;
- 372 13. Establish a budget and make expenditures;
- 373 14. Borrow money;
- 374 15. Appoint committees, including standing committees composed of members, State  
375 regulators, State legislators or their representatives, and consumer representatives,  
376 and such other interested persons as may be designated in this Compact and the  
377 bylaws;
- 378 16. Provide and receive information from, and cooperate with, law enforcement  
379 agencies;
- 380 17. Establish and elect an Executive Committee; and
- 381 18. Perform such other functions as may be necessary or appropriate to achieve the  
382 purposes of this Compact consistent with the State regulation of Professional  
383 Counseling licensure and practice.

384 D. The Executive Committee

- 385 1. The Executive Committee shall have the power to act on behalf of the Commission  
386 according to the terms of this Compact.
- 387 2. The Executive Committee shall be composed of up to eleven (11) members:
- 388 a. Seven voting members who are elected by the Commission from the current  
389 membership of the Commission; and
- 390 b. Up to four (4) ex-officio, nonvoting members from four (4) recognized national

- 391 professional counselor organizations.
- 392 c. The ex-officio members will be selected by their respective organizations.
- 393 3. The Commission may remove any member of the Executive Committee as provided  
394 in bylaws.
- 395 4. The Executive Committee shall meet at least annually.
- 396 5. The Executive Committee shall have the following duties and responsibilities:
- 397 a. Recommend to the entire Commission changes to the Rules or bylaws,  
398 changes to this Compact legislation, fees paid by Compact Member States  
399 such as annual dues, and any Commission Compact fee charged to  
400 Licensees for the Privilege to Practice;
- 401 b. Ensure Compact administration services are appropriately provided,  
402 contractual or otherwise;
- 403 c. Prepare and recommend the budget;
- 404 d. Maintain financial records on behalf of the Commission;
- 405 e. Monitor Compact compliance of Member States and provide compliance  
406 reports to the Commission;
- 407 f. Establish additional committees as necessary; and
- 408 g. Other duties as provided in Rules or bylaws.

409 E. Meetings of the Commission

- 410 1. All meetings shall be open to the public, and public notice of meetings shall be given  
411 in the same manner as required under the Rulemaking provisions in Section 9.
- 412 2. The Commission or the Executive Committee or other committees of the  
413 Commission may convene in a closed, non-public meeting if the Commission or  
414 Executive Committee or other committees of the Commission must discuss:
- 415 a. Non-compliance of a Member State with its obligations under the Compact;

- 416           b. The employment, compensation, discipline or other matters, practices or  
417           procedures related to specific employees or other matters related to the  
418           Commission's internal personnel practices and procedures;
- 419           c. Current, threatened, or reasonably anticipated litigation;
- 420           d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or  
421           real estate;
- 422           e. Accusing any person of a crime or formally censuring any person;
- 423           f. Disclosure of trade secrets or commercial or financial information that is  
424           privileged or confidential;
- 425           g. Disclosure of information of a personal nature where disclosure would  
426           constitute a clearly unwarranted invasion of personal privacy;
- 427           h. Disclosure of investigative records compiled for law enforcement purposes;
- 428           i. Disclosure of information related to any investigative reports prepared by or  
429           on behalf of or for use of the Commission or other committee charged with  
430           responsibility of investigation or determination of compliance issues pursuant  
431           to the Compact; or
- 432           j. Matters specifically exempted from disclosure by federal or Member State  
433           statute.

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

437           4. The Commission shall keep minutes that fully and clearly describe all matters  
438           discussed in a meeting and shall provide a full and accurate summary of actions  
439           taken, and the reasons therefore, including a description of the views expressed. All  
440           documents considered in connection with an action shall be identified in such  
441           minutes. All minutes and documents of a closed meeting shall remain under seal,  
442           subject to release by a majority vote of the Commission or order of a court of  
443           competent jurisdiction.

