

By Senator Rodriguez

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

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30 requirements and procedures for changing a home state
31 license designation; providing construction;
32 authorizing active duty military personnel or their
33 spouses to keep their home state designation during
34 active duty; specifying how such individuals may
35 subsequently change their home state license
36 designation; providing for the recognition of the
37 practice of professional counseling through telehealth
38 in member states; specifying that licensees must
39 adhere to the laws and rules of the remote state in
40 which they provide professional counseling through
41 telehealth; authorizing member states to take adverse
42 actions against licensees and issue subpoenas for
43 hearings and investigations under certain
44 circumstances; providing requirements and procedures
45 for adverse action; authorizing member states to
46 engage in joint investigations under certain
47 circumstances; providing that a licensee's privilege
48 to practice must be deactivated in all member states
49 for the duration of an encumbrance imposed by the
50 licensee's home state; providing for notice to the
51 data system and the licensee's home state of any
52 adverse action taken against a licensee; providing
53 construction; establishing the Counseling Compact
54 Commission; providing for the jurisdiction and venue
55 for court proceedings; providing construction;
56 providing for membership, meetings, and powers of the
57 commission; specifying powers and duties of the
58 commission's executive committee; providing for the

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59 financing of the commission; providing commission
60 members, officers, executive directors, employees, and
61 representatives immunity from civil liability under
62 certain circumstances; providing exceptions; requiring
63 the commission to defend the commission's members,
64 officers, executive directors, employees, and
65 representative in civil actions under certain
66 circumstances; providing construction; requiring the
67 commission to indemnify and hold harmless such
68 individuals for any settlement or judgment obtained in
69 such actions under certain circumstances; providing
70 for the development of the data system, reporting
71 procedures, and the exchange of specified information
72 between member states; requiring the commission to
73 notify member states of any adverse action taken
74 against a licensee or applicant for licensure;
75 authorizing member states to designate as confidential
76 information provided to the data system; requiring the
77 commission to remove information from the data system
78 under certain circumstances; providing rulemaking
79 procedures for the commission; providing for member
80 state enforcement of the compact; specifying that the
81 compact and commission rules have standing as
82 statutory law in member states; specifying that the
83 commission is entitled to receive notice of process,
84 and has standing to intervene, in certain judicial and
85 administrative proceedings; rendering certain
86 judgments and orders void as to the commission, the
87 compact, or commission rules under certain

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88 circumstances; providing for defaults and termination
89 of compact membership; providing procedures for the
90 resolution of certain disputes; providing for
91 commission enforcement of the compact; providing for
92 remedies; providing construction; providing for
93 implementation of, withdrawal from, and amendment to
94 the compact; providing construction; specifying that
95 licensees practicing in a remote state under the
96 compact must adhere to the laws and rules of the
97 remote state; providing construction; specifying that
98 the compact, commission rules, and commission actions
99 are binding on member states; providing construction
100 and severability; amending s. 456.073, F.S.; requiring
101 the Department of Health to report certain
102 investigative information to the data system; amending
103 s. 456.076, F.S.; requiring monitoring contracts for
104 impaired practitioners participating in treatment
105 programs to contain certain terms; amending s.
106 491.004, F.S.; requiring the Board of Clinical Social
107 Work, Marriage and Family Therapy, and Mental Health
108 Counseling to appoint an individual to serve as the
109 state's delegate on the commission; amending ss.
110 491.005 and 491.006, F.S.; exempting certain persons
111 from licensure requirements; amending s. 491.009,
112 F.S.; authorizing certain disciplinary action under
113 the compact for specified prohibited acts; amending s.
114 768.28, F.S.; designating the state delegate and other
115 members or employees of the commission as state agents
116 for the purpose of applying waivers of sovereign

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117 immunity; requiring the commission to pay certain
118 claims or judgments; authorizing the commission to
119 maintain insurance coverage to pay such claims or
120 judgments; providing an effective date.
121

122 Be It Enacted by the Legislature of the State of Florida:
123

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

126 491.017 Professional Counselors Licensure Compact.—The
127 Professional Counselors Licensure Compact is hereby enacted and
128 entered into by this state with all other jurisdictions legally
129 joining therein in the form substantially as follows:
130

131 ARTICLE I

132 PURPOSE

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

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

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

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

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

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146 (5) Facilitate the exchange of information between member
147 states regarding licensure, investigations, adverse actions, and
148 disciplinary history of licensed professional counselors.

149 (6) Allow for the use of telehealth technology to
150 facilitate increased access to professional counseling services.

151 (7) Support the uniformity of professional counseling
152 licensure requirements throughout member states to promote
153 public safety and public health benefits.

154 (8) Provide member states with the authority to hold a
155 licensed professional counselor accountable for meeting all
156 state practice laws in the state in which the client is located
157 at the time care is rendered through the mutual recognition of
158 member state licenses.

159 (9) Eliminate the necessity for licensed professional
160 counselors to hold licenses in multiple states and provide
161 opportunities for interstate practice by licensed professional
162 counselors who meet uniform licensure requirements.

164 ARTICLE II

165 DEFINITIONS

166 As used in this compact, the term:

167 (1) "Active duty military" means full-time duty status in
168 the active uniformed service of the United States, including,
169 but not limited to, members of the National Guard and Reserve on
170 active duty orders pursuant to 10 U.S.C. chapters 1209 and 1211.

