

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 385 Professional Counselors Licensure Compact

SPONSOR(S): Healthcare Regulation Subcommittee, Porras

TIED BILLS: IDEN./SIM. BILLS: SB 140

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthcare Regulation Subcommittee	17 Y, 0 N, As CS	Osborne	McElroy
2) Health Care Appropriations Subcommittee	15 Y, 0 N	Aderibigbe	Clark
3) Health & Human Services Committee	17 Y, 0 N	Osborne	Calamas

SUMMARY ANALYSIS

An interstate compact is an agreement between two or more states to address common problems or issues, create an independent, multistate governmental authority, or establish uniform guidelines, standards or procedures for the compact's member states. Interstate compacts have model legislation which sets forth the terms and conditions of the compact. States join interstate compacts by adopting the model legislation into law and may not alter its terms and conditions. A compact may suspend the membership of any state that alters the terms and conditions of the model legislation.

In 2020, the National Center for Interstate Compacts adopted model legislation for the Professional Counselors Licensure Compact (compact) which authorizes both telehealth and in-person practice across state lines in compact states. Professional counselors may only utilize the compact if their home state joins the compact. Professional counselors must obtain the privilege to practice from other compact states in order to provide services to clients in those states, and compact states may charge a fee for granting the privilege.

Florida joined the compact in 2022. Florida was the eighth state to join the compact which currently has 17 member states. The compact became active on April 19, 2022, upon its enactment in the 10th member state.

The language adopted by Florida is a modified version of the model legislation. Specifically, current law omits model legislation language that gives states the discretion to collect fees for the privilege to practice under the compact.

CS/HB 385 reinserts the original model legislation language of the compact which gives states the discretion to collect fees into current law. This conforms Florida law to the terms of the compact and ensures Florida's participation in the compact.

The bill does not authorize the Department of Health (DOH) to collect a fee, but rather states that fees of this kind are allowable under the compact. In order for DOH to have requisite authority to collect fees, the Legislature would have to enact legislation in the applicable practice act expressly authorizing DOH to collect such fees.

The bill has no fiscal impact on state or local government.

The bill has an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Interstate Compacts

An interstate compact is an agreement between two or more states to address common problems or issues, create an independent, multistate governmental authority, or establish uniform guidelines, standards or procedures for the compact's member states.¹ Interstate compacts have model legislation which sets forth the terms and conditions of the compact. States join interstate compacts by adopting the model legislation into law and may not alter its terms and conditions.² A compact may suspend the membership of a state that alters the terms and conditions of the model legislation.

Professional Counselors Licensure Compact

The Professional Counselors Licensure Compact (compact) was created by the National Center for Interstate Compacts as an interstate compact to authorize professional mental health counselors to practice via telehealth and in-person across state lines in compact states without obtaining multiple state licenses.³ The Compact also establishes the Counseling Compact Commission (Commission), made up of voting delegates representing each member state, which is responsible for establishing rules and enforcing the compact.⁴

Under the compact, a Florida licensed professional counselor⁵ is eligible to provide services to patients in compact states, through telehealth or in-person, upon being granted compact privileges.⁶ The compact also allows out-of-state licensed professional counselors in compact states to provide services to Florida patients through telehealth and in-person upon being granted compact privileges.⁷

To exercise the privilege to practice under the terms and provisions of the compact, the licensee must:⁸

- Hold a license in the home state;
- Have a valid United States social security number or national practitioner identifier;
- Be eligible for a privilege to practice in any member state;
- Have no encumbrance or restriction against any license or privilege to practice within the previous two years;
- Notify the Commission that the licensee is seeking the privilege to practice within a remote state or states;
- Pay any applicable fees, including any state fee, for the privilege to practice;
- Meet any continuing competence or education requirements established by the home state;
- Meet any jurisprudence requirements established by the remote state or states in which the licensee is seeking a privilege to practice; and

¹ National Center for Interstate Compacts, *What Are Interstate Compacts?* Available at <https://compacts.csg.org/compacts/> (last visited February 28, 2023).

² Florida is a party to multiple interstate compacts, including the Nurse Licensure Compact (s. 464.0095, F.S.), Driver's License Compact (s. 322.44, F.S.), Compact on Adoption and Medical Assistance (s. 409.406, F.S.), the Interstate Compact on Educational Opportunity for Military Children (s. 1000.36, F.S.), and the Professional Counselors Licensure Compact (s. 491.017, F.S.).

³ Counseling Compact, *Counseling Compact Finalized*, available at <https://counselingcompact.org/first-post/> (last visited February 20, 2023).

⁴ S. 491.017(9), F.S.

⁵ In Florida, "licensed professional counselor" includes licensed clinical social workers, marriage and family therapists, and mental health counselors. See, s. 491.003(5), F.S.