444           F. Financing of the Commission

- 445 1. The Commission shall pay, or provide for the payment of, the reasonable expenses  
446 of its establishment, organization, and ongoing activities.
- 447 2. The Commission may accept any and all appropriate revenue sources, donations,  
448 and grants of money, equipment, supplies, materials, and services.
- 449 3. The Commission may levy on and collect an annual assessment from each Member  
450 State or impose fees on other parties to cover the cost of the operations and  
451 activities of the Commission and its staff, which must be in a total amount sufficient  
452 to cover its annual budget as approved each year for which revenue is not provided  
453 by other sources. The aggregate annual assessment amount shall be allocated  
454 based upon a formula to be determined by the Commission, which shall promulgate  
455 a Rule binding upon all Member States.
- 456 4. The Commission shall not incur obligations of any kind prior to securing the funds  
457 adequate to meet the same; nor shall the Commission pledge the credit of any of the  
458 Member States, except by and with the authority of the Member State.
- 459 5. The Commission shall keep accurate accounts of all receipts and disbursements.  
460 The receipts and disbursements of the Commission shall be subject to the audit and  
461 accounting procedures established under its bylaws. However, all receipts and  
462 disbursements of funds handled by the Commission shall be audited yearly by a  
463 certified or licensed public accountant, and the report of the audit shall be included in  
464 and become part of the annual report of the Commission.

465 G. Qualified Immunity, Defense, and Indemnification

- 466 1. The members, officers, executive director, employees and representatives of the  
467 Commission shall be immune from suit and liability, either personally or in their  
468 official capacity, for any claim for damage to or loss of property or personal injury or  
469 other civil liability caused by or arising out of any actual or alleged act, error or  
470 omission that occurred, or that the person against whom the claim is made had a  
471 reasonable basis for believing occurred within the scope of Commission  
472 employment, duties or responsibilities; provided that nothing in this paragraph shall  
473 be construed to protect any such person from suit and/or liability for any damage,  
474 loss, injury, or liability caused by the intentional or willful or wanton misconduct of  
475 that person.

- 476 2. The Commission shall defend any member, officer, executive director, employee or  
477 representative of the Commission in any civil action seeking to impose liability arising  
478 out of any actual or alleged act, error, or omission that occurred within the scope of  
479 Commission employment, duties, or responsibilities, or that the person against whom  
480 the claim is made had a reasonable basis for believing occurred within the scope of  
481 Commission employment, duties, or responsibilities; provided that nothing herein  
482 shall be construed to prohibit that person from retaining his or her own counsel; and  
483 provided further, that the actual or alleged act, error, or omission did not result from  
484 that person's intentional or willful or wanton misconduct.
- 485 3. The Commission shall indemnify and hold harmless any member, officer, executive  
486 director, employee, or representative of the Commission for the amount of any  
487 settlement or judgment obtained against that person arising out of any actual or  
488 alleged act, error, or omission that occurred within the scope of Commission  
489 employment, duties, or responsibilities, or that such person had a reasonable basis  
490 for believing occurred within the scope of Commission employment, duties, or  
491 responsibilities, provided that the actual or alleged act, error, or omission did not  
492 result from the intentional or willful or wanton misconduct of that person.

493 **SECTION 10. DATA SYSTEM**

- 494 A. The Commission shall provide for the development, maintenance, operation, and utilization  
495 of a coordinated database and reporting system containing licensure, Adverse Action, and  
496 Investigative Information on all licensed individuals in Member States.
- 497 B. Notwithstanding any other provision of State law to the contrary, a Member State shall  
498 submit a uniform data set to the Data System on all individuals to whom this Compact is  
499 applicable as required by the Rules of the Commission, including:
- 500 1. Identifying information;
- 501 2. Licensure data;
- 502 3. Adverse Actions against a license or Privilege to Practice;
- 503 4. Non-confidential information related to Alternative Program participation;
- 504 5. Any denial of application for licensure, and the reason(s) for such denial;

- 505           6. Current Significant Investigative Information; and
- 506           7. Other information that may facilitate the administration of this Compact, as
- 507           determined by the Rules of the Commission.
- 508 C. Investigative Information pertaining to a Licensee in any Member State will only be available
- 509       to other Member States.
- 510 D. The Commission shall promptly notify all Member States of any Adverse Action taken
- 511       against a Licensee or an individual applying for a license. Adverse Action information
- 512       pertaining to a Licensee in any Member State will be available to any other Member State.
- 513 E. Member States contributing information to the Data System may designate information that
- 514       may not be shared with the public without the express permission of the contributing State.
- 515 F. Any information submitted to the Data System that is subsequently required to be expunged
- 516       by the laws of the Member State contributing the information shall be removed from the
- 517       Data System.