171 (2) "Adverse action" means any administrative, civil, or
172 criminal action authorized by a state's laws which is imposed by
173 a licensing board or other authority against a licensed
174 professional counselor, including actions against an

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175 individual's license or privilege to practice, such as
176 revocation, suspension, probation, monitoring of the licensee,
177 limitation on the licensee's practice, issuance of a cease and
178 desist action, or any other encumbrance on licensure affecting a
179 licensed professional counselor's authorization to practice.

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

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

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

191 (6) "Current significant investigative information" means:
192 (a) Investigative information that a licensing board, after
193 a preliminary inquiry that includes notification and an
194 opportunity for the licensed professional counselor to respond,
195 if required by state law, has reason to believe is not
196 groundless and, if proved true, would indicate more than a minor
197 infraction; or

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

203 (7) "Data system" means a repository of information about

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204 licensees, including, but not limited to, information relating
205 to continuing education, examinations, licensure statuses,
206 investigations, the privilege to practice, and adverse actions.

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

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

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

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

219 (12) "Impaired practitioner" means an individual who has a
220 condition that may impair his or her ability to safely practice
221 as a licensed professional counselor without intervention. Such
222 impairment may include, but is not limited to, alcohol or drug
223 dependence, mental health conditions, and neurological or
224 physical conditions.

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

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

232 (15) "Licensed professional counselor" means a mental

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233 health counselor licensed under chapter 491 or a counselor
234 licensed by a member state, regardless of the title used by that
235 state, to independently assess, diagnose, and treat behavioral
236 health conditions.

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

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

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

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

248 (20) "Professional counseling" means the assessment,
249 diagnosis, and treatment of behavioral health conditions by a
250 licensed professional counselor.

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

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

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

260 (24) "State" means any state, commonwealth, district, or
261 territory of the United States of America which regulates the

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262 practice of professional counseling.

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

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

271 ARTICLE III

272 STATE PARTICIPATION

273 (1) To participate in the compact, a state must currently
274 do all of the following:

275 (a) License and regulate licensed professional counselors.

276 (b) Require licensees to pass a nationally recognized exam
277 approved by the commission.

278 (c) Require licensees to have a 60 semester hour, or 90
279 quarter hour, master's degree in counseling or 60 semester
280 hours, or 90 quarter hours, of graduate coursework including all
281 of the following topic areas:

282 1. Professional counseling orientation and ethical
283 practice.

284 2. Social and cultural diversity.

285 3. Human growth and development.

286 4. Career development.

287 5. Counseling and helping relationships.

288 6. Group counseling and group work.

289 7. Diagnosis, assessment, testing, and treatment.

290 8. Research and program evaluation.

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291 9. Other areas as determined by the commission.

292 (d) Require licensees to complete a supervised postgraduate
293 professional experience as defined by the commission.

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

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

297 (a) Participate fully in the commission's data system,
298 including using the commission's unique identifier as defined in
299 rules adopted by the commission.

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

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

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

317 2. Communication between a member state and the commission
318 and among member states regarding the verification of
319 eligibility for licensure through the compact may not include

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320 any information received from the Federal Bureau of
321 Investigation relating to a federal criminal records check
322 performed by a member state under Public Law 92-544.

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

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

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

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

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

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

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

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

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349 in each member state.

351 ARTICLE IV

352 PRIVILEGE TO PRACTICE

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

356 (a) Hold a license in the home state.

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

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

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

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

365 (f) Pay any applicable fees, including any state fee, for
366 the privilege to practice.

367 (g) Meet any continuing education requirements established
368 by the home state.

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

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

375 (2) The privilege to practice is valid until the expiration
376 date of the home state license. The licensee must continue to
377 meet the criteria specified in subsection (1) to renew the

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378 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 loses
397 the privilege to practice in any remote state until both of the
398 following conditions are met:

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

400 (b) The licensee has not had any encumbrance or restriction
401 against any license or privilege to practice within the
402 preceding 2 years.

403 (7) Once an encumbered license in the licensee's home state
404 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).

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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 to
412 practice was removed has ended.

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

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

421 ARTICLE V

422 OBTAINING A NEW HOME STATE LICENSE BASED ON A PRIVILEGE TO
423 PRACTICE

424 (1) A licensed professional counselor may hold a home state
425 license, which allows for a privilege to practice in other
426 member states, in only one member state at a time.

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

434 (3) Upon receipt of an application for obtaining a new home
435 state license based on a privilege to practice, the new home

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436 state must verify that the licensed professional counselor meets
437 the criteria outlined in article IV through the data system. The
438 new home state does not need to seek primary source verification
439 for information obtained from the data system, except for the
440 following:

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

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

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

449 (4) The former home state shall convert the former home
450 state license into a privilege to practice once the new home
451 state has activated the new home state license in accordance
452 with applicable rules adopted by the commission.

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

457 (6) The licensed professional counselor must pay all
458 applicable fees to the new home state in order to be issued a
459 new home state license for purposes of the compact.

460 (7) If a licensed professional counselor changes his or her
461 primary state of residence by moving from a member state to a
462 nonmember state or from a nonmember state to a member state, the
463 new state's own criteria apply for issuance of a single state
464 license in the new state.

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465 (8) The compact does not interfere with a licensee's
466 ability to hold a single state license in multiple states.
467 However, for the purposes of the compact, a licensee may have
468 only one home state license.

469 (9) The compact does not affect the requirements
470 established by a member state for the issuance of a single state
471 license.

