

By the Committee on Health Policy; and Senator Rodriguez

588-01039-22

2022358c1

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

588-01039-22

2022358c1

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

588-01039-22

2022358c1

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

588-01039-22

2022358c1

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

588-01039-22

2022358c1

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; requiring the department to notify the
121 Division of Law Revision upon enactment of the compact
122 into law by 10 states; providing a contingent
123 effective date.

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

126
127 Section 1. Section 491.017, Florida Statutes, is created to
128 read:

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

133
134 ARTICLE I

135 PURPOSE

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

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

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

144 (3) Encourage the cooperation of member states in
145 regulating multistate practice of licensed professional

588-01039-22

2022358c1

146 counselors.

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

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

588-01039-22

2022358c1

175 criminal action authorized by a state's laws which is imposed by
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, after
196 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

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

588-01039-22

2022358c1

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
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

588-01039-22

2022358c1

233 laws and rules governing the practice of professional counseling
234 in a state.

235 (15) "Licensed professional counselor" means a mental
236 health counselor licensed under chapter 491 or a counselor
237 licensed by a member state, regardless of the title used by that
238 state, to independently assess, diagnose, and treat behavioral
239 health conditions.

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

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

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

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

251 (20) "Professional counseling" means the assessment,
252 diagnosis, and treatment of behavioral health conditions by a
253 licensed professional counselor.

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

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

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

588-01039-22

2022358c1

262 privilege to practice in any other member state.

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

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

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

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274 ARTICLE III

275 STATE PARTICIPATION

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

278 (a) License and regulate licensed professional counselors.

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

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

285 1. Professional counseling orientation and ethical
286 practice.

287 2. Social and cultural diversity.

288 3. Human growth and development.

289 4. Career development.

290 5. Counseling and helping relationships.

588-01039-22

2022358c1

- 291 6. Group counseling and group work.
- 292 7. Diagnosis, assessment, testing, and treatment.
- 293 8. Research and program evaluation.
- 294 9. Other areas as determined by the commission.
- 295 (d) Require licensees to complete a supervised postgraduate
296 professional experience as defined by the 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,
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.

588-01039-22

2022358c1

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.

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 a
332 valid unencumbered license in another member state in accordance
333 with the terms of the compact and rules adopted by the
334 commission.

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

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

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

345 (5) Nothing in this compact affects the requirements
346 established by a member state for the issuance of a single state
347 license.

348 (6) A professional counselor license issued by a home state

588-01039-22

2022358c1

349 to a resident of that state must be recognized by each member
350 state as authorizing that licensed professional counselor to
351 practice professional counseling, under a privilege to practice,
352 in each member state.

354 ARTICLE IV

355 PRIVILEGE TO PRACTICE

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

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

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

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

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

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

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

370 (g) Meet any continuing education requirements established
371 by the home state.

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

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

588-01039-22

2022358c1

378 (2) The privilege to practice is valid until the expiration
379 date of the home state license. The licensee must continue to
380 meet the criteria specified in subsection (1) to renew the
381 privilege to practice in the remote state.

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

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

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

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

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

403 (b) The licensee has not had any encumbrance or restriction
404 against any license or privilege to practice within the
405 preceding 2 years.

406 (7) Once an encumbered license in the licensee's home state

588-01039-22

2022358c1

407 is restored to good standing, the licensee may obtain a
408 privilege to practice in any remote state if he or she meets the
409 requirements of subsection (1).

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

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

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

417 (c) The licensee has not had any encumbrance or restriction
418 against any license or privilege to practice within the
419 preceding 2 years.

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

423

424 ARTICLE V

425 OBTAINING A NEW HOME STATE LICENSE BASED ON A PRIVILEGE TO 426 PRACTICE

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

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

588-01039-22

2022358c1

436 adopted by the commission.

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

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

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

450 (c) Proof of completion of any requisite jurisprudence
451 requirements of the new home state.

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

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

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

463 (7) If a licensed professional counselor changes his or her
464 primary state of residence by moving from a member state to a

588-01039-22

2022358c1

465 nonmember state or from a nonmember state to a member state, the
466 new state's own criteria apply for issuance of a single state
467 license in the new state.

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

472 (9) The compact does not affect the requirements
473 established by a member state for the issuance of a single state
474 license.

475 ARTICLE VI

476 ACTIVE DUTY MILITARY PERSONNEL AND THEIR SPOUSES

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

485 ARTICLE VII

486 COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

487 (1) Member states shall recognize the right of a licensed
488 professional counselor, licensed by a home state in accordance
489 with article III and under rules adopted by the commission, to
490 practice professional counseling in any member state through
491 telehealth under a privilege to practice as provided in the
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588-01039-22

2022358c1

494 compact and rules adopted by the commission.

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

499 ARTICLE VIII

500 ADVERSE ACTIONS

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

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

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

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

521 (3) For purposes of taking adverse action, the home state
522 shall give the same priority and effect to reported conduct

588-01039-22

2022358c1

523 received from a member state as it would if the conduct had
524 occurred within the home state. The home state shall apply its
525 own state laws to determine appropriate action in such cases.

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

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

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

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

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

550 (8) If adverse action is taken by the home state against
551 the license of a professional counselor, the licensed

588-01039-22

2022358c1

552 professional counselor's privilege to practice in all other
553 member states must be deactivated until all encumbrances have
554 been removed from the home state license. All home state
555 disciplinary orders that impose adverse action against the
556 license of a professional counselor must include a statement
557 that the licensed professional counselor's privilege to practice
558 is deactivated in all member states while the order is in
559 effect.

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

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

567 ARTICLE IX

568 ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

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

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

574 (b) Venue is proper, and judicial proceedings by or against
575 the commission shall be brought solely and exclusively in a
576 court of competent jurisdiction where the principal office of
577 the commission is located. The commission may waive venue and
578 jurisdictional defenses to the extent that it adopts or consents
579 to participate in alternative dispute resolution proceedings.
580

588-01039-22

2022358c1

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

583 (2) MEMBERSHIP.—

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

588 (b) The delegate must be either:

589 1. A current member of the licensing board at the time of
590 appointment, who is a licensed professional counselor or public
591 member; or

592 2. An administrator of the licensing board.

593 (c) A delegate may be removed or suspended from office as
594 provided by the law of the state from which the delegate is
595 appointed.

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

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

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

605 (3) MEETINGS OF THE COMMISSION.—

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

609 (b) All meetings must be open to the public, and public

588-01039-22

2022358c1

610 notice of meetings must be given in the same manner as required
611 under the rulemaking provisions in article XI.

612 (c) The commission or the executive committee or other
613 committees of the commission may convene in a closed, nonpublic
614 meeting if the commission or executive committee or other
615 committees of the commission must discuss any of the following:

616 1. Noncompliance of a member state with its obligations
617 under the compact.

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

622 3. Current, threatened, or reasonably anticipated
623 litigation.

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

626 5. Accusing any person of a crime or formally censuring any
627 person.

628 6. Disclosure of trade secrets or commercial or financial
629 information that is privileged or confidential.

630 7. Disclosure of information of a personal nature if
631 disclosure would constitute a clearly unwarranted invasion of
632 personal privacy.

633 8. Disclosure of investigative records compiled for law
634 enforcement purposes.

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

588-01039-22

2022358c1

639 10. Matters specifically exempted from disclosure by
640 federal or member state law.

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

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

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

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

656 (b) Establish bylaws.

657 (c) Maintain its financial records in accordance with the
658 bylaws.

659 (d) Meet and take actions that are consistent with the
660 compact and bylaws.

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

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

667 (g) Purchase and maintain insurance and bonds.

588-01039-22

2022358c1

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

670 (i) Hire employees and elect or appoint officers; fix
671 compensation for, define duties of, and grant appropriate
672 authority to such employees and officers to carry out the
673 purposes of the compact; and establish the commission's
674 personnel policies and programs relating to conflicts of
675 interest, qualifications of personnel, and other related
676 personnel matters.

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

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

686 (l) Sell, convey, mortgage, pledge, lease, exchange,
687 abandon, or otherwise dispose of any property, real, personal,
688 or mixed.

689 (m) Establish a budget and make expenditures.

690 (n) Borrow money.

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

696 (p) Provide information to, receive information from, and

588-01039-22

2022358c1

697 cooperate with law enforcement agencies.

698 (q) Establish and elect an executive committee.

699 (r) Perform any other function that may be necessary or
700 appropriate to achieve the purposes of the compact and is
701 consistent with the state regulation of professional counseling
702 licensure and practice.

703 (5) THE EXECUTIVE COMMITTEE.—

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

707 1. Seven voting members who are elected by the commission
708 from the current membership of the commission.

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

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

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

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

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

721 2. Ensure compact administration services are appropriately
722 provided, contractually or otherwise.

723 3. Prepare and recommend the budget.

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

725 5. Monitor compact compliance of member states and provide

588-01039-22

2022358c1

726 compliance reports to the commission.

727 6. Establish additional committees as necessary.

728 7. Perform any other duties provided for in the rules or
729 bylaws.

730 (6) FINANCING OF THE COMMISSION.—

731 (a) The commission shall pay, or provide for the payment
732 of, the reasonable expenses of its establishment, organization,
733 and ongoing activities.

734 (b) The commission may accept any appropriate revenue
735 sources, donations, or grants of money, equipment, supplies,
736 materials, or services.

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

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

750 (e) The commission shall keep accurate accounts of all
751 receipts and disbursements. The receipts and disbursements of
752 the commission are subject to the audit and accounting
753 procedures established under its bylaws. However, all receipts
754 and disbursements of funds handled by the commission must be

588-01039-22

2022358c1

755 audited annually by a certified or licensed public accountant,
756 and the report of the audit must be included in and become part
757 of the annual report of the commission.

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

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

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

782 (c) The commission shall indemnify and hold harmless any
783 member, officer, executive director, employee, or representative

588-01039-22

2022358c1

784 of the commission for the amount of any settlement or judgment
785 obtained against that person arising out of any actual or
786 alleged act, error, or omission that occurred, or that such
787 person had a reasonable basis for believing occurred, within the
788 scope of commission employment, duties, or responsibilities,
789 provided that the actual or alleged act, error, or omission did
790 not result from the intentional or willful or wanton misconduct
791 of that person.

793 ARTICLE X

794 DATA SYSTEM

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

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

805 (a) Identifying information.

806 (b) Licensure data.

807 (c) Adverse actions against a license or privilege to
808 practice.

809 (d) Nonconfidential information related to alternative
810 program participation.

811 (e) Any denial of application for licensure and the reason
812 for such denial.

588-01039-22

2022358c1

813 (f) Current significant investigative information.

814 (g) Other information that may facilitate the
815 administration of the compact, as determined by the rules of the
816 commission.

817 (3) Investigative information pertaining to a licensee in
818 any member state may be made available only to other member
819 states.

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

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

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

832
833 ARTICLE XI

834 RULEMAKING

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

841 (2) The commission shall exercise its rulemaking powers

588-01039-22

2022358c1

842 pursuant to the criteria set forth in this article and the rules
843 adopted thereunder. Rules and amendments become binding as of
844 the date specified in each rule or amendment.

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

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

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

856 (a) On the website of the commission or other publicly
857 accessible platform; and

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

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

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

865 (b) The text of the proposed rule or amendment and the
866 reason for the proposed rule;

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

869 (d) The manner in which interested persons may submit
870 notice to the commission of their intention to attend the public

588-01039-22

2022358c1

871 hearing and any written comments.

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

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

878 (a) At least 25 persons who submit comments independently
879 of each other;

880 (b) A state or federal governmental subdivision or agency;
881 or

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

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

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

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

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

898 (d) This section may not be construed to require a separate
899 hearing on each rule. Rules may be grouped at hearings required

588-01039-22

2022358c1

900 by this section for the convenience of the commission.

901 (10) If the commission does not receive a written notice of
902 intent to attend the public hearing by interested parties, the
903 commission may proceed with adoption of the proposed rule
904 without a public hearing.

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

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

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

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

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

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

927 (d) Protect public health and safety.

928 (14) The commission or an authorized committee of the

588-01039-22

2022358c1

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

942
943 ARTICLE XII

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

946 (1) OVERSIGHT.—

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

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

957 (c) The commission is entitled to receive service of

588-01039-22

2022358c1

958 process in any judicial or administrative proceeding specified
959 in paragraph (b) and has standing to intervene in such a
960 proceeding for all purposes. Failure to provide service of
961 process to the commission renders a judgment or an order void as
962 to the commission, the compact, or adopted rules.

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

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

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

972 2. Provide remedial training and specific technical
973 assistance regarding the default.

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

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

588-01039-22

2022358c1

987 (d) A member state that has been terminated is responsible
988 for all assessments, obligations, and liabilities incurred
989 through the effective date of termination, including obligations
990 that extend beyond the effective date of termination.

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

995 (f) The defaulting member state may appeal the action of
996 the commission by petitioning the United States District Court
997 for the District of Columbia or the federal district where the
998 commission has its principal offices. The prevailing party must
999 be awarded all costs of such litigation, including reasonable
1000 attorney fees.

1001 (3) DISPUTE RESOLUTION.—

1002 (a) Upon request by a member state, the commission shall
1003 attempt to resolve disputes related to the compact which arise
1004 among member states and between member and nonmember states.

1005 (b) The commission shall adopt rules providing for both
1006 mediation and binding dispute resolution for disputes as
1007 appropriate.

1008 (4) ENFORCEMENT.—

1009 (a) The commission, in the reasonable exercise of its
1010 discretion, shall enforce the provisions and rules of the
1011 compact.

1012 (b) By majority vote, the commission may initiate legal
1013 action in the United States District Court for the District of
1014 Columbia or the federal district where the commission has its
1015 principal offices against a member state in default to enforce

588-01039-22

2022358c1

1016 compliance with the compact and its adopted rules and bylaws.
1017 The relief sought may include both injunctive relief and
1018 damages. If judicial enforcement is necessary, the prevailing
1019 party must be awarded all costs of such litigation, including
1020 reasonable attorney fees.

1021 (c) The remedies under this article are not the exclusive
1022 remedies to the commission. The commission may pursue any other
1023 remedies available under federal or state law.

1024
1025 ARTICLE XIII

1026 DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT COMMISSION AND
1027 ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

1028 (1) The compact becomes effective on the date on which the
1029 compact is enacted into law in the 10th member state. The
1030 provisions that become effective at that time are limited to the
1031 powers granted to the commission relating to assembly and the
1032 adoption of rules. Thereafter, the commission shall meet and
1033 exercise rulemaking powers necessary for implementation and
1034 administration of the compact.

1035 (2) Any state that joins the compact subsequent to the
1036 commission's initial adoption of the rules is subject to the
1037 rules as they exist on the date on which the compact becomes law
1038 in that state. Any rule that has been previously adopted by the
1039 commission has the full force and effect of law on the day the
1040 compact becomes law in that state.

1041 (3) Any member state may withdraw from the compact by
1042 enacting a statute repealing the compact.

1043 (a) A member state's withdrawal does not take effect until
1044 6 months after enactment of the repealing statute.

588-01039-22

2022358c1

1045 (b) Withdrawal does not affect the continuing requirement
1046 of the withdrawing state's professional counseling licensing
1047 board to comply with the investigative and adverse action
1048 reporting requirements of the compact before the effective date
1049 of withdrawal.

1050 (4) The compact may not be construed to invalidate or
1051 prevent any professional counseling licensure agreement or other
1052 cooperative arrangement between a member state and a nonmember
1053 state which does not conflict with the compact.

1054 (5) The compact may be amended by the member states. An
1055 amendment to the compact is not effective and binding upon any
1056 member state until it is enacted into the laws of all member
1057 states.

1058 ARTICLE XIV

1059 BINDING EFFECT OF COMPACT AND OTHER LAWS

1060 (1) A licensee providing professional counseling services
1061 in a remote state under the privilege to practice shall adhere
1062 to the laws and regulations, including scope of practice, of the
1063 remote state.

1064 (2) The compact does not prevent the enforcement of any
1065 other law of a member state which is not inconsistent with the
1066 compact.

1067 (3) Any laws in a member state which conflict with the
1068 compact are superseded to the extent of the conflict.

1069 (4) Any lawful actions of the commission, including all
1070 rules and bylaws properly adopted by the commission, are binding
1071 on the member states.

1072 (5) All permissible agreements between the commission and
1073 the member states are binding in accordance with their terms.

588-01039-22

2022358c1

1074 (6) If any provision of the compact exceeds the
1075 constitutional limits imposed on the legislature of any member
1076 state, the provision shall be ineffective to the extent of the
1077 conflict with the constitutional provision in question in that
1078 member state.

1079
1080 ARTICLE XV

1081 CONSTRUCTION AND SEVERABILITY

1082 The compact must be liberally construed so as to effectuate
1083 the purposes thereof. The provisions of the compact are
1084 severable, and if any phrase, clause, sentence, or provision of
1085 the compact is declared to be contrary to the constitution of
1086 any member state or of the United States or the applicability
1087 thereof to any government, agency, person, or circumstance is
1088 held invalid, the validity of the remainder of the compact and
1089 the applicability thereof to any government, agency, person, or
1090 circumstance is not affected thereby. If the compact is held
1091 contrary to the constitution of any member state, the compact
1092 remains in full force and effect as to the remaining member
1093 states and in full force and effect as to the member state
1094 affected as to all severable matters.

1095 Section 2. Subsection (10) of section 456.073, Florida
1096 Statutes, is amended to read:

1097 456.073 Disciplinary proceedings.—Disciplinary proceedings
1098 for each board shall be within the jurisdiction of the
1099 department.

1100 (10) The complaint and all information obtained pursuant to
1101 the investigation by the department are confidential and exempt
1102 from s. 119.07(1) until 10 days after probable cause has been

588-01039-22

2022358c1

1103 found to exist by the probable cause panel or by the department,
1104 or until the regulated professional or subject of the
1105 investigation waives his or her privilege of confidentiality,
1106 whichever occurs first. The department shall report any
1107 significant investigation information relating to a nurse
1108 holding a multistate license to the coordinated licensure
1109 information system pursuant to s. 464.0095, and any significant
1110 investigatory information relating to a health care practitioner
1111 practicing under the Professional Counselors Licensure Compact
1112 to the data system pursuant to s. 491.017. Upon completion of
1113 the investigation and a recommendation by the department to find
1114 probable cause, and pursuant to a written request by the subject
1115 or the subject's attorney, the department shall provide the
1116 subject an opportunity to inspect the investigative file or, at
1117 the subject's expense, forward to the subject a copy of the
1118 investigative file. Notwithstanding s. 456.057, the subject may
1119 inspect or receive a copy of any expert witness report or
1120 patient record connected with the investigation if the subject
1121 agrees in writing to maintain the confidentiality of any
1122 information received under this subsection until 10 days after
1123 probable cause is found and to maintain the confidentiality of
1124 patient records pursuant to s. 456.057. The subject may file a
1125 written response to the information contained in the
1126 investigative file. Such response must be filed within 20 days
1127 of mailing by the department, unless an extension of time has
1128 been granted by the department. This subsection does not
1129 prohibit the department from providing such information to any
1130 law enforcement agency or to any other regulatory agency.

1131 Section 3. Subsection (5) of section 456.076, Florida

588-01039-22

2022358c1

1132 Statutes, is amended to read:

1133 456.076 Impaired practitioner programs.—

1134 (5) A consultant shall enter into a participant contract
1135 with an impaired practitioner and shall establish the terms of
1136 monitoring and shall include the terms in a participant
1137 contract. In establishing the terms of monitoring, the
1138 consultant may consider the recommendations of one or more
1139 approved evaluators, treatment programs, or treatment providers.
1140 A consultant may modify the terms of monitoring if the
1141 consultant concludes, through the course of monitoring, that
1142 extended, additional, or amended terms of monitoring are
1143 required for the protection of the health, safety, and welfare
1144 of the public. If the impaired practitioner is a health care
1145 practitioner practicing under the Professional Counselors
1146 Licensure Compact pursuant to s. 491.017, the terms of the
1147 monitoring contract must include the impaired practitioner's
1148 withdrawal from all practice under the compact.

1149 Section 4. Subsection (8) is added to section 491.004,
1150 Florida Statutes, to read:

1151 491.004 Board of Clinical Social Work, Marriage and Family
1152 Therapy, and Mental Health Counseling.—

1153 (8) The board shall appoint an individual to serve as the
1154 state's delegate on the Counseling Compact Commission, as
1155 required under s. 491.017.

1156 Section 5. Subsection (6) is added to section 491.005,
1157 Florida Statutes, to read:

1158 491.005 Licensure by examination.—

1159 (6) EXEMPTION.—A person licensed as a clinical social
1160 worker, marriage and family therapist, or mental health

588-01039-22

2022358c1

1161 counselor in another state who is practicing under the
1162 Professional Counselors Licensure Compact pursuant to s.
1163 491.017, and only within the scope provided therein, is exempt
1164 from the licensure requirements of this section, as applicable.

1165 Section 6. Subsection (3) is added to section 491.006,
1166 Florida Statutes, to read:

1167 491.006 Licensure or certification by endorsement.—

1168 (3) A person licensed as a clinical social worker, marriage
1169 and family therapist, or mental health counselor in another
1170 state who is practicing under the Professional Counselors
1171 Licensure Compact pursuant to s. 491.017, and only within the
1172 scope provided therein, is exempt from the licensure
1173 requirements of this section, as applicable.

1174 Section 7. Section 491.009, Florida Statutes, is amended to
1175 read:

1176 491.009 Discipline.—

1177 (1) The following acts constitute grounds for denial of a
1178 license or disciplinary action, as specified in s. 456.072(2) or
1179 s. 491.017:

1180 (a) Attempting to obtain, obtaining, or renewing a license,
1181 registration, or certificate under this chapter by bribery or
1182 fraudulent misrepresentation or through an error of the board or
1183 the department.

1184 (b) Having a license, registration, or certificate to
1185 practice a comparable profession revoked, suspended, or
1186 otherwise acted against, including the denial of certification
1187 or licensure by another state, territory, or country.

1188 (c) Being convicted or found guilty of, regardless of
1189 adjudication, or having entered a plea of nolo contendere to, a

588-01039-22

2022358c1

1190 crime in any jurisdiction which directly relates to the practice
1191 of his or her profession or the ability to practice his or her
1192 profession. However, in the case of a plea of nolo contendere,
1193 the board shall allow the person who is the subject of the
1194 disciplinary proceeding to present evidence in mitigation
1195 relevant to the underlying charges and circumstances surrounding
1196 the plea.

1197 (d) False, deceptive, or misleading advertising or
1198 obtaining a fee or other thing of value on the representation
1199 that beneficial results from any treatment will be guaranteed.

1200 (e) Advertising, practicing, or attempting to practice
1201 under a name other than one's own.

1202 (f) Maintaining a professional association with any person
1203 who the applicant, licensee, registered intern, or
1204 certificateholder knows, or has reason to believe, is in
1205 violation of this chapter or of a rule of the department or the
1206 board.

1207 (g) Knowingly aiding, assisting, procuring, or advising any
1208 nonlicensed, nonregistered, or noncertified person to hold
1209 himself or herself out as licensed, registered, or certified
1210 under this chapter.

1211 (h) Failing to perform any statutory or legal obligation
1212 placed upon a person licensed, registered, or certified under
1213 this chapter.

1214 (i) Willfully making or filing a false report or record;
1215 failing to file a report or record required by state or federal
1216 law; willfully impeding or obstructing the filing of a report or
1217 record; or inducing another person to make or file a false
1218 report or record or to impede or obstruct the filing of a report

588-01039-22

2022358c1

1219 or record. Such report or record includes only a report or
1220 record which requires the signature of a person licensed,
1221 registered, or certified under this chapter.

1222 (j) Paying a kickback, rebate, bonus, or other remuneration
1223 for receiving a patient or client, or receiving a kickback,
1224 rebate, bonus, or other remuneration for referring a patient or
1225 client to another provider of mental health care services or to
1226 a provider of health care services or goods; referring a patient
1227 or client to oneself for services on a fee-paid basis when those
1228 services are already being paid for by some other public or
1229 private entity; or entering into a reciprocal referral
1230 agreement.

1231 (k) Committing any act upon a patient or client which would
1232 constitute sexual battery or which would constitute sexual
1233 misconduct as defined pursuant to s. 491.0111.

1234 (l) Making misleading, deceptive, untrue, or fraudulent
1235 representations in the practice of any profession licensed,
1236 registered, or certified under this chapter.

1237 (m) Soliciting patients or clients personally, or through
1238 an agent, through the use of fraud, intimidation, undue
1239 influence, or a form of overreaching or vexatious conduct.

1240 (n) Failing to make available to a patient or client, upon
1241 written request, copies of tests, reports, or documents in the
1242 possession or under the control of the licensee, registered
1243 intern, or certificateholder which have been prepared for and
1244 paid for by the patient or client.

1245 (o) Failing to respond within 30 days to a written
1246 communication from the department or the board concerning any
1247 investigation by the department or the board, or failing to make

588-01039-22

2022358c1

1248 available any relevant records with respect to any investigation
1249 about the licensee's, registered intern's, or
1250 certificateholder's conduct or background.

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

588-01039-22

2022358c1

1277 this paragraph shall at reasonable intervals be afforded an
1278 opportunity to demonstrate that he or she can resume the
1279 competent practice for which he or she is licensed, registered,
1280 or certified with reasonable skill and safety to patients.

1281 (q) Performing any treatment or prescribing any therapy
1282 which, by the prevailing standards of the mental health
1283 professions in the community, would constitute experimentation
1284 on human subjects, without first obtaining full, informed, and
1285 written consent.

1286 (r) Failing to meet the minimum standards of performance in
1287 professional activities when measured against generally
1288 prevailing peer performance, including the undertaking of
1289 activities for which the licensee, registered intern, or
1290 certificateholder is not qualified by training or experience.

1291 (s) Delegating professional responsibilities to a person
1292 whom the licensee, registered intern, or certificateholder knows
1293 or has reason to know is not qualified by training or experience
1294 to perform such responsibilities.

1295 (t) Violating a rule relating to the regulation of the
1296 profession or a lawful order of the department or the board
1297 previously entered in a disciplinary hearing.

1298 (u) Failure of the licensee, registered intern, or
1299 certificateholder to maintain in confidence a communication made
1300 by a patient or client in the context of such services, except
1301 as provided in s. 491.0147.

1302 (v) Making public statements which are derived from test
1303 data, client contacts, or behavioral research and which identify
1304 or damage research subjects or clients.

1305 (w) Violating any provision of this chapter or chapter 456,

588-01039-22

2022358c1

1306 or any rules adopted pursuant thereto.

1307 (2) (a) The board or, in the case of certified master social
1308 workers, the department may enter an order denying licensure or
1309 imposing any of the penalties authorized in s. 456.072(2)
1310 against any applicant for licensure or any licensee who violates
1311 subsection (1) or s. 456.072(1).

1312 (b) The board may take adverse action against a clinical
1313 social worker's, a marriage and family therapist's, or a mental
1314 health counselor's privilege to practice under the Professional
1315 Counselors Licensure Compact pursuant to s. 491.017 and may
1316 impose any of the penalties in s. 456.072(2) if the clinical
1317 social worker, marriage and family therapist, or mental health
1318 counselor commits an act specified in subsection (1) or s.
1319 456.072(1).

1320 Section 8. Paragraph (h) is added to subsection (10) of
1321 section 768.28, Florida Statutes, to read:

1322 768.28 Waiver of sovereign immunity in tort actions;
1323 recovery limits; civil liability for damages caused during a
1324 riot; limitation on attorney fees; statute of limitations;
1325 exclusions; indemnification; risk management programs.—

1326 (10)

1327 (h) For purposes of this section, the individual appointed
1328 under s. 491.004(8) as the state's delegate on the Counseling
1329 Compact Commission, when serving in that capacity pursuant to s.
1330 491.017, and any administrator, officer, executive director,
1331 employee, or representative of the commission, when acting
1332 within the scope of his or her employment, duties, or
1333 responsibilities in this state, is considered an agent of the
1334 state. The commission shall pay any claims or judgments pursuant

588-01039-22

2022358c1

1335 to this section and may maintain insurance coverage to pay any
1336 such claims or judgments.

1337 Section 9. The Department of Health shall notify the
1338 Division of Law Revision upon enactment of the Professional
1339 Counselors Licensure Compact into law by 10 states.

1340 Section 10. This act shall take effect upon enactment of
1341 the Professional Counselors Licensure Compact into law by 10
1342 states.