518       **SECTION 11. RULEMAKING**

- 519 A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently
- 520       achieve the purpose of the Compact. Notwithstanding the foregoing, in the event the
- 521       Commission exercises its Rulemaking authority in a manner that is beyond the scope of the
- 522       purposes of the Compact, or the powers granted hereunder, then such an action by the
- 523       Commission shall be invalid and have no force or effect.
- 524 B. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in
- 525       this Section and the Rules adopted thereunder. Rules and amendments shall become
- 526       binding as of the date specified in each Rule or amendment.
- 527 C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a
- 528       statute or resolution in the same manner used to adopt the Compact within four (4) years of
- 529       the date of adoption of the Rule, then such Rule shall have no further force and effect in any
- 530       Member State.
- 531 D. Rules or amendments to the Rules shall be adopted at a regular or special meeting of the
- 532       Commission.

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

- 536 1. On the website of the Commission or other publicly accessible platform; and
- 537 2. On the website of each Member State Professional Counseling Licensing Board or  
538 other publicly accessible platform or the publication in which each State would  
539 otherwise publish proposed Rules.

540 F. The Notice of Proposed Rulemaking shall include:

- 541 1. The proposed time, date, and location of the meeting in which the Rule will be  
542 considered and voted upon;
- 543 2. The text of the proposed Rule or amendment and the reason for the proposed Rule;
- 544 3. A request for comments on the proposed Rule from any interested person; and
- 545 4. The manner in which interested persons may submit notice to the Commission of  
546 their intention to attend the public hearing and any written comments.

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

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

- 551 1. At least twenty-five (25) persons;
- 552 2. A State or federal governmental subdivision or agency; or
- 553 3. An association having at least twenty-five (25) members.

554 I. If a hearing is held on the proposed Rule or amendment, the Commission shall publish the  
555 place, time, and date of the scheduled public hearing. If the hearing is held via electronic  
556 means, the Commission shall publish the mechanism for access to the electronic hearing.

- 557 1. All persons wishing to be heard at the hearing shall notify the executive director of  
558 the Commission or other designated member in writing of their desire to appear and

559 testify at the hearing not less than five (5) business days before the scheduled date  
560 of the hearing.

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

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

565 4. Nothing in this section shall be construed as requiring a separate hearing on each  
566 Rule. Rules may be grouped for the convenience of the Commission at hearings  
567 required by this section.

568 J. Following the scheduled hearing date, or by the close of business on the scheduled hearing  
569 date if the hearing was not held, the Commission shall consider all written and oral  
570 comments received.

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

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

576 M. Upon determination that an emergency exists, the Commission may consider and adopt an  
577 emergency Rule without prior notice, opportunity for comment, or hearing, provided that the  
578 usual Rulemaking procedures provided in the Compact and in this section shall be  
579 retroactively applied to the Rule as soon as reasonably possible, in no event later than  
580 ninety (90) days after the effective date of the Rule. For the purposes of this provision, an  
581 emergency Rule is one that must be adopted immediately in order to:

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

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

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

586 4. Protect public health and safety.

587 N. The Commission or an authorized committee of the Commission may direct revisions to a  
588 previously adopted Rule or amendment for purposes of correcting typographical errors,  
589 errors in format, errors in consistency, or grammatical errors. Public notice of any revisions  
590 shall be posted on the website of the Commission. The revision shall be subject to challenge  
591 by any person for a period of thirty (30) days after posting. The revision may be challenged  
592 only on grounds that the revision results in a material change to a Rule. A challenge shall be  
593 made in writing and delivered to the chair of the Commission prior to the end of the notice  
594 period. If no challenge is made, the revision will take effect without further action. If the  
595 revision is challenged, the revision may not take effect without the approval of the  
596 Commission.

## 597 **SECTION 12. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

### 598 A. Oversight

- 599 1. The executive, legislative, and judicial branches of State government in each  
600 Member State shall enforce this Compact and take all actions necessary and  
601 appropriate to effectuate the Compact's purposes and intent. The provisions of this  
602 Compact and the Rules promulgated hereunder shall have standing as statutory law.
- 603 2. All courts shall take judicial notice of the Compact and the Rules in any judicial or  
604 administrative proceeding in a Member State pertaining to the subject matter of this  
605 Compact which may affect the powers, responsibilities, or actions of the  
606 Commission.
- 607 3. The Commission shall be entitled to receive service of process in any such  
608 proceeding and shall have standing to intervene in such a proceeding for all  
609 purposes. Failure to provide service of process to the Commission shall render a  
610 judgment or order void as to the Commission, this Compact, or promulgated Rules.

### 611 B. Default, Technical Assistance, and Termination

- 612 1. If the Commission determines that a Member State has defaulted in the performance  
613 of its obligations or responsibilities under this Compact or the promulgated Rules, the  
614 Commission shall:

- 615                   a. Provide written notice to the defaulting State and other Member States of the  
616                   nature of the default, the proposed means of curing the default and/or any  
617                   other action to be taken by the Commission; and
- 618                   b. Provide remedial training and specific technical assistance regarding the  
619                   default.
- 620 C. If a State in default fails to cure the default, the defaulting State may be terminated from the  
621 Compact upon an affirmative vote of a majority of the Member States, and all rights,  
622 privileges and benefits conferred by this Compact may be terminated on the effective date of  
623 termination. A cure of the default does not relieve the offending State of obligations or  
624 liabilities incurred during the period of default.
- 625 D. Termination of membership in the Compact shall be imposed only after all other means of  
626 securing compliance have been exhausted. Notice of intent to suspend or terminate shall be  
627 given by the Commission to the governor, the majority and minority leaders of the defaulting  
628 State's legislature, and each of the Member States.
- 629 E. A State that has been terminated is responsible for all assessments, obligations, and  
630 liabilities incurred through the effective date of termination, including obligations that extend  
631 beyond the effective date of termination.
- 632 F. The Commission shall not bear any costs related to a State that is found to be in default or  
633 that has been terminated from the Compact, unless agreed upon in writing between the  
634 Commission and the defaulting State.
- 635 G. The defaulting State may appeal the action of the Commission by petitioning the U.S.  
636 District Court for the District of Columbia or the federal district where the Commission has its  
637 principal offices. The prevailing member shall be awarded all costs of such litigation,  
638 including reasonable attorney's fees.
- 639 H. Dispute Resolution
- 640                   1. Upon request by a Member State, the Commission shall attempt to resolve disputes  
641                   related to the Compact that arise among Member States and between member and  
642                   non-Member States.

643 2. The Commission shall promulgate a Rule providing for both mediation and binding  
644 dispute resolution for disputes as appropriate.

645 I. Enforcement

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

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

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

657 **SECTION 13. DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT**  
658 **COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT**

659 A. The Compact shall come into effect on the date on which the Compact statute is enacted  
660 into law in the tenth Member State. The provisions, which become effective at that time,  
661 shall be limited to the powers granted to the Commission relating to assembly and the  
662 promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking  
663 powers necessary to the implementation and administration of the Compact.

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

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

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

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

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

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

#### 683 **SECTION 14. CONSTRUCTION AND SEVERABILITY**

684 This Compact shall be liberally construed so as to effectuate the purposes thereof. The  
685 provisions of this Compact shall be severable and if any phrase, clause, sentence or provision  
686 of this Compact is declared to be contrary to the constitution of any Member State or of the  
687 United States or the applicability thereof to any government, agency, person or circumstance is  
688 held invalid, the validity of the remainder of this Compact and the applicability thereof to any  
689 government, agency, person or circumstance shall not be affected thereby. If this Compact shall  
690 be held contrary to the constitution of any Member State, the Compact shall remain in full force  
691 and effect as to the remaining Member States and in full force and effect as to the Member  
692 State affected as to all severable matters.

#### 693 **SECTION 15. BINDING EFFECT OF COMPACT AND OTHER LAWS**

694 A. A Licensee providing Professional Counseling services in a Remote State under the  
695           Privilege to Practice shall adhere to the laws and regulations, including scope of practice, of  
696           the Remote State.

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

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

- 701 D. Any lawful actions of the Commission, including all Rules and bylaws properly  
702 promulgated by the Commission, are binding upon the Member States.
- 703 E. All permissible agreements between the Commission and the Member States are  
704 binding in accordance with their terms.
- 705 F. In the event any provision of the Compact exceeds the constitutional limits imposed on the  
706 legislature of any Member State, the provision shall be ineffective to the extent of the conflict  
707 with the constitutional provision in question in that Member State.