472 ARTICLE VI

473 ACTIVE DUTY MILITARY PERSONNEL AND THEIR SPOUSES

474 Active duty military personnel, or their spouse, shall
475 designate a home state where the individual has a current
476 license in good standing. The individual may retain the home
477 state license designation during the period the service member
478 is on active duty. Subsequent to designating a home state, the
479 individual may change his or her home state only through
480 application for licensure in the new state or through the
481 process outlined in article V.

482 ARTICLE VII

483 COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

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

490 (2) A licensee providing professional counseling services
491 in a remote state through telehealth under the privilege to

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494 practice must adhere to the laws and rules of the remote state.

496 ARTICLE VIII

497 ADVERSE ACTIONS

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

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

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

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

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

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523 (4) The home state shall complete any pending
524 investigations of a licensed professional counselor who changes
525 primary state of residence during the course of the
526 investigations. The home state may also take appropriate action
527 and shall promptly report the conclusions of the investigations
528 to the administrator of the data system. The administrator of
529 the data system shall promptly notify the new home state of any
530 adverse actions.

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

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

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

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

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

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552 disciplinary orders that impose adverse action against the
553 license of a professional counselor must include a statement
554 that the licensed professional counselor's privilege to practice
555 is deactivated in all member states while the order is in
556 effect.

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

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

565 ARTICLE IX

566 ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

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

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

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

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

580 (2) MEMBERSHIP.—

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581 (a) The commission shall consist of one voting delegate,
582 appointed by each member state's licensing board. The
583 commission, by rule, shall establish a term of office for
584 delegates and may establish term limits.

585 (b) The delegate must be either:

586 1. A current member of the licensing board at the time of
587 appointment, who is a licensed professional counselor or public
588 member; or

589 2. An administrator of the licensing board.

590 (c) A delegate may be removed or suspended from office as
591 provided by the law of the state from which the delegate is
592 appointed.

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

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

598 (f) A delegate shall vote in person or by such other means
599 as provided in the bylaws. The bylaws may provide for delegates'
600 participation in meetings by telephone or other means of
601 communication.

602 (3) MEETINGS OF THE COMMISSION.—

603 (a) The commission shall meet at least once during each
604 calendar year. Additional meetings must be held as set forth in
605 the bylaws.

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

609 (c) The commission or the executive committee or other

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610 committees of the commission may convene in a closed, nonpublic
611 meeting if the commission or executive committee or other
612 committees of the commission must discuss any of the following:

613 1. Noncompliance of a member state with its obligations
614 under the compact.

615 2. The employment, compensation, discipline, or other
616 matters, practices, or procedures related to specific employees,
617 or other matters related to the commission's internal personnel
618 practices and procedures.

619 3. Current, threatened, or reasonably anticipated
620 litigation.

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

623 5. Accusing any person of a crime or formally censuring any
624 person.

625 6. Disclosure of trade secrets or commercial or financial
626 information that is privileged or confidential.

627 7. Disclosure of information of a personal nature if
628 disclosure would constitute a clearly unwarranted invasion of
629 personal privacy.

630 8. Disclosure of investigative records compiled for law
631 enforcement purposes.

632 9. Disclosure of information related to any investigative
633 reports prepared by or on behalf of or for use of the commission
634 or other committee charged with responsibility of investigation
635 or determination of compliance issues pursuant to the compact.

636 10. Matters specifically exempted from disclosure by
637 federal or member state law.

638 (d) If a meeting, or portion of a meeting, is closed under

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639 this subsection, the commission's legal counsel or designee must
640 certify that the meeting may be closed and must reference each
641 relevant exempting provision.

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

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

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

653 (b) Establish bylaws.

654 (c) Maintain its financial records in accordance with the
655 bylaws.

656 (d) Meet and take actions that are consistent with the
657 compact and bylaws.

658 (e) Adopt rules that are binding to the extent and in the
659 manner provided for in the compact.

660 (f) Initiate and prosecute legal proceedings or actions in
661 the name of the commission, provided that the standing of any
662 state licensing board to sue or be sued under applicable law is
663 not affected.

664 (g) Purchase and maintain insurance and bonds.

665 (h) Borrow, accept, or contract for services of personnel,
666 including, but not limited to, employees of a member state.

667 (i) Hire employees and elect or appoint officers; fix

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668 compensation for, define duties of, and grant appropriate
669 authority to such employees and officers to carry out the
670 purposes of the compact; and establish the commission's
671 personnel policies and programs relating to conflicts of
672 interest, qualifications of personnel, and other related
673 personnel matters.

674 (j) Accept any and all appropriate donations and grants of
675 money, equipment, supplies, materials, and services, and
676 receive, utilize, and dispose of the same, provided that at all
677 times the commission avoids any appearance of impropriety or
678 conflict of interest.

679 (k) Lease, purchase, accept appropriate gifts or donations
680 of, or otherwise own, hold, improve, or use, any property, real,
681 personal, or mixed, provided that at all times the commission
682 avoids any appearance of impropriety or conflict of interest.

683 (l) Sell, convey, mortgage, pledge, lease, exchange,
684 abandon, or otherwise dispose of any property, real, personal,
685 or mixed.

686 (m) Establish a budget and make expenditures.

687 (n) Borrow money.

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

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

695 (q) Establish and elect an executive committee.

696 (r) Perform any other function that may be necessary or

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697 appropriate to achieve the purposes of the compact and is
698 consistent with the state regulation of professional counseling
699 licensure and practice.