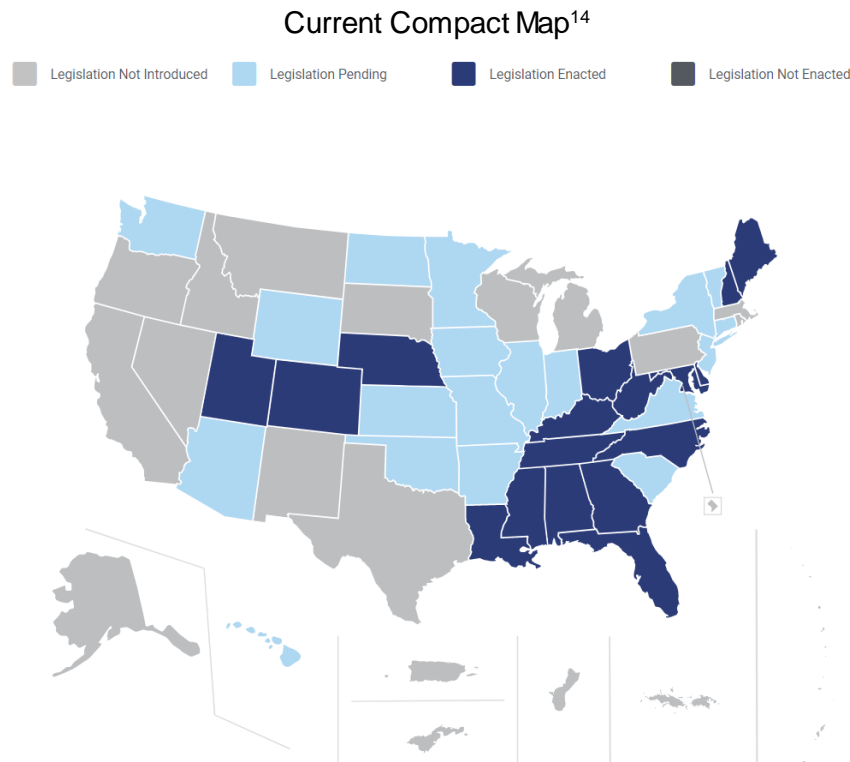
⁶ Counseling Compact, *Counseling Compact Model Legislation* (Dec. 2020), available at https://counselingcompact.org/wp-content/uploads/2021/06/Final_Counseling_Compact_With_Cover.pdf (last visited February 20, 2023).

⁷ *Id.*

⁸ S. 491.017, F.S.

- Report to the Commission any adverse action, encumbrance, or restriction on a license taken by any non-member state within 30 days from the date the action is taken.

Florida joined the compact in 2022⁹ as the eighth member state.¹⁰ The compact became active on April 19, 2022 upon its enactment in the 10th member state.¹¹ There are currently 17 states participating in the compact.¹² Applications for compact privileges are not yet open, but are expected to open in late 2023 to early 2024.¹³



The language adopted by Florida for the compact is a modified version of the model legislation. Specifically, current law omits model legislation language that gives states the discretion to collect fees for the privilege to practice under the compact.

Effect of the Bill

HB 385 reinserts the original model legislation language of the compact which gives states the discretion to collect fees into current law. This conforms Florida law to the terms of the compact and ensures Florida’s participation in the compact.

⁹ Ch. 2022-63, L.O.F.

¹⁰ Counseling Compact, *Florida Enacts Counseling Compact*, available at <https://counselingcompact.org/florida-enacts-counseling-compact/> (last visited February 20, 2023).

¹¹ Counseling Compact, *Nebraska Becomes Tenth Compact Member*, available at <https://counselingcompact.org/nebraska-becomes-tenth-compact-member/> (last visited February 20, 2023).

¹² Alabama, Colorado, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Mississippi, Nebraska, New Hampshire, North Carolina, Ohio, Tennessee, Utah, and West Virginia are the 17 states currently participating in the Compact. See also Counseling Compact, *Compact Map*, available at <https://counselingcompact.org/map> (last visited February 20, 2023).

¹³ Counseling Compact. *FAQ for Counselors*. Available at <https://counselingcompact.org/faq/> (last visited February 28, 2023).

¹⁴ *Supra*, note 12.

The bill does not authorize the Department of Health (DOH) to collect a fee, but rather states that fees of this kind are allowable under the compact. In order for DOH to have requisite authority to collect fees, the Legislature would have to enact legislation in the applicable practice act expressly authorizing DOH to collect such fees.

The bill provides an effective date of July 1, 2023.

B. SECTION DIRECTORY:

Section 1: Amends s. 491.017, F.S. relating to the Professional Counselors Licensure Compact.

Section 2: Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Current law provides sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES