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CS/HB 1521

2022 Legislature

1
2 An act relating to Professional Counselors Licensure
3 Compact; creating s. 491.017, F.S.; creating the
4 Professional Counselors Licensure Compact; providing
5 purposes and objectives; defining terms; specifying
6 requirements for state participation in the compact;
7 specifying duties of member states; specifying that
8 the compact does not affect an individual's ability to
9 apply for, and a member state's ability to grant, a
10 single state license pursuant to the laws of that
11 state; providing construction; providing for
12 recognition of the privilege to practice licensed
13 professional counseling in member states; specifying
14 criteria a licensed professional counselor must meet
15 for the privilege to practice under the compact;
16 providing for the expiration and renewal of the
17 privilege to practice; providing construction;
18 specifying that a licensee with a privilege to
19 practice in a remote state must adhere to the laws and
20 rules of that state; authorizing member states to act
21 on a licensee's privilege to practice under certain
22 circumstances; specifying the consequences and
23 parameters of practice for a licensee whose privilege
24 to practice has been acted on or whose home state
25 license is encumbered; specifying that a licensed

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26 professional counselor may hold a home state license
27 in only one member state at a time; specifying
28 requirements and procedures for changing a home state
29 license designation; providing construction;
30 authorizing active duty military personnel or their
31 spouses to keep their home state designation during
32 active duty; specifying how such individuals may
33 subsequently change their home state license
34 designation; providing for the recognition of the
35 practice of professional counseling through telehealth
36 in member states; specifying that licensees must
37 adhere to the laws and rules of the remote state in
38 which they provide professional counseling through
39 telehealth; authorizing member states to take adverse
40 actions against licensees and issue subpoenas for
41 hearings and investigations under certain
42 circumstances; providing requirements and procedures
43 for adverse action; authorizing member states to
44 engage in joint investigations under certain
45 circumstances; providing that a licensee's privilege
46 to practice must be deactivated in all member states
47 for the duration of an encumbrance imposed by the
48 licensee's home state; providing for notice to the
49 data system and the licensee's home state of any
50 adverse action taken against a licensee; providing

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51 construction; establishing the Counseling Compact
 52 Commission; providing for the jurisdiction and venue
 53 for court proceedings; providing construction;
 54 providing for membership, meetings, and powers of the
 55 commission; specifying powers and duties of the
 56 commission's executive committee; providing for the
 57 financing of the commission; providing commission
 58 members, officers, executive directors, employees, and
 59 representatives immunity from civil liability under
 60 certain circumstances; providing exceptions; requiring
 61 the commission to defend the commission's members,
 62 officers, executive directors, employees, and
 63 representative in civil actions under certain
 64 circumstances; providing construction; requiring the
 65 commission to indemnify and hold harmless such
 66 individuals for any settlement or judgment obtained in
 67 such actions under certain circumstances; providing
 68 for the development of the data system, reporting
 69 procedures, and the exchange of specified information
 70 between member states; requiring the commission to
 71 notify member states of any adverse action taken
 72 against a licensee or applicant for licensure;
 73 authorizing member states to designate as confidential
 74 information provided to the data system; requiring the
 75 commission to remove information from the data system

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76 | under certain circumstances; providing rulemaking
 77 | procedures for the commission; providing for member
 78 | state enforcement of the compact; specifying that the
 79 | compact and commission rules have standing as
 80 | statutory law in member states; specifying that the
 81 | commission is entitled to receive notice of process,
 82 | and has standing to intervene, in certain judicial and
 83 | administrative proceedings; rendering certain
 84 | judgments and orders void as to the commission, the
 85 | compact, or commission rules under certain
 86 | circumstances; providing for defaults and termination
 87 | of compact membership; providing procedures for the
 88 | resolution of certain disputes; providing for
 89 | commission enforcement of the compact; providing for
 90 | remedies; providing construction; providing for
 91 | implementation of, withdrawal from, and amendment to
 92 | the compact; providing construction; specifying that
 93 | licensees practicing in a remote state under the
 94 | compact must adhere to the laws and rules of the
 95 | remote state; providing construction; specifying that
 96 | the compact, commission rules, and commission actions
 97 | are binding on member states; providing construction
 98 | and severability; amending s. 414.065, F.S.;
 99 | conforming a cross-reference; amending s. 456.073,
 100 | F.S.; requiring the Department of Health to report

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101 certain investigative information to the data system;
 102 amending s. 456.076, F.S.; requiring monitoring
 103 contracts for impaired practitioners participating in
 104 treatment programs to contain certain terms; amending
 105 s. 491.003, F.S.; defining the term "licensed
 106 professional counselor"; amending s. 491.004, F.S.;
 107 requiring the Board of Clinical Social Work, Marriage
 108 and Family Therapy, and Mental Health Counseling to
 109 appoint an individual to serve as the state's delegate
 110 on the commission; amending ss. 491.005 and 491.006,
 111 F.S.; exempting certain persons from licensure
 112 requirements; amending s. 491.009, F.S.; authorizing
 113 certain disciplinary action under the compact for
 114 specified prohibited acts; amending s. 768.28, F.S.;
 115 designating the state delegate and other members or
 116 employees of the commission as state agents for the
 117 purpose of applying waivers of sovereign immunity;
 118 requiring the commission to pay certain claims or
 119 judgments; authorizing the commission to maintain
 120 insurance coverage to pay such claims or judgments;
 121 requiring the department to notify the Division of Law
 122 Revision upon enactment of the compact into law by 10
 123 states; providing a contingent effective date.

124
 125 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 491.017, Florida Statutes, is created to read:

491.017 Professional Counselors Licensure Compact.—The Professional Counselors Licensure Compact is hereby enacted and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I

PURPOSE

The compact is designed to achieve the following purposes and objectives:

(1) Facilitate interstate practice of licensed professional counseling to increase public access to professional counseling services by providing for the mutual recognition of other member state licenses.

(2) Enhance the member states' ability to protect the public's health and safety.

(3) Encourage the cooperation of member states in regulating multistate practice of licensed professional counselors.

(4) Support spouses of relocating active duty military personnel.

(5) Facilitate the exchange of information between member states regarding licensure, investigations, adverse actions, and

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- 151 disciplinary history of licensed professional counselors.
 152 (6) Allow for the use of telehealth technology to
 153 facilitate increased access to professional counseling services.
 154 (7) Support the uniformity of professional counseling
 155 licensure requirements throughout member states to promote
 156 public safety and public health benefits.
 157 (8) Provide member states with the authority to hold a
 158 licensed professional counselor accountable for meeting all
 159 state practice laws in the state in which the client is located
 160 at the time care is rendered through the mutual recognition of
 161 member state licenses.
 162 (9) Eliminate the necessity for licensed professional
 163 counselors to hold licenses in multiple states and provide
 164 opportunities for interstate practice by licensed professional
 165 counselors who meet uniform licensure requirements.

167 ARTICLE II
 168 DEFINITIONS

169 As used in this compact, the term:

- 170 (1) "Active duty military" means full-time duty status in
 171 the active uniformed service of the United States, including,
 172 but not limited to, members of the National Guard and Reserve on
 173 active duty orders pursuant to 10 U.S.C. chapters 1209 and 1211.
 174 (2) "Adverse action" means any administrative, civil, or
 175 criminal action authorized by a state's laws which is imposed by

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176 a licensing board or other authority against a licensed
177 professional counselor, including actions against an
178 individual's license or privilege to practice, such as
179 revocation, suspension, probation, monitoring of the licensee,
180 limitation on the licensee's practice, issuance of a cease and
181 desist action, or any other encumbrance on licensure affecting a
182 licensed professional counselor's authorization to practice.

183 (3) "Alternative program" means a nondisciplinary
184 monitoring or practice remediation process approved by a
185 professional counseling licensing board to address impaired
186 practitioners.

187 (4) "Continuing education" means a requirement, as a
188 condition of license renewal, to participate in or complete
189 educational and professional activities relevant to the
190 licensee's practice or area of work.

191 (5) "Counseling Compact Commission" or "commission" means
192 the national administrative body whose membership consists of
193 all states that have enacted the compact.

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

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

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201 (b) Investigative information that indicates that the
 202 licensed professional counselor represents an immediate threat
 203 to public health and safety, regardless of whether the licensed
 204 professional counselor has been notified and had an opportunity
 205 to respond.

206 (7) "Data system" means a repository of information about
 207 licensees, including, but not limited to, information relating
 208 to continuing education, examinations, licensure statuses,
 209 investigations, the privilege to practice, and adverse actions.

210 (8) "Encumbered license" means a license in which an
 211 adverse action restricts the practice of licensed professional
 212 counseling by the licensee and said adverse action has been
 213 reported to the National Practitioner Data Bank.

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

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

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

222 (12) "Impaired practitioner" means an individual who has a
 223 condition that may impair his or her ability to safely practice
 224 as a licensed professional counselor without intervention. Such
 225 impairment may include, but is not limited to, alcohol or drug

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226 dependence, mental health conditions, and neurological or
227 physical conditions.

228 (13) "Investigative information" means information,
229 records, or documents received or generated by a professional
230 counseling licensing board pursuant to an investigation.

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

235 (15) "Licensed professional counselor" means a counselor
236 licensed by a member state, regardless of the title used by that
237 state, to independently assess, diagnose, and treat behavioral
238 health conditions.

239 (16) "Licensee" means an individual who currently holds an
240 authorization from the state to practice as a licensed
241 professional counselor.

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

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

247 (19) "Privilege to practice" means a legal authorization,
248 which is equivalent to a license, authorizing the practice of
249 professional counseling in a remote state.

250 (20) "Professional counseling" means the assessment,

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251 diagnosis, and treatment of behavioral health conditions by a
 252 licensed professional counselor.

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

256 (22) "Rule" means a regulation adopted by the commission
 257 which has the force of law.

258 (23) "Single state license" means a licensed professional
 259 counselor license issued by a member state which authorizes
 260 practice only within the issuing state and does not include a
 261 privilege to practice in any other member state.

262 (24) "State" means any state, commonwealth, district, or
 263 territory of the United States of America which regulates the
 264 practice of professional counseling.

265 (25) "Telehealth" means the application of
 266 telecommunication technology to deliver professional counseling
 267 services remotely to assess, diagnose, and treat behavioral
 268 health conditions.

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

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273 ARTICLE III

274 STATE PARTICIPATION

275 (1) To participate in the compact, a state must currently

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276 | do all of the following:

277 | (a) License and regulate licensed professional counselors.

278 | (b) Require licensees to pass a nationally recognized exam

279 | approved by the commission.

280 | (c) Require licensees to have a 60 semester hour, or 90

281 | quarter hour, master's degree in counseling or 60 semester

282 | hours, or 90 quarter hours, of graduate coursework including all

283 | of the following topic areas:

284 | 1. Professional counseling orientation and ethical

285 | practice.

286 | 2. Social and cultural diversity.

287 | 3. Human growth and development.

288 | 4. Career development.

289 | 5. Counseling and helping relationships.

290 | 6. Group counseling and group work.

291 | 7. Diagnosis, assessment, testing, and treatment.

292 | 8. Research and program evaluation.

293 | 9. Other areas as determined by the commission.

294 | (d) Require licensees to complete a supervised

295 | postgraduate professional experience as defined by the

296 | commission.

297 | (e) Have a mechanism in place for receiving and

298 | investigating complaints about licensees.

299 | (2) A member state shall do all of the following:

300 | (a) Participate fully in the commission's data system,

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301 including using the commission's unique identifier as defined in
302 rules adopted by the commission.

303 (b) Notify the commission, in compliance with the terms of
304 the compact and rules adopted by the commission, of any adverse
305 action or the availability of investigative information
306 regarding a licensee.

307 (c) Implement or utilize procedures for considering the
308 criminal history records of applicants for an initial privilege
309 to practice. These procedures must include the submission of
310 fingerprints or other biometric-based information by applicants
311 for the purpose of obtaining an applicant's criminal history
312 record information from the Federal Bureau of Investigation and
313 the agency responsible for retaining that state's criminal
314 records.

315 1. A member state must fully implement a criminal
316 background check requirement, within a timeframe established by
317 rule, by receiving the results of the Federal Bureau of
318 Investigation record search and shall use the results in making
319 licensure decisions.

320 2. Communication between a member state and the commission
321 and among member states regarding the verification of
322 eligibility for licensure through the compact may not include
323 any information received from the Federal Bureau of
324 Investigation relating to a federal criminal records check
325 performed by a member state under Public Law 92-544.

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326 (d) Comply with the rules adopted by the commission.

327 (e) Require an applicant to obtain or retain a license in
 328 the home state and meet the home state's qualifications for
 329 licensure or renewal of licensure, as well as all other
 330 applicable state laws.

331 (f) Grant the privilege to practice to a licensee holding
 332 a valid unencumbered license in another member state in
 333 accordance with the terms of the compact and rules adopted by
 334 the commission.

335 (g) Provide for the attendance of the state's commissioner
 336 at the commission meetings.

337 (3) Individuals not residing in a member state may
 338 continue to apply for a member state's single state license as
 339 provided under the laws of each member state. However, the
 340 single state license granted to these individuals may not be
 341 recognized as granting a privilege to practice professional
 342 counseling under the compact in any other member state.

343 (4) Nothing in this compact affects the requirements
 344 established by a member state for the issuance of a single state
 345 license.

346 (5) A professional counselor license issued by a home
 347 state to a resident of that state must be recognized by each
 348 member state as authorizing that licensed professional counselor
 349 to practice professional counseling, under a privilege to
 350 practice, in each member state.

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ARTICLE IV

PRIVILEGE TO PRACTICE

(1) To exercise the privilege to practice under the terms and provisions of the compact, the licensee must meet all of the following criteria:

(a) Hold a license in the home state.

(b) Have a valid United States Social Security Number or national provider identifier.

(c) Be eligible for a privilege to practice in any member state in accordance with subsections (4), (7), and (8).

(d) Have not had any encumbrance or restriction against any license or privilege to practice within the preceding 2 years.

(e) Notify the commission that the licensee is seeking the privilege to practice within a remote state.

(f) Meet any continuing education requirements established by the home state.

(g) Meet any jurisprudence requirements established by the remote state in which the licensee is seeking a privilege to practice.

(h) Report to the commission any adverse action, encumbrance, or restriction on a license taken by any nonmember state within 30 days after the action is taken.

(2) The privilege to practice is valid until the

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376 expiration date of the home state license. The licensee must
377 continue to meet the criteria specified in subsection (1) to
378 renew the privilege to practice in the remote state.

379 (3) For purposes of the compact, the practice of
380 professional counseling occurs in the state where the client is
381 located at the time of the counseling services. The compact does
382 not affect the regulatory authority of states to protect public
383 health and safety through their own system of state licensure.

384 (4) A licensee providing professional counseling in a
385 remote state under the privilege to practice must adhere to the
386 laws and regulations of the remote state.

387 (5) A licensee providing professional counseling services
388 in a remote state is subject to that state's regulatory
389 authority. A remote state may, in accordance with due process
390 and that state's laws, remove a licensee's privilege to practice
391 in the remote state for a specified period of time, impose
392 finances, or take any other action necessary to protect the health
393 and safety of its residents. The licensee may be ineligible for
394 a privilege to practice in any member state until the specific
395 time for removal has passed and all fines are paid.

396 (6) If a home state license is encumbered, a licensee
397 loses the privilege to practice in any remote state until both
398 of the following conditions are met:

399 (a) The home state license is no longer encumbered.

400 (b) The licensee has not had any encumbrance or

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401 restriction against any license or privilege to practice within
 402 the preceding 2 years.

403 (7) Once an encumbered license in the licensee's home
 404 state is restored to good standing, the licensee may obtain a
 405 privilege to practice in any remote state if he or she meets the
 406 requirements of subsection (1).

407 (8) If a licensee's privilege to practice in any remote
 408 state is removed, the individual may lose the privilege to
 409 practice in all other remote states until all of the following
 410 conditions are met:

411 (a) The specified period of time for which the privilege
 412 to practice was removed has ended.

413 (b) The licensee has paid all fines imposed.

414 (c) The licensee has not had any encumbrance or
 415 restriction against any license or privilege to practice within
 416 the preceding 2 years.

417 (9) Once the requirements of subsection (8) have been met,
 418 the licensee may obtain a privilege to practice in a remote
 419 state if he or she meets the requirements in subsection (1).

420

421 ARTICLE V

422 OBTAINING A NEW HOME STATE LICENSE BASED ON A

423 PRIVILEGE TO PRACTICE

424 (1) A licensed professional counselor may hold a home
 425 state license, which allows for a privilege to practice in other

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426 member states, in only one member state at a time.

427 (2) If a licensed professional counselor changes his or
428 her primary state of residence by moving between two member
429 states, then the licensed professional counselor must file an
430 application for obtaining a new home state license based on a
431 privilege to practice and notify the current and new home state
432 in accordance with applicable rules adopted by the commission.

433 (3) Upon receipt of an application for obtaining a new
434 home state license based on a privilege to practice, the new
435 home state must verify that the licensed professional counselor
436 meets the criteria outlined in article IV through the data
437 system. The new home state does not need to seek primary source
438 verification for information obtained from the data system,
439 except for the following:

440 (a) A Federal Bureau of Investigation fingerprint-based
441 criminal background check, if not previously performed or
442 updated pursuant to applicable rules adopted by the commission
443 in accordance with Public Law 92-544;

444 (b) Any other criminal background check as required by the
445 new home state; and

446 (c) Proof of completion of any requisite jurisprudence
447 requirements of the new home state.

448 (4) The former home state shall convert the former home
449 state license into a privilege to practice once the new home
450 state has activated the new home state license in accordance

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451 with applicable rules adopted by the commission.

452 (5) Notwithstanding any other provision of the compact, if
 453 the licensed professional counselor does not meet the criteria
 454 in article IV, the new home state may apply its own requirements
 455 for issuing a new single state license.

456 (6) If a licensed professional counselor changes his or
 457 her primary state of residence by moving from a member state to
 458 a nonmember state or from a nonmember state to a member state,
 459 the new state's own criteria apply for issuance of a single
 460 state license in the new state.

461 (7) The compact does not interfere with a licensee's
 462 ability to hold a single state license in multiple states.
 463 However, for the purposes of the compact, a licensee may have
 464 only one home state license.

465 (8) The compact does not affect the requirements
 466 established by a member state for the issuance of a single state
 467 license.

468
 469 ARTICLE VI

470 ACTIVE DUTY MILITARY PERSONNEL AND THEIR SPOUSES

471 Active duty military personnel, or their spouse, shall
 472 designate a home state where the individual has a current
 473 license in good standing. The individual may retain the home
 474 state license designation during the period the service member
 475 is on active duty. Subsequent to designating a home state, the

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476 individual may change his or her home state only through
 477 application for licensure in the new state or through the
 478 process outlined in article V.

480 ARTICLE VII

481 COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

482 (1) Member states shall recognize the right of a licensed
 483 professional counselor, licensed by a home state in accordance
 484 with article III and under rules adopted by the commission, to
 485 practice professional counseling in any member state through
 486 telehealth under a privilege to practice as provided in the
 487 compact and rules adopted by the commission.

488 (2) A licensee providing professional counseling services
 489 in a remote state through telehealth under the privilege to
 490 practice must adhere to the laws and rules of the remote state.

492 ARTICLE VIII

493 ADVERSE ACTIONS

494 (1) In addition to the other powers conferred by state
 495 law, a remote state has the authority, in accordance with
 496 existing state due process law, to do any of the following:

497 (a) Take adverse action against a licensed professional
 498 counselor's privilege to practice within that member state.

499 (b) Issue subpoenas for both hearings and investigations
 500 that require the attendance and testimony of witnesses or the

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501 production of evidence. Subpoenas issued by a licensing board in
 502 a member state for the attendance and testimony of witnesses or
 503 the production of evidence from another member state must be
 504 enforced in the latter state by any court of competent
 505 jurisdiction, according to the practice and procedure of that
 506 court applicable to subpoenas issued in proceedings pending
 507 before it. The issuing authority shall pay any witness fees,
 508 travel expenses, mileage, and other fees required by the service
 509 statutes of the state in which the witnesses or evidence is
 510 located.

511 (2) Only the home state has the power to take adverse
 512 action against a licensed professional counselor's license
 513 issued by the home state.

514 (3) For purposes of taking adverse action, the home state
 515 shall give the same priority and effect to reported conduct
 516 received from a member state as it would if the conduct had
 517 occurred within the home state. The home state shall apply its
 518 own state laws to determine appropriate action in such cases.

519 (4) The home state shall complete any pending
 520 investigations of a licensed professional counselor who changes
 521 primary state of residence during the course of the
 522 investigations. The home state may also take appropriate action
 523 and shall promptly report the conclusions of the investigations
 524 to the administrator of the data system. The administrator of
 525 the data system shall promptly notify the new home state of any

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526 adverse actions.

527 (5) A member state, if authorized by state law, may
 528 recover from the affected licensed professional counselor the
 529 costs of investigations and dispositions of any cases resulting
 530 from adverse action taken against that licensed professional
 531 counselor.

532 (6) A member state may take adverse action against a
 533 licensed professional counselor based on the factual findings of
 534 a remote state, provided that the member state follows its own
 535 statutory procedures for taking adverse action.

536 (7) (a) In addition to the authority granted to a member
 537 state by its respective professional counseling practice act or
 538 other applicable state law, any member state may participate
 539 with other member states in joint investigations of licensees.

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

543 (8) If adverse action is taken by the home state against
 544 the license of a professional counselor, the licensed
 545 professional counselor's privilege to practice in all other
 546 member states must be deactivated until all encumbrances have
 547 been removed from the home state license. All home state
 548 disciplinary orders that impose adverse action against the
 549 license of a professional counselor must include a statement
 550 that the licensed professional counselor's privilege to practice

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551 is deactivated in all member states while the order is in
 552 effect.

553 (9) If a member state takes adverse action, it must
 554 promptly notify the administrator of the data system. The
 555 administrator shall promptly notify the licensee's home state of
 556 any adverse actions by remote states.

557 (10) Nothing in the compact overrides a member state's
 558 decision to allow a licensed professional counselor to
 559 participate in an alternative program in lieu of adverse action.

561 ARTICLE IX

562 ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

563 (1) COMMISSION CREATED.—The compact member states hereby
 564 create and establish a joint public agency known as the
 565 Counseling Compact Commission.

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

568 (b) Venue is proper, and judicial proceedings by or
 569 against the commission shall be brought solely and exclusively
 570 in a court of competent jurisdiction where the principal office
 571 of the commission is located. The commission may waive venue and
 572 jurisdictional defenses to the extent that it adopts or consents
 573 to participate in alternative dispute resolution proceedings.

574 (c) Nothing in the compact may be construed to be a waiver
 575 of sovereign immunity.

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576 (2) MEMBERSHIP.—

577 (a) The commission shall consist of one voting delegate,
 578 appointed by each member state's licensing board. The
 579 commission, by rule, shall establish a term of office for
 580 delegates and may establish term limits.

581 (b) The delegate must be either:

582 1. A current member of the licensing board at the time of
 583 appointment, who is a licensed professional counselor or public
 584 member; or

585 2. An administrator of the licensing board.

586 (c) A delegate may be removed or suspended from office as
 587 provided by the law of the state from which the delegate is
 588 appointed.

589 (d) The member state licensing board must fill any vacancy
 590 occurring on the commission within 60 days.

591 (e) Each delegate is entitled to one vote with regard to
 592 the adoption of rules and creation of bylaws and shall otherwise
 593 participate in the business and affairs of the commission.

594 (f) A delegate shall vote in person or by such other means
 595 as provided in the bylaws. The bylaws may provide for delegates'
 596 participation in meetings by telephone or other means of
 597 communication.

598 (3) MEETINGS OF THE COMMISSION.—

599 (a) The commission shall meet at least once during each
 600 calendar year. Additional meetings must be held as set forth in

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601 the bylaws.

602 (b) All meetings must be open to the public, and public
 603 notice of meetings must be given in the same manner as required
 604 under the rulemaking provisions in article XI.

605 (c) The commission or the executive committee or other
 606 committees of the commission may convene in a closed, nonpublic
 607 meeting if the commission or executive committee or other
 608 committees of the commission must discuss any of the following:

609 1. Noncompliance of a member state with its obligations
 610 under the compact.

611 2. The employment, compensation, discipline, or other
 612 matters, practices, or procedures related to specific employees,
 613 or other matters related to the commission's internal personnel
 614 practices and procedures.

615 3. Current, threatened, or reasonably anticipated
 616 litigation.

617 4. Negotiation of contracts for the purchase, lease, or
 618 sale of goods, services, or real estate.

619 5. Accusing any person of a crime or formally censuring
 620 any person.

621 6. Disclosure of trade secrets or commercial or financial
 622 information that is privileged or confidential.

623 7. Disclosure of information of a personal nature if
 624 disclosure would constitute a clearly unwarranted invasion of
 625 personal privacy.

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626 8. Disclosure of investigative records compiled for law
 627 enforcement purposes.

628 9. Disclosure of information related to any investigative
 629 reports prepared by or on behalf of or for use of the commission
 630 or other committee charged with responsibility of investigation
 631 or determination of compliance issues pursuant to the compact.

632 10. Matters specifically exempted from disclosure by
 633 federal or member state law.

634 (d) If a meeting, or portion of a meeting, is closed under
 635 this subsection, the commission's legal counsel or designee must
 636 certify that the meeting may be closed and must reference each
 637 relevant exempting provision.

638 (e) The commission shall keep minutes that fully and
 639 clearly describe all matters discussed in a meeting and shall
 640 provide a full and accurate summary of actions taken, and the
 641 reasons therefore, including a description of the views
 642 expressed. All documents considered in connection with an action
 643 must be identified in such minutes. All minutes and documents of
 644 a closed meeting must remain under seal, subject to release by a
 645 majority vote of the commission or order of a court of competent
 646 jurisdiction.

647 (4) POWERS.—The commission may do any of the following:

648 (a) Establish the fiscal year of the commission.

649 (b) Establish bylaws.

650 (c) Maintain its financial records in accordance with the

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- 651 bylaws.
- 652 (d) Meet and take actions that are consistent with the
- 653 compact and bylaws.
- 654 (e) Adopt rules that are binding to the extent and in the
- 655 manner provided for in the compact.
- 656 (f) Initiate and prosecute legal proceedings or actions in
- 657 the name of the commission, provided that the standing of any
- 658 state licensing board to sue or be sued under applicable law is
- 659 not affected.
- 660 (g) Purchase and maintain insurance and bonds.
- 661 (h) Borrow, accept, or contract for services of personnel,
- 662 including, but not limited to, employees of a member state.
- 663 (i) Hire employees and elect or appoint officers; fix
- 664 compensation for, define duties of, and grant appropriate
- 665 authority to such employees and officers to carry out the
- 666 purposes of the compact; and establish the commission's
- 667 personnel policies and programs relating to conflicts of
- 668 interest, qualifications of personnel, and other related
- 669 personnel matters.
- 670 (j) Accept any and all appropriate donations and grants of
- 671 money, equipment, supplies, materials, and services, and
- 672 receive, utilize, and dispose of the same, provided that at all
- 673 times the commission avoids any appearance of impropriety or
- 674 conflict of interest.
- 675 (k) Lease, purchase, accept appropriate gifts or donations

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676 of, or otherwise own, hold, improve, or use, any property, real,
677 personal, or mixed, provided that at all times the commission
678 avoids any appearance of impropriety or conflict of interest.

679 (l) Sell, convey, mortgage, pledge, lease, exchange,
680 abandon, or otherwise dispose of any property, real, personal,
681 or mixed.

682 (m) Establish a budget and make expenditures.

683 (n) Borrow money.

684 (o) Appoint committees, including standing committees
685 consisting of commission members, state regulators, state
686 legislators or their representatives, and consumer
687 representatives, and such other interested persons as may be
688 designated in the compact and bylaws.

689 (p) Provide information to, receive information from, and
690 cooperate with law enforcement agencies.

691 (q) Establish and elect an executive committee.

692 (r) Perform any other function that may be necessary or
693 appropriate to achieve the purposes of the compact and is
694 consistent with the state regulation of professional counseling
695 licensure and practice.

696 (5) THE EXECUTIVE COMMITTEE.—

697 (a) The executive committee may act on behalf of the
698 commission according to the terms of the compact and shall
699 consist of up to 11 members, as follows:

700 1. Seven voting members who are elected by the commission

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701 from the current membership of the commission.

702 2. Up to four ex officio, nonvoting members from four

703 recognized national professional counselor organizations. The ex

704 officio members shall be selected by their respective

705 organizations.

706 (b) The commission may remove any member of the executive

707 committee as provided in its bylaws.

708 (c) The executive committee shall meet at least annually.

709 (d) The executive committee shall do all of the following:

710 1. Make recommendations to the commission for any changes

711 to the rules, bylaws, or compact legislation.

712 2. Ensure compact administration services are

713 appropriately provided, contractually or otherwise.

714 3. Prepare and recommend the budget.

715 4. Maintain financial records on behalf of the commission.

716 5. Monitor compact compliance of member states and provide

717 compliance reports to the commission.

718 6. Establish additional committees as necessary.

719 7. Perform any other duties provided for in the rules or

720 bylaws.

721 (6) FINANCING OF THE COMMISSION.—

722 (a) The commission shall pay, or provide for the payment

723 of, the reasonable expenses of its establishment, organization,

724 and ongoing activities.

725 (b) The commission may accept any appropriate revenue

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726 sources, donations, or grants of money, equipment, supplies,
727 materials, or services.

728 (c) The commission may not incur obligations of any kind
729 before securing the funds adequate to meet the same; nor may the
730 commission pledge the credit of any of the member states, except
731 by and with the authority of the member state.

732 (d) The commission shall keep accurate accounts of all
733 receipts and disbursements. The receipts and disbursements of
734 the commission are subject to the audit and accounting
735 procedures established under its bylaws. However, all receipts
736 and disbursements of funds handled by the commission must be
737 audited annually by a certified or licensed public accountant,
738 and the report of the audit must be included in and become part
739 of the annual report of the commission.

740 (7) QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.—

741 (a) The members, officers, executive director, employees,
742 and representatives of the commission are immune from suit and
743 liability, either personally or in their official capacity, for
744 any claim for damage to or loss of property or personal injury
745 or other civil liability caused by or arising out of any actual
746 or alleged act, error, or omission that occurred, or that the
747 person against whom the claim is made had a reasonable basis for
748 believing occurred, within the scope of commission employment,
749 duties, or responsibilities. This paragraph may not be construed
750 to protect any such person from suit or liability for any

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751 damage, loss, injury, or liability caused by the intentional or
 752 willful or wanton misconduct of that person.

753 (b) The commission shall defend any member, officer,
 754 executive director, employee, or representative of the
 755 commission in any civil action seeking to impose liability
 756 arising out of any actual or alleged act, error, or omission
 757 that occurred, or that the person against whom the claim is made
 758 had a reasonable basis for believing occurred, within the scope
 759 of commission employment, duties, or responsibilities, provided
 760 that the actual or alleged act, error, or omission did not
 761 result from that person's intentional or willful or wanton
 762 misconduct. This paragraph may not be construed to prohibit that
 763 person from retaining his or her own counsel.

764 (c) The commission shall indemnify and hold harmless any
 765 member, officer, executive director, employee, or representative
 766 of the commission for the amount of any settlement or judgment
 767 obtained against that person arising out of any actual or
 768 alleged act, error, or omission that occurred, or that such
 769 person had a reasonable basis for believing occurred, within the
 770 scope of commission employment, duties, or responsibilities,
 771 provided that the actual or alleged act, error, or omission did
 772 not result from the intentional or willful or wanton misconduct
 773 of that person.

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ARTICLE X

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DATA SYSTEM

776
777 (1) The commission shall provide for the development,
778 operation, and maintenance of a coordinated database and
779 reporting system containing licensure, adverse action, and
780 investigative information on all licensed professional
781 counselors in member states.

782 (2) Notwithstanding any other provision of state law to
783 the contrary, a member state shall submit a uniform data set to
784 the data system on all licensees to whom the compact is
785 applicable, as required by the rules of the commission,
786 including all of the following:

787 (a) Identifying information.

788 (b) Licensure data.

789 (c) Adverse actions against a license or privilege to
790 practice.

791 (d) Nonconfidential information related to alternative
792 program participation.

793 (e) Any denial of application for licensure and the reason
794 for such denial.

795 (f) Current significant investigative information.

796 (g) Other information that may facilitate the
797 administration of the compact, as determined by the rules of the
798 commission.

799 (3) Investigative information pertaining to a licensee in
800 any member state may be made available only to other member

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801 states.

802 (4) The commission shall promptly notify all member states
 803 of any adverse action taken against a licensee or an individual
 804 applying for a license. Adverse action information pertaining to
 805 a licensee in any member state must be made available to any
 806 other member state.

807 (5) Member states reporting information to the data system
 808 may designate information that may not be shared with the public
 809 without the express permission of the reporting state.

810 (6) Any information submitted to the data system which is
 811 subsequently required to be expunged by the laws of the member
 812 state reporting the information must be removed from the data
 813 system.

814
 815 ARTICLE XI

816 RULEMAKING

817 (1) The commission shall adopt reasonable rules to
 818 effectively and efficiently achieve the purposes of the compact.
 819 If, however, the commission exercises its rulemaking authority
 820 in a manner that is beyond the scope of the purposes of the
 821 compact, or the powers granted hereunder, then such an action by
 822 the commission is invalid and has no force or effect.

823 (2) The commission shall exercise its rulemaking powers
 824 pursuant to the criteria set forth in this article and the rules
 825 adopted thereunder. Rules and amendments become binding as of

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826 the date specified in each rule or amendment.

827 (3) If a majority of the legislatures of the member states
 828 rejects a rule by enactment of a statute or resolution in the
 829 same manner used to adopt the compact within 4 years after the
 830 date of adoption of the rule, such rule does not have further
 831 force and effect in any member state.

832 (4) Rules or amendments to the rules must be adopted at a
 833 regular or special meeting of the commission.

834 (5) Before adoption of a final rule by the commission, and
 835 at least 30 days in advance of the meeting at which the rule
 836 will be considered and voted upon, the commission shall file a
 837 notice of proposed rulemaking:

838 (a) On the website of the commission or other publicly
 839 accessible platform; and

840 (b) On the website of each member state's professional
 841 counseling licensing board or other publicly accessible platform
 842 or in the publication in which each state would otherwise
 843 publish proposed rules.

844 (6) The notice of proposed rulemaking must include:

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

847 (b) The text of the proposed rule or amendment and the
 848 reason for the proposed rule;

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

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

854 (7) Before adoption of a proposed rule, the commission
 855 must allow persons to submit written data, facts, opinions, and
 856 arguments, which must be made available to the public.

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

860 (a) At least 25 persons who submit comments independently
 861 of each other;

862 (b) A state or federal governmental subdivision or agency;
 863 or

864 (c) An association that has at least 25 members.

865 (9) If a hearing is held on the proposed rule or
 866 amendment, the commission must publish the place, time, and date
 867 of the scheduled public hearing. If the hearing is held through
 868 electronic means, the commission must publish the mechanism for
 869 access to the electronic hearing.

870 (a) All persons wishing to be heard at the hearing must
 871 notify the executive director of the commission or other
 872 designated member in writing of their desire to appear and
 873 testify at the hearing at least 5 business days before the
 874 scheduled date of the hearing.

875 (b) Hearings must be conducted in a manner providing each

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876 person who wishes to comment a fair and reasonable opportunity
877 to comment orally or in writing.

878 (c) All hearings must be recorded. A copy of the recording
879 must be made available on request.

880 (d) This section may not be construed to require a
881 separate hearing on each rule. Rules may be grouped at hearings
882 required by this section for the convenience of the commission.

883 (10) If the commission does not receive a written notice
884 of intent to attend the public hearing by interested parties,
885 the commission may proceed with adoption of the proposed rule
886 without a public hearing.

887 (11) Following the scheduled hearing date, or by the close
888 of business on the scheduled hearing date if the hearing was not
889 held, the commission shall consider all written and oral
890 comments received.

891 (12) The commission, by majority vote of all members,
892 shall take final action on the proposed rule and shall determine
893 the effective date of the rule based on the rulemaking record
894 and the full text of the rule.

895 (13) Upon determination that an emergency exists, the
896 commission may consider and adopt an emergency rule without
897 prior notice, opportunity for comment, or hearing, provided that
898 the usual rulemaking procedures provided in the compact and in
899 this section are retroactively applied to the rule as soon as
900 reasonably possible, but no later than 90 days after the

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901 effective date of the rule. For purposes of this subsection, an
 902 emergency rule is one that must be adopted immediately in order
 903 to:

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

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

907 (c) Meet a deadline for the adoption of an administrative
 908 rule established by federal law or rule; or

909 (d) Protect public health and safety.

910 (14) The commission or an authorized committee of the
 911 commission may direct revisions to a previously adopted rule or
 912 amendment for purposes of correcting typographical errors,
 913 errors in format, errors in consistency, or grammatical errors.
 914 Public notice of any revision must be posted on the website of
 915 the commission. Revisions are subject to challenge by any person
 916 for a period of 30 days after posting. A revision may be
 917 challenged only on grounds that the revision results in a
 918 material change to a rule. A challenge must be made in writing
 919 and delivered to the chair of the commission before the end of
 920 the notice period. If a challenge is not made, the revision
 921 takes effect without further action. If a revision is
 922 challenged, the revision may not take effect without the
 923 approval of the commission.

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ARTICLE XII

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OVERSIGHT; DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION;
DISPUTE RESOLUTION; AND ENFORCEMENT

(1) OVERSIGHT.—

(a) The executive, legislative, and judicial branches of state government in each member state shall enforce the compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and the rules adopted thereunder have standing as statutory law.

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

(c) The commission is entitled to receive service of process in any judicial or administrative proceeding specified in paragraph (b) and has standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or an order void as to the commission, the compact, or adopted rules.

(2) DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION.—

(a) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the compact or adopted rules, the commission must:

1. Provide written notice to the defaulting state and

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951 other member states of the nature of the default, the proposed
952 means of curing the default, and any other action to be taken by
953 the commission; and

954 2. Provide remedial training and specific technical
955 assistance regarding the default.

956 (b) If a state in default fails to cure the default, the
957 defaulting state may be terminated from the compact upon an
958 affirmative vote of a majority of the member states, and all
959 rights, privileges, and benefits conferred by the compact are
960 terminated on the effective date of termination. A cure of the
961 default does not relieve the offending state of obligations or
962 liabilities incurred during the period of default.

963 (c) Termination of membership in the compact may be
964 imposed only after all other means of securing compliance have
965 been exhausted. The commission shall submit a notice of intent
966 to suspend or terminate a defaulting member state to that
967 state's governor, to the majority and minority leaders of that
968 state's legislature, and to each member state.

969 (d) A member state that has been terminated is responsible
970 for all assessments, obligations, and liabilities incurred
971 through the effective date of termination, including obligations
972 that extend beyond the effective date of termination.

973 (e) The commission may not bear any costs related to a
974 member state that is found to be in default or that has been
975 terminated from the compact, unless agreed upon in writing

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976 between the commission and the defaulting member state.

977 (f) The defaulting member state may appeal the action of
 978 the commission by petitioning the United States District Court
 979 for the District of Columbia or the federal district where the
 980 commission has its principal offices. The prevailing party must
 981 be awarded all costs of such litigation, including reasonable
 982 attorney fees.

983 (3) DISPUTE RESOLUTION.—

984 (a) Upon request by a member state, the commission shall
 985 attempt to resolve disputes related to the compact which arise
 986 among member states and between member and nonmember states.

987 (b) The commission shall adopt rules providing for both
 988 mediation and binding dispute resolution for disputes as
 989 appropriate.

990 (4) ENFORCEMENT.—

991 (a) The commission, in the reasonable exercise of its
 992 discretion, shall enforce the provisions and rules of the
 993 compact.

994 (b) By majority vote, the commission may initiate legal
 995 action in the United States District Court for the District of
 996 Columbia or the federal district where the commission has its
 997 principal offices against a member state in default to enforce
 998 compliance with the compact and its adopted rules and bylaws.
 999 The relief sought may include both injunctive relief and
 1000 damages. If judicial enforcement is necessary, the prevailing

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1001 party must be awarded all costs of such litigation, including
 1002 reasonable attorney fees.

1003 (c) The remedies under this article are not the exclusive
 1004 remedies to the commission. The commission may pursue any other
 1005 remedies available under federal or state law.

1006
 1007 ARTICLE XIII

1008 DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT COMMISSION AND
 1009 ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

1010 (1) The compact becomes effective on the date on which the
 1011 compact is enacted into law in the 10th member state. The
 1012 provisions that become effective at that time are limited to the
 1013 powers granted to the commission relating to assembly and the
 1014 adoption of rules. Thereafter, the commission shall meet and
 1015 exercise rulemaking powers necessary for implementation and
 1016 administration of the compact.

1017 (2) Any state that joins the compact subsequent to the
 1018 commission's initial adoption of the rules is subject to the
 1019 rules as they exist on the date on which the compact becomes law
 1020 in that state. Any rule that has been previously adopted by the
 1021 commission has the full force and effect of law on the day the
 1022 compact becomes law in that state.

1023 (3) Any member state may withdraw from the compact by
 1024 enacting a statute repealing the compact.

1025 (a) A member state's withdrawal does not take effect until

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1026 6 months after enactment of the repealing statute.

1027 (b) Withdrawal does not affect the continuing requirement
 1028 of the withdrawing state's professional counseling licensing
 1029 board to comply with the investigative and adverse action
 1030 reporting requirements of the compact before the effective date
 1031 of withdrawal.

1032 (4) The compact may not be construed to invalidate or
 1033 prevent any professional counseling licensure agreement or other
 1034 cooperative arrangement between a member state and a nonmember
 1035 state which does not conflict with the compact.

1036 (5) The compact may be amended by the member states. An
 1037 amendment to the compact is not effective and binding upon any
 1038 member state until it is enacted into the laws of all member
 1039 states.

1040

1041 ARTICLE XIV

1042 BINDING EFFECT OF COMPACT AND OTHER LAWS

1043 (1) A licensee providing professional counseling services
 1044 in a remote state under the privilege to practice shall adhere
 1045 to the laws and regulations, including scope of practice, of the
 1046 remote state.

1047 (2) The compact does not prevent the enforcement of any
 1048 other law of a member state which is not inconsistent with the
 1049 compact.

1050 (3) Any laws in a member state which conflict with the

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1051 compact are superseded to the extent of the conflict.
 1052 (4) Any lawful actions of the commission, including all
 1053 rules and bylaws properly adopted by the commission, are binding
 1054 on the member states.
 1055 (5) All permissible agreements between the commission and
 1056 the member states are binding in accordance with their terms.
 1057 (6) If any provision of the compact exceeds the
 1058 constitutional limits imposed on the legislature of any member
 1059 state, the provision shall be ineffective to the extent of the
 1060 conflict with the constitutional provision in question in that
 1061 member state.

1062
 1063 ARTICLE XV

1064 CONSTRUCTION AND SEVERABILITY

1065 The compact must be liberally construed so as to effectuate
 1066 the purposes thereof. The provisions of the compact are
 1067 severable, and if any phrase, clause, sentence, or provision of
 1068 the compact is declared to be contrary to the constitution of
 1069 any member state or of the United States or the applicability
 1070 thereof to any government, agency, person, or circumstance is
 1071 held invalid, the validity of the remainder of the compact and
 1072 the applicability thereof to any government, agency, person, or
 1073 circumstance is not affected thereby. If the compact is held
 1074 contrary to the constitution of any member state, the compact
 1075 remains in full force and effect as to the remaining member

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1076 states and in full force and effect as to the member state
 1077 affected as to all severable matters.

1078 Section 2. Paragraph (c) of subsection (4) of section
 1079 414.065, Florida Statutes, is amended to read:

1080 414.065 Noncompliance with work requirements.—

1081 (4) EXCEPTIONS TO NONCOMPLIANCE PENALTIES.—Unless
 1082 otherwise provided, the situations listed in this subsection
 1083 shall constitute exceptions to the penalties for noncompliance
 1084 with participation requirements, except that these situations do
 1085 not constitute exceptions to the applicable time limit for
 1086 receipt of temporary cash assistance:

1087 (c) Noncompliance related to treatment or remediation of
 1088 past effects of domestic violence.—An individual who is
 1089 determined to be unable to comply with the work requirements
 1090 under this section due to mental or physical impairment related
 1091 to past incidents of domestic violence may be exempt from work
 1092 requirements, except that such individual shall comply with a
 1093 plan that specifies alternative requirements that prepare the
 1094 individual for self-sufficiency while providing for the safety
 1095 of the individual and the individual's dependents. A participant
 1096 who is determined to be out of compliance with the alternative
 1097 requirement plan shall be subject to the penalties under
 1098 subsection (1). The plan must include counseling or a course of
 1099 treatment necessary for the individual to resume participation.
 1100 The need for treatment and the expected duration of such

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1101 treatment must be verified by a physician licensed under chapter
 1102 458 or chapter 459; a psychologist licensed under s. 490.005(1),
 1103 s. 490.006, or the provision identified as s. 490.013(2) in s.
 1104 1, chapter 81-235, Laws of Florida; a therapist as defined in s.
 1105 491.003(2) or (7) ~~s. 491.003(2) or (6)~~; or a treatment
 1106 professional who is registered under s. 39.905(1)(g), is
 1107 authorized to maintain confidentiality under s. 90.5036(1)(d),
 1108 and has a minimum of 2 years' ~~years~~ experience at a certified
 1109 domestic violence center. An exception granted under this
 1110 paragraph does not automatically constitute an exception from
 1111 the time limitations on benefits specified under s. 414.105.

1112 Section 3. Subsection (10) of section 456.073, Florida
 1113 Statutes, is amended to read:

1114 456.073 Disciplinary proceedings.—Disciplinary proceedings
 1115 for each board shall be within the jurisdiction of the
 1116 department.

1117 (10) The complaint and all information obtained pursuant
 1118 to the investigation by the department are confidential and
 1119 exempt from s. 119.07(1) until 10 days after probable cause has
 1120 been found to exist by the probable cause panel or by the
 1121 department, or until the regulated professional or subject of
 1122 the investigation waives his or her privilege of
 1123 confidentiality, whichever occurs first. The department shall
 1124 report any significant investigation information relating to a
 1125 nurse holding a multistate license to the coordinated licensure

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1126 | information system pursuant to s. 464.0095, and any significant
 1127 | investigatory information relating to a health care practitioner
 1128 | practicing under the Professional Counselors Licensure Compact
 1129 | to the data system pursuant to s. 491.017. Upon completion of
 1130 | the investigation and a recommendation by the department to find
 1131 | probable cause, and pursuant to a written request by the subject
 1132 | or the subject's attorney, the department shall provide the
 1133 | subject an opportunity to inspect the investigative file or, at
 1134 | the subject's expense, forward to the subject a copy of the
 1135 | investigative file. Notwithstanding s. 456.057, the subject may
 1136 | inspect or receive a copy of any expert witness report or
 1137 | patient record connected with the investigation if the subject
 1138 | agrees in writing to maintain the confidentiality of any
 1139 | information received under this subsection until 10 days after
 1140 | probable cause is found and to maintain the confidentiality of
 1141 | patient records pursuant to s. 456.057. The subject may file a
 1142 | written response to the information contained in the
 1143 | investigative file. Such response must be filed within 20 days
 1144 | of mailing by the department, unless an extension of time has
 1145 | been granted by the department. This subsection does not
 1146 | prohibit the department from providing such information to any
 1147 | law enforcement agency or to any other regulatory agency.

1148 | Section 4. Subsection (5) of section 456.076, Florida
 1149 | Statutes, is amended to read:

1150 | 456.076 Impaired practitioner programs.—

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1151 (5) A consultant shall enter into a participant contract
 1152 with an impaired practitioner and shall establish the terms of
 1153 monitoring and shall include the terms in a participant
 1154 contract. In establishing the terms of monitoring, the
 1155 consultant may consider the recommendations of one or more
 1156 approved evaluators, treatment programs, or treatment providers.
 1157 A consultant may modify the terms of monitoring if the
 1158 consultant concludes, through the course of monitoring, that
 1159 extended, additional, or amended terms of monitoring are
 1160 required for the protection of the health, safety, and welfare
 1161 of the public. If the impaired practitioner is a health care
 1162 practitioner practicing under the Professional Counselors
 1163 Licensure Compact pursuant to s. 491.017, the terms of the
 1164 monitoring contract must include the impaired practitioner's
 1165 withdrawal from all practice under the compact.

1166 Section 5. Subsections (5) through (17) of section
 1167 491.003, Florida Statutes, are renumbered as subsections (6)
 1168 through (18), respectively, and a new subsection (5) is added to
 1169 that section, to read:

1170 491.003 Definitions.—As used in this chapter:

1171 (5) "Licensed professional counselor" means a clinical
 1172 social worker, marriage and family therapist, or mental health
 1173 counselor authorized to provide services under s. 491.017.

1174 Section 6. Subsection (8) is added to section 491.004,
 1175 Florida Statutes, to read:

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1176 491.004 Board of Clinical Social Work, Marriage and Family
 1177 Therapy, and Mental Health Counseling.—

1178 (8) The board shall appoint an individual to serve as the
 1179 state's delegate on the Counseling Compact Commission, as
 1180 required under s. 491.017.

1181 Section 7. Subsection (6) is added to section 491.005,
 1182 Florida Statutes, to read:

1183 491.005 Licensure by examination.—

1184 (6) EXEMPTION.—A person licensed as a clinical social
 1185 worker, marriage and family therapist, or mental health
 1186 counselor in another state who is practicing under the
 1187 Professional Counselors Licensure Compact pursuant to s.
 1188 491.017, and only within the scope provided therein, is exempt
 1189 from the licensure requirements of this section, as applicable.

1190 Section 8. Subsection (3) is added to section 491.006,
 1191 Florida Statutes, to read:

1192 491.006 Licensure or certification by endorsement.—

1193 (3) A person licensed as a clinical social worker,
 1194 marriage and family therapist, or mental health counselor in
 1195 another state who is practicing under the Professional
 1196 Counselors Licensure Compact pursuant to s. 491.017, and only
 1197 within the scope provided therein, is exempt from the licensure
 1198 requirements of this section, as applicable.

1199 Section 9. Section 491.009, Florida Statutes, is amended
 1200 to read:

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1201 491.009 Discipline.—

1202 (1) The following acts constitute grounds for denial of a
 1203 license or disciplinary action, as specified in s. 456.072(2) or
 1204 s. 491.017:

1205 (a) Attempting to obtain, obtaining, or renewing a
 1206 license, registration, or certificate under this chapter by
 1207 bribery or fraudulent misrepresentation or through an error of
 1208 the board or the department.

1209 (b) Having a license, registration, or certificate to
 1210 practice a comparable profession revoked, suspended, or
 1211 otherwise acted against, including the denial of certification
 1212 or licensure by another state, territory, or country.

1213 (c) Being convicted or found guilty of, regardless of
 1214 adjudication, or having entered a plea of nolo contendere to, a
 1215 crime in any jurisdiction which directly relates to the practice
 1216 of his or her profession or the ability to practice his or her
 1217 profession. However, in the case of a plea of nolo contendere,
 1218 the board shall allow the person who is the subject of the
 1219 disciplinary proceeding to present evidence in mitigation
 1220 relevant to the underlying charges and circumstances surrounding
 1221 the plea.

1222 (d) False, deceptive, or misleading advertising or
 1223 obtaining a fee or other thing of value on the representation
 1224 that beneficial results from any treatment will be guaranteed.

1225 (e) Advertising, practicing, or attempting to practice

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1226 | under a name other than one's own.

1227 | (f) Maintaining a professional association with any person
 1228 | who the applicant, licensee, registered intern, or
 1229 | certificateholder knows, or has reason to believe, is in
 1230 | violation of this chapter or of a rule of the department or the
 1231 | board.

1232 | (g) Knowingly aiding, assisting, procuring, or advising
 1233 | any nonlicensed, nonregistered, or noncertified person to hold
 1234 | himself or herself out as licensed, registered, or certified
 1235 | under this chapter.

1236 | (h) Failing to perform any statutory or legal obligation
 1237 | placed upon a person licensed, registered, or certified under
 1238 | this chapter.

1239 | (i) Willfully making or filing a false report or record;
 1240 | failing to file a report or record required by state or federal
 1241 | law; willfully impeding or obstructing the filing of a report or
 1242 | record; or inducing another person to make or file a false
 1243 | report or record or to impede or obstruct the filing of a report
 1244 | or record. Such report or record includes only a report or
 1245 | record which requires the signature of a person licensed,
 1246 | registered, or certified under this chapter.

1247 | (j) Paying a kickback, rebate, bonus, or other
 1248 | remuneration for receiving a patient or client, or receiving a
 1249 | kickback, rebate, bonus, or other remuneration for referring a
 1250 | patient or client to another provider of mental health care

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1251 services or to a provider of health care services or goods;
 1252 referring a patient or client to oneself for services on a fee-
 1253 paid basis when those services are already being paid for by
 1254 some other public or private entity; or entering into a
 1255 reciprocal referral agreement.

1256 (k) Committing any act upon a patient or client which
 1257 would constitute sexual battery or which would constitute sexual
 1258 misconduct as defined pursuant to s. 491.0111.

1259 (l) Making misleading, deceptive, untrue, or fraudulent
 1260 representations in the practice of any profession licensed,
 1261 registered, or certified under this chapter.

1262 (m) Soliciting patients or clients personally, or through
 1263 an agent, through the use of fraud, intimidation, undue
 1264 influence, or a form of overreaching or vexatious conduct.

1265 (n) Failing to make available to a patient or client, upon
 1266 written request, copies of tests, reports, or documents in the
 1267 possession or under the control of the licensee, registered
 1268 intern, or certificateholder which have been prepared for and
 1269 paid for by the patient or client.

1270 (o) Failing to respond within 30 days to a written
 1271 communication from the department or the board concerning any
 1272 investigation by the department or the board, or failing to make
 1273 available any relevant records with respect to any investigation
 1274 about the licensee's, registered intern's, or
 1275 certificateholder's conduct or background.

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1276 (p) Being unable to practice the profession for which he
 1277 or she is licensed, registered, or certified under this chapter
 1278 with reasonable skill or competence as a result of any mental or
 1279 physical condition or by reason of illness; drunkenness; or
 1280 excessive use of drugs, narcotics, chemicals, or any other
 1281 substance. In enforcing this paragraph, upon a finding by the
 1282 State Surgeon General, the State Surgeon General's designee, or
 1283 the board that probable cause exists to believe that the
 1284 licensee, registered intern, or certificateholder is unable to
 1285 practice the profession because of the reasons stated in this
 1286 paragraph, the department shall have the authority to compel a
 1287 licensee, registered intern, or certificateholder to submit to a
 1288 mental or physical examination by psychologists, physicians, or
 1289 other licensees under this chapter, designated by the department
 1290 or board. If the licensee, registered intern, or
 1291 certificateholder refuses to comply with such order, the
 1292 department's order directing the examination may be enforced by
 1293 filing a petition for enforcement in the circuit court in the
 1294 circuit in which the licensee, registered intern, or
 1295 certificateholder resides or does business. The licensee,
 1296 registered intern, or certificateholder against whom the
 1297 petition is filed may ~~shall~~ not be named or identified by
 1298 initials in any public court records or documents, and the
 1299 proceedings shall be closed to the public. The department shall
 1300 be entitled to the summary procedure provided in s. 51.011. A

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1301 licensee, registered intern, or certificateholder affected under
1302 this paragraph shall at reasonable intervals be afforded an
1303 opportunity to demonstrate that he or she can resume the
1304 competent practice for which he or she is licensed, registered,
1305 or certified with reasonable skill and safety to patients.

1306 (q) Performing any treatment or prescribing any therapy
1307 which, by the prevailing standards of the mental health
1308 professions in the community, would constitute experimentation
1309 on human subjects, without first obtaining full, informed, and
1310 written consent.

1311 (r) Failing to meet the minimum standards of performance
1312 in professional activities when measured against generally
1313 prevailing peer performance, including the undertaking of
1314 activities for which the licensee, registered intern, or
1315 certificateholder is not qualified by training or experience.

1316 (s) Delegating professional responsibilities to a person
1317 whom the licensee, registered intern, or certificateholder knows
1318 or has reason to know is not qualified by training or experience
1319 to perform such responsibilities.

1320 (t) Violating a rule relating to the regulation of the
1321 profession or a lawful order of the department or the board
1322 previously entered in a disciplinary hearing.

1323 (u) Failure of the licensee, registered intern, or
1324 certificateholder to maintain in confidence a communication made
1325 by a patient or client in the context of such services, except

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1326 as provided in s. 491.0147.

1327 (v) Making public statements which are derived from test
 1328 data, client contacts, or behavioral research and which identify
 1329 or damage research subjects or clients.

1330 (w) Violating any provision of this chapter or chapter
 1331 456, or any rules adopted pursuant thereto.

1332 (2) (a) The board or, in the case of certified master
 1333 social workers, the department may enter an order denying
 1334 licensure or imposing any of the penalties authorized in s.
 1335 456.072(2) against any applicant for licensure or any licensee
 1336 who violates subsection (1) or s. 456.072(1).

1337 (b) The board may take adverse action against a clinical
 1338 social worker's, a marriage and family therapist's, or a mental
 1339 health counselor's privilege to practice under the Professional
 1340 Counselors Licensure Compact pursuant to s. 491.017 and may
 1341 impose any of the penalties in s. 456.072(2) if the clinical
 1342 social worker, marriage and family therapist, or mental health
 1343 counselor commits an act specified in subsection (1) or s.
 1344 456.072(1).

1345 Section 10. Paragraph (h) is added to subsection (10) of
 1346 section 768.28, Florida Statutes, to read:

1347 768.28 Waiver of sovereign immunity in tort actions;
 1348 recovery limits; civil liability for damages caused during a
 1349 riot; limitation on attorney fees; statute of limitations;
 1350 exclusions; indemnification; risk management programs.—

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1351 (10)
 1352 (h) For purposes of this section, the individual appointed
 1353 under s. 491.004(8) as the state's delegate on the Counseling
 1354 Compact Commission, when serving in that capacity pursuant to s.
 1355 491.017, and any administrator, officer, executive director,
 1356 employee, or representative of the commission, when acting
 1357 within the scope of his or her employment, duties, or
 1358 responsibilities in this state, is considered an agent of the
 1359 state. The commission shall pay any claims or judgments pursuant
 1360 to this section and may maintain insurance coverage to pay any
 1361 such claims or judgments.

1362 Section 11. The Department of Health shall notify the
 1363 Division of Law Revision upon enactment of the Professional
 1364 Counselors Licensure Compact into law by 10 states.

1365 Section 12. This act shall take effect upon enactment of
 1366 the Professional Counselors Licensure Compact into law by 10
 1367 states.