700 (5) THE EXECUTIVE COMMITTEE.—

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

704 1. Seven voting members who are elected by the commission
705 from the current membership of the commission.

706 2. Up to four ex officio, nonvoting members from four
707 recognized national professional counselor organizations. The ex
708 officio members shall be selected by their respective
709 organizations.

710 (b) The commission may remove any member of the executive
711 committee as provided in its bylaws.

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

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

714 1. Make recommendations to the commission for any changes
715 to the rules, bylaws, or compact legislation; fees paid by
716 compact member states; and any fees charged to licensees for the
717 privilege to practice.

718 2. Ensure compact administration services are appropriately
719 provided, contractually or otherwise.

720 3. Prepare and recommend the budget.

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

722 5. Monitor compact compliance of member states and provide
723 compliance reports to the commission.

724 6. Establish additional committees as necessary.

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

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726 bylaws.

727 (6) FINANCING OF THE COMMISSION.—

728 (a) The commission shall pay, or provide for the payment
729 of, the reasonable expenses of its establishment, organization,
730 and ongoing activities.

731 (b) The commission may accept any appropriate revenue
732 sources, donations, or grants of money, equipment, supplies,
733 materials, or services.

734 (c) The commission may levy and collect an annual
735 assessment from each member state or impose fees on other
736 parties to cover the cost of the operations and activities of
737 the commission and its staff. Such assessments and fees must be
738 in a total amount sufficient to cover its annual budget as
739 approved each year for which revenue is not provided by other
740 sources. The aggregate annual assessment amount must be
741 allocated based on a formula to be determined by the commission,
742 which shall adopt a rule binding on all member states.

743 (d) The commission may not incur obligations of any kind
744 before securing the funds adequate to meet the same; nor may the
745 commission pledge the credit of any of the member states, except
746 by and with the authority of the member state.

747 (e) The commission shall keep accurate accounts of all
748 receipts and disbursements. The receipts and disbursements of
749 the commission are subject to the audit and accounting
750 procedures established under its bylaws. However, all receipts
751 and disbursements of funds handled by the commission must be
752 audited annually by a certified or licensed public accountant,
753 and the report of the audit must be included in and become part
754 of the annual report of the commission.

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

756 (a) The members, officers, executive director, employees,
757 and representatives of the commission are immune from suit and
758 liability, either personally or in their official capacity, for
759 any claim for damage to or loss of property or personal injury
760 or other civil liability caused by or arising out of any actual
761 or alleged act, error, or omission that occurred, or that the
762 person against whom the claim is made had a reasonable basis for
763 believing occurred, within the scope of commission employment,
764 duties, or responsibilities. This paragraph may not be construed
765 to protect any such person from suit or liability for any
766 damage, loss, injury, or liability caused by the intentional or
767 willful or wanton misconduct of that person.

768 (b) The commission shall defend any member, officer,
769 executive director, employee, or representative of the
770 commission in any civil action seeking to impose liability
771 arising out of any actual or alleged act, error, or omission
772 that occurred, or that the person against whom the claim is made
773 had a reasonable basis for believing occurred, within the scope
774 of commission employment, duties, or responsibilities, provided
775 that the actual or alleged act, error, or omission did not
776 result from that person's intentional or willful or wanton
777 misconduct. This paragraph may not be construed to prohibit that
778 person from retaining his or her own counsel.

779 (c) The commission shall indemnify and hold harmless any
780 member, officer, executive director, employee, or representative
781 of the commission for the amount of any settlement or judgment
782 obtained against that person arising out of any actual or
783 alleged act, error, or omission that occurred, or that such

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784 person had a reasonable basis for believing occurred, within the
785 scope of commission employment, duties, or responsibilities,
786 provided that the actual or alleged act, error, or omission did
787 not result from the intentional or willful or wanton misconduct
788 of that person.

789
790 ARTICLE X

791 DATA SYSTEM

792 (1) The commission shall provide for the development,
793 operation, and maintenance of a coordinated database and
794 reporting system containing licensure, adverse action, and
795 investigative information on all licensed professional
796 counselors in member states.

797 (2) Notwithstanding any other provision of state law to the
798 contrary, a member state shall submit a uniform data set to the
799 data system on all licensees to whom the compact is applicable,
800 as required by the rules of the commission, including all of the
801 following:

802 (a) Identifying information.

803 (b) Licensure data.

804 (c) Adverse actions against a license or privilege to
805 practice.

806 (d) Nonconfidential information related to alternative
807 program participation.

808 (e) Any denial of application for licensure and the reason
809 for such denial.

810 (f) Current significant investigative information.

811 (g) Other information that may facilitate the
812 administration of the compact, as determined by the rules of the

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813 commission.

814 (3) Investigative information pertaining to a licensee in
815 any member state may be made available only to other member
816 states.

817 (4) The commission shall promptly notify all member states
818 of any adverse action taken against a licensee or an individual
819 applying for a license. Adverse action information pertaining to
820 a licensee in any member state must be made available to any
821 other member state.

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

825 (6) Any information submitted to the data system which is
826 subsequently required to be expunged by the laws of the member
827 state reporting the information must be removed from the data
828 system.

829

830 ARTICLE XI

831 RULEMAKING

832 (1) The commission shall adopt reasonable rules to
833 effectively and efficiently achieve the purposes of the compact.
834 If, however, the commission exercises its rulemaking authority
835 in a manner that is beyond the scope of the purposes of the
836 compact, or the powers granted hereunder, then such an action by
837 the commission is invalid and has no force or effect.

838 (2) The commission shall exercise its rulemaking powers
839 pursuant to the criteria set forth in this article and the rules
840 adopted thereunder. Rules and amendments become binding as of
841 the date specified in each rule or amendment.

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

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

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

853 (a) On the website of the commission or other publicly
854 accessible platform; and

855 (b) On the website of each member state's professional
856 counseling licensing board or other publicly accessible platform
857 or in the publication in which each state would otherwise
858 publish proposed rules.

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

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

862 (b) The text of the proposed rule or amendment and the
863 reason for the proposed rule;

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

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

869 (7) Before adoption of a proposed rule, the commission must
870 allow persons to submit written data, facts, opinions, and

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871 arguments, which must be made available to the public.

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

875 (a) At least 25 persons who submit comments independently
876 of each other;

877 (b) A state or federal governmental subdivision or agency;
878 or

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

880 (9) If a hearing is held on the proposed rule or amendment,
881 the commission must publish the place, time, and date of the
882 scheduled public hearing. If the hearing is held through
883 electronic means, the commission must publish the mechanism for
884 access to the electronic hearing.

885 (a) All persons wishing to be heard at the hearing must
886 notify the executive director of the commission or other
887 designated member in writing of their desire to appear and
888 testify at the hearing at least 5 business days before the
889 scheduled date of the hearing.

890 (b) Hearings must be conducted in a manner providing each
891 person who wishes to comment a fair and reasonable opportunity
892 to comment orally or in writing.

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

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

898 (10) If the commission does not receive a written notice of
899 intent to attend the public hearing by interested parties, the

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900 commission may proceed with adoption of the proposed rule
901 without a public hearing.

902 (11) Following the scheduled hearing date, or by the close
903 of business on the scheduled hearing date if the hearing was not
904 held, the commission shall consider all written and oral
905 comments received.

906 (12) The commission, by majority vote of all members, shall
907 take final action on the proposed rule and shall determine the
908 effective date of the rule based on the rulemaking record and
909 the full text of the rule.

910 (13) Upon determination that an emergency exists, the
911 commission may consider and adopt an emergency rule without
912 prior notice, opportunity for comment, or hearing, provided that
913 the usual rulemaking procedures provided in the compact and in
914 this section are retroactively applied to the rule as soon as
915 reasonably possible, but no later than 90 days after the
916 effective date of the rule. For purposes of this subsection, an
917 emergency rule is one that must be adopted immediately in order
918 to:

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

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

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

924 (d) Protect public health and safety.

925 (14) The commission or an authorized committee of the
926 commission may direct revisions to a previously adopted rule or
927 amendment for purposes of correcting typographical errors,
928 errors in format, errors in consistency, or grammatical errors.

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929 Public notice of any revision must be posted on the website of
930 the commission. Revisions are subject to challenge by any person
931 for a period of 30 days after posting. A revision may be
932 challenged only on grounds that the revision results in a
933 material change to a rule. A challenge must be made in writing
934 and delivered to the chair of the commission before the end of
935 the notice period. If a challenge is not made, the revision
936 takes effect without further action. If a revision is
937 challenged, the revision may not take effect without the
938 approval of the commission.

939
940 ARTICLE XII

941 OVERSIGHT; DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION;

942 DISPUTE RESOLUTION; AND ENFORCEMENT

943 (1) OVERSIGHT.—

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

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

954 (c) The commission is entitled to receive service of
955 process in any judicial or administrative proceeding specified
956 in paragraph (b) and has standing to intervene in such a
957 proceeding for all purposes. Failure to provide service of

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958 process to the commission renders a judgment or an order void as
959 to the commission, the compact, or adopted rules.

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

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

965 1. Provide written notice to the defaulting state and other
966 member states of the nature of the default, the proposed means
967 of curing the default, and any other action to be taken by the
968 commission; and

969 2. Provide remedial training and specific technical
970 assistance regarding the default.

971 (b) If a state in default fails to cure the default, the
972 defaulting state may be terminated from the compact upon an
973 affirmative vote of a majority of the member states, and all
974 rights, privileges, and benefits conferred by the compact are
975 terminated on the effective date of termination. A cure of the
976 default does not relieve the offending state of obligations or
977 liabilities incurred during the period of default.

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

984 (d) A member state that has been terminated is responsible
985 for all assessments, obligations, and liabilities incurred
986 through the effective date of termination, including obligations

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987 that extend beyond the effective date of termination.

988 (e) The commission may not bear any costs related to a
989 member state that is found to be in default or that has been
990 terminated from the compact, unless agreed upon in writing
991 between the commission and the defaulting member state.

992 (f) The defaulting member state may appeal the action of
993 the commission by petitioning the United States District Court
994 for the District of Columbia or the federal district where the
995 commission has its principal offices. The prevailing party must
996 be awarded all costs of such litigation, including reasonable
997 attorney fees.

998 (3) DISPUTE RESOLUTION.—

999 (a) Upon request by a member state, the commission shall
1000 attempt to resolve disputes related to the compact which arise
1001 among member states and between member and nonmember states.

1002 (b) The commission shall adopt rules providing for both
1003 mediation and binding dispute resolution for disputes as
1004 appropriate.

1005 (4) ENFORCEMENT.—

1006 (a) The commission, in the reasonable exercise of its
1007 discretion, shall enforce the provisions and rules of the
1008 compact.

1009 (b) By majority vote, the commission may initiate legal
1010 action in the United States District Court for the District of
1011 Columbia or the federal district where the commission has its
1012 principal offices against a member state in default to enforce
1013 compliance with the compact and its adopted rules and bylaws.
1014 The relief sought may include both injunctive relief and
1015 damages. If judicial enforcement is necessary, the prevailing

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1016 party must be awarded all costs of such litigation, including
1017 reasonable attorney fees.

1018 (c) The remedies under this article are not the exclusive
1019 remedies to the commission. The commission may pursue any other
1020 remedies available under federal or state law.

1021
1022 ARTICLE XIII

1023 DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT COMMISSION AND
1024 ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

1025 (1) The compact becomes effective on the date on which the
1026 compact is enacted into law in the 10th member state. The
1027 provisions that become effective at that time are limited to the
1028 powers granted to the commission relating to assembly and the
1029 adoption of rules. Thereafter, the commission shall meet and
1030 exercise rulemaking powers necessary for implementation and
1031 administration of the compact.

1032 (2) Any state that joins the compact subsequent to the
1033 commission's initial adoption of the rules is subject to the
1034 rules as they exist on the date on which the compact becomes law
1035 in that state. Any rule that has been previously adopted by the
1036 commission has the full force and effect of law on the day the
1037 compact becomes law in that state.

1038 (3) Any member state may withdraw from the compact by
1039 enacting a statute repealing the compact.

1040 (a) A member state's withdrawal does not take effect until
1041 6 months after enactment of the repealing statute.

1042 (b) Withdrawal does not affect the continuing requirement
1043 of the withdrawing state's professional counseling licensing
1044 board to comply with the investigative and adverse action

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1045 reporting requirements of the compact before the effective date
1046 of withdrawal.

1047 (4) The compact may not be construed to invalidate or
1048 prevent any professional counseling licensure agreement or other
1049 cooperative arrangement between a member state and a nonmember
1050 state which does not conflict with the compact.

1051 (5) The compact may be amended by the member states. An
1052 amendment to the compact is not effective and binding upon any
1053 member state until it is enacted into the laws of all member
1054 states.

1055 ARTICLE XIV

1056 BINDING EFFECT OF COMPACT AND OTHER LAWS

1057 (1) A licensee providing professional counseling services
1058 in a remote state under the privilege to practice shall adhere
1059 to the laws and regulations, including scope of practice, of the
1060 remote state.

1061 (2) The compact does not prevent the enforcement of any
1062 other law of a member state which is not inconsistent with the
1063 compact.

1064 (3) Any laws in a member state which conflict with the
1065 compact are superseded to the extent of the conflict.

1066 (4) Any lawful actions of the commission, including all
1067 rules and bylaws properly adopted by the commission, are binding
1068 on the member states.

1069 (5) All permissible agreements between the commission and
1070 the member states are binding in accordance with their terms.

1071 (6) If any provision of the compact exceeds the
1072 constitutional limits imposed on the legislature of any member
1073 state, the provision shall be ineffective to the extent of the

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1074 conflict with the constitutional provision in question in that
 1075 member state.

1076

1077 ARTICLE XV

1078 CONSTRUCTION AND SEVERABILITY

1079 The compact must be liberally construed so as to effectuate
 1080 the purposes thereof. The provisions of the compact are
 1081 severable, and if any phrase, clause, sentence, or provision of
 1082 the compact is declared to be contrary to the constitution of
 1083 any member state or of the United States or the applicability
 1084 thereof to any government, agency, person, or circumstance is
 1085 held invalid, the validity of the remainder of the compact and
 1086 the applicability thereof to any government, agency, person, or
 1087 circumstance is not affected thereby. If the compact is held
 1088 contrary to the constitution of any member state, the compact
 1089 remains in full force and effect as to the remaining member
 1090 states and in full force and effect as to the member state
 1091 affected as to all severable matters.

1092 Section 2. Subsection (10) of section 456.073, Florida
 1093 Statutes, is amended to read:

1094 456.073 Disciplinary proceedings.—Disciplinary proceedings
 1095 for each board shall be within the jurisdiction of the
 1096 department.

1097 (10) The complaint and all information obtained pursuant to
 1098 the investigation by the department are confidential and exempt
 1099 from s. 119.07(1) until 10 days after probable cause has been
 1100 found to exist by the probable cause panel or by the department,
 1101 or until the regulated professional or subject of the
 1102 investigation waives his or her privilege of confidentiality,

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1103 whichever occurs first. The department shall report any
1104 significant investigation information relating to a nurse
1105 holding a multistate license to the coordinated licensure
1106 information system pursuant to s. 464.0095, and any significant
1107 investigatory information relating to a health care practitioner
1108 practicing under the Professional Counselors Licensure Compact
1109 to the data system pursuant to s. 491.017. Upon completion of
1110 the investigation and a recommendation by the department to find
1111 probable cause, and pursuant to a written request by the subject
1112 or the subject's attorney, the department shall provide the
1113 subject an opportunity to inspect the investigative file or, at
1114 the subject's expense, forward to the subject a copy of the
1115 investigative file. Notwithstanding s. 456.057, the subject may
1116 inspect or receive a copy of any expert witness report or
1117 patient record connected with the investigation if the subject
1118 agrees in writing to maintain the confidentiality of any
1119 information received under this subsection until 10 days after
1120 probable cause is found and to maintain the confidentiality of
1121 patient records pursuant to s. 456.057. The subject may file a
1122 written response to the information contained in the
1123 investigative file. Such response must be filed within 20 days
1124 of mailing by the department, unless an extension of time has
1125 been granted by the department. This subsection does not
1126 prohibit the department from providing such information to any
1127 law enforcement agency or to any other regulatory agency.

1128 Section 3. Subsection (5) of section 456.076, Florida
1129 Statutes, is amended to read:

1130 456.076 Impaired practitioner programs.—

1131 (5) A consultant shall enter into a participant contract

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1132 with an impaired practitioner and shall establish the terms of
1133 monitoring and shall include the terms in a participant
1134 contract. In establishing the terms of monitoring, the
1135 consultant may consider the recommendations of one or more
1136 approved evaluators, treatment programs, or treatment providers.
1137 A consultant may modify the terms of monitoring if the
1138 consultant concludes, through the course of monitoring, that
1139 extended, additional, or amended terms of monitoring are
1140 required for the protection of the health, safety, and welfare
1141 of the public. If the impaired practitioner is a health care
1142 practitioner practicing under the Professional Counselors
1143 Licensure Compact pursuant to s. 491.017, the terms of the
1144 monitoring contract must include the impaired practitioner's
1145 withdrawal from all practice under the compact.

1146 Section 4. Subsection (8) is added to section 491.004,
1147 Florida Statutes, to read:

1148 491.004 Board of Clinical Social Work, Marriage and Family
1149 Therapy, and Mental Health Counseling.—

1150 (8) The board shall appoint an individual to serve as the
1151 state's delegate on the Counseling Compact Commission, as
1152 required under s. 491.017.

1153 Section 5. Subsection (6) is added to section 491.005,
1154 Florida Statutes, to read:

1155 491.005 Licensure by examination.—

1156 (6) EXEMPTION.—A person licensed as a clinical social
1157 worker, marriage and family therapist, or mental health
1158 counselor in another state who is practicing under the
1159 Professional Counselors Licensure Compact pursuant to s.
1160 491.017, and only within the scope provided therein, is exempt

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1161 from the licensure requirements of this section, as applicable.

1162 Section 6. Subsection (3) is added to section 491.006,
1163 Florida Statutes, to read:

1164 491.006 Licensure or certification by endorsement.—

1165 (3) A person licensed as a clinical social worker, marriage
1166 and family therapist, or mental health counselor in another
1167 state who is practicing under the Professional Counselors
1168 Licensure Compact pursuant to s. 491.017, and only within the
1169 scope provided therein, is exempt from the licensure
1170 requirements of this section, as applicable.

1171 Section 7. Section 491.009, Florida Statutes, is amended to
1172 read:

1173 491.009 Discipline.—

1174 (1) The following acts constitute grounds for denial of a
1175 license or disciplinary action, as specified in s. 456.072(2) or
1176 s. 491.017:

1177 (a) Attempting to obtain, obtaining, or renewing a license,
1178 registration, or certificate under this chapter by bribery or
1179 fraudulent misrepresentation or through an error of the board or
1180 the department.

1181 (b) Having a license, registration, or certificate to
1182 practice a comparable profession revoked, suspended, or
1183 otherwise acted against, including the denial of certification
1184 or licensure by another state, territory, or country.

1185 (c) Being convicted or found guilty of, regardless of
1186 adjudication, or having entered a plea of nolo contendere to, a
1187 crime in any jurisdiction which directly relates to the practice
1188 of his or her profession or the ability to practice his or her
1189 profession. However, in the case of a plea of nolo contendere,

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1190 the board shall allow the person who is the subject of the
1191 disciplinary proceeding to present evidence in mitigation
1192 relevant to the underlying charges and circumstances surrounding
1193 the plea.

1194 (d) False, deceptive, or misleading advertising or
1195 obtaining a fee or other thing of value on the representation
1196 that beneficial results from any treatment will be guaranteed.

1197 (e) Advertising, practicing, or attempting to practice
1198 under a name other than one's own.

1199 (f) Maintaining a professional association with any person
1200 who the applicant, licensee, registered intern, or
1201 certificateholder knows, or has reason to believe, is in
1202 violation of this chapter or of a rule of the department or the
1203 board.

1204 (g) Knowingly aiding, assisting, procuring, or advising any
1205 nonlicensed, nonregistered, or noncertified person to hold
1206 himself or herself out as licensed, registered, or certified
1207 under this chapter.

1208 (h) Failing to perform any statutory or legal obligation
1209 placed upon a person licensed, registered, or certified under
1210 this chapter.

1211 (i) Willfully making or filing a false report or record;
1212 failing to file a report or record required by state or federal
1213 law; willfully impeding or obstructing the filing of a report or
1214 record; or inducing another person to make or file a false
1215 report or record or to impede or obstruct the filing of a report
1216 or record. Such report or record includes only a report or
1217 record which requires the signature of a person licensed,
1218 registered, or certified under this chapter.

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1219 (j) Paying a kickback, rebate, bonus, or other remuneration
1220 for receiving a patient or client, or receiving a kickback,
1221 rebate, bonus, or other remuneration for referring a patient or
1222 client to another provider of mental health care services or to
1223 a provider of health care services or goods; referring a patient
1224 or client to oneself for services on a fee-paid basis when those
1225 services are already being paid for by some other public or
1226 private entity; or entering into a reciprocal referral
1227 agreement.

1228 (k) Committing any act upon a patient or client which would
1229 constitute sexual battery or which would constitute sexual
1230 misconduct as defined pursuant to s. 491.0111.

1231 (l) Making misleading, deceptive, untrue, or fraudulent
1232 representations in the practice of any profession licensed,
1233 registered, or certified under this chapter.

1234 (m) Soliciting patients or clients personally, or through
1235 an agent, through the use of fraud, intimidation, undue
1236 influence, or a form of overreaching or vexatious conduct.

1237 (n) Failing to make available to a patient or client, upon
1238 written request, copies of tests, reports, or documents in the
1239 possession or under the control of the licensee, registered
1240 intern, or certificateholder which have been prepared for and
1241 paid for by the patient or client.

1242 (o) Failing to respond within 30 days to a written
1243 communication from the department or the board concerning any
1244 investigation by the department or the board, or failing to make
1245 available any relevant records with respect to any investigation
1246 about the licensee's, registered intern's, or
1247 certificateholder's conduct or background.

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1248 (p) Being unable to practice the profession for which he or
1249 she is licensed, registered, or certified under this chapter
1250 with reasonable skill or competence as a result of any mental or
1251 physical condition or by reason of illness; drunkenness; or
1252 excessive use of drugs, narcotics, chemicals, or any other
1253 substance. In enforcing this paragraph, upon a finding by the
1254 State Surgeon General, the State Surgeon General's designee, or
1255 the board that probable cause exists to believe that the
1256 licensee, registered intern, or certificateholder is unable to
1257 practice the profession because of the reasons stated in this
1258 paragraph, the department shall have the authority to compel a
1259 licensee, registered intern, or certificateholder to submit to a
1260 mental or physical examination by psychologists, physicians, or
1261 other licensees under this chapter, designated by the department
1262 or board. If the licensee, registered intern, or
1263 certificateholder refuses to comply with such order, the
1264 department's order directing the examination may be enforced by
1265 filing a petition for enforcement in the circuit court in the
1266 circuit in which the licensee, registered intern, or
1267 certificateholder resides or does business. The licensee,
1268 registered intern, or certificateholder against whom the
1269 petition is filed may ~~shall~~ not be named or identified by
1270 initials in any public court records or documents, and the
1271 proceedings shall be closed to the public. The department shall
1272 be entitled to the summary procedure provided in s. 51.011. A
1273 licensee, registered intern, or certificateholder affected under
1274 this paragraph shall at reasonable intervals be afforded an
1275 opportunity to demonstrate that he or she can resume the
1276 competent practice for which he or she is licensed, registered,

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1277 or certified with reasonable skill and safety to patients.

1278 (q) Performing any treatment or prescribing any therapy
1279 which, by the prevailing standards of the mental health
1280 professions in the community, would constitute experimentation
1281 on human subjects, without first obtaining full, informed, and
1282 written consent.

1283 (r) Failing to meet the minimum standards of performance in
1284 professional activities when measured against generally
1285 prevailing peer performance, including the undertaking of
1286 activities for which the licensee, registered intern, or
1287 certificateholder is not qualified by training or experience.

1288 (s) Delegating professional responsibilities to a person
1289 whom the licensee, registered intern, or certificateholder knows
1290 or has reason to know is not qualified by training or experience
1291 to perform such responsibilities.

1292 (t) Violating a rule relating to the regulation of the
1293 profession or a lawful order of the department or the board
1294 previously entered in a disciplinary hearing.

1295 (u) Failure of the licensee, registered intern, or
1296 certificateholder to maintain in confidence a communication made
1297 by a patient or client in the context of such services, except
1298 as provided in s. 491.0147.

1299 (v) Making public statements which are derived from test
1300 data, client contacts, or behavioral research and which identify
1301 or damage research subjects or clients.

1302 (w) Violating any provision of this chapter or chapter 456,
1303 or any rules adopted pursuant thereto.

1304 (2) (a) The board or, in the case of certified master social
1305 workers, the department may enter an order denying licensure or

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1306 imposing any of the penalties authorized in s. 456.072(2)
1307 against any applicant for licensure or any licensee who violates
1308 subsection (1) or s. 456.072(1).

1309 (b) The board may take adverse action against a clinical
1310 social worker's, a marriage and family therapist's, or a mental
1311 health counselor's privilege to practice under the Professional
1312 Counselors Licensure Compact pursuant to s. 491.017 and may
1313 impose any of the penalties in s. 456.072(2) if the clinical
1314 social worker, marriage and family therapist, or mental health
1315 counselor commits an act specified in subsection (1) or s.
1316 456.072(1).

1317 Section 8. Paragraph (h) is added to subsection (10) of
1318 section 768.28, Florida Statutes, to read:

1319 768.28 Waiver of sovereign immunity in tort actions;
1320 recovery limits; civil liability for damages caused during a
1321 riot; limitation on attorney fees; statute of limitations;
1322 exclusions; indemnification; risk management programs.-

1323 (10)

1324 (h) For purposes of this section, the individual appointed
1325 under s. 491.004(8) as the state's delegate on the Counseling
1326 Compact Commission, when serving in that capacity pursuant to s.
1327 491.017, and any administrator, officer, executive director,
1328 employee, or representative of the commission, when acting
1329 within the scope of his or her employment, duties, or
1330 responsibilities in this state, is considered an agent of the
1331 state. The commission shall pay any claims or judgments pursuant
1332 to this section and may maintain insurance coverage to pay any
1333 such claims or judgments.

1334 Section 9. This act shall take effect July 1, 2022.