

SENATE BILL NO. 70

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR FITZWATER.

0690S.01I

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 337, RSMo, by adding thereto one new section relating to the counseling interstate compact.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 337, RSMo, is amended by adding thereto
2 one new section, to be known as section 337.550, to read as
3 follows:

337.550. SECTION 1: PURPOSE

2 **The purpose of this Compact is to facilitate interstate**
3 **practice of Licensed Professional Counselors with the goal**
4 **of improving public access to Professional Counseling**
5 **services. The practice of Professional Counseling occurs in**
6 **the State where the client is located at the time of the**
7 **counseling services. The Compact preserves the regulatory**
8 **authority of States to protect public health and safety**
9 **through the current system of State licensure.**

10 **This Compact is designed to achieve the following**
11 **objectives:**

12 **A. Increase public access to Professional Counseling**
13 **services by providing for the mutual recognition of other**
14 **Member State licenses;**

15 **B. Enhance the States' ability to protect the public's**
16 **health and safety;**

17 C. Encourage the cooperation of Member States in
18 regulating multistate practice for Licensed Professional
19 Counselors;

20 D. Support spouses of relocating Active Duty Military
21 personnel;

22 E. Enhance the exchange of licensure, investigative,
23 and disciplinary information among Member States;

24 F. Allow for the use of Telehealth technology to
25 facilitate increased access to Professional Counseling
26 services;

27 G. Support the uniformity of Professional Counseling
28 licensure requirements throughout the States to promote
29 public safety and public health benefits;

30 H. Invest all Member States with the authority to hold
31 a Licensed Professional Counselor accountable for meeting
32 all State practice laws in the State in which the client is
33 located at the time care is rendered through the mutual
34 recognition of Member State licenses;

35 I. Eliminate the necessity for licenses in multiple
36 States; and

37 J. Provide opportunities for interstate practice by
38 Licensed Professional Counselors who meet uniform licensure
39 requirements.

40 SECTION 2. DEFINITIONS

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

43 A. "Active Duty Military" means full-time duty status
44 in the active uniformed service of the United States,
45 including members of the National Guard and Reserve on
46 active duty orders pursuant to 10 U.S.C. Chapters 1209 and
47 1211.

48 B. "Adverse Action" means any administrative, civil,
49 equitable or criminal action permitted by a State's laws
50 which is imposed by a licensing board or other authority
51 against a Licensed Professional Counselor, including actions
52 against an individual's license or Privilege to Practice
53 such as revocation, suspension, probation, monitoring of the
54 licensee, limitation on the licensee's practice, or any
55 other Encumbrance on licensure affecting a Licensed
56 Professional Counselor's authorization to practice,
57 including issuance of a cease and desist action.

58 C. "Alternative Program" means a non-disciplinary
59 monitoring or practice remediation process approved by a
60 Professional Counseling Licensing Board to address Impaired
61 Practitioners.

62 D. "Continuing Competence/Education" means a
63 requirement, as a condition of license renewal, to provide
64 evidence of participation in, and/or completion of,
65 educational and professional activities relevant to practice
66 or area of work.

67 E. "Counseling Compact Commission" or "Commission"
68 means the national administrative body whose membership
69 consists of all States that have enacted the Compact.

70 F. "Current Significant Investigative Information"
71 means:

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

78 2. Investigative Information that indicates that the
79 Licensed Professional Counselor represents an immediate

80 threat to public health and safety regardless of whether the
81 Licensed Professional Counselor has been notified and had an
82 opportunity to respond.

83 G. "Data System" means a repository of information
84 about Licensees, including, but not limited to, continuing
85 education, examination, licensure, investigative, Privilege
86 to Practice and Adverse Action information.

87 H. "Encumbered License" means a license in which an
88 Adverse Action restricts the practice of licensed
89 Professional Counseling by the Licensee and said Adverse
90 Action has been reported to the National Practitioners Data
91 Bank (NPDB).

92 I. "Encumbrance" means a revocation or suspension of,
93 or any limitation on, the full and unrestricted practice of
94 Licensed Professional Counseling by a Licensing Board.

95 J. "Executive Committee" means a group of directors
96 elected or appointed to act on behalf of, and within the
97 powers granted to them by, the Commission.

98 K. "Home State" means the Member State that is the
99 Licensee's primary State of residence.

100 L. "Impaired Practitioner" means an individual who has
101 a condition(s) that may impair their ability to practice as
102 a Licensed Professional Counselor without some type of
103 intervention and may include, but are not limited to,
104 alcohol and drug dependence, mental health impairment, and
105 neurological or physical impairments.

106 M. "Investigative Information" means information,
107 records, and documents received or generated by a
108 Professional Counseling Licensing Board pursuant to an
109 investigation.

110 N. "Jurisprudence Requirement" if required by a Member
111 State, means the assessment of an individual's knowledge of

112 the laws and Rules governing the practice of Professional
113 Counseling in a State.

114 O. "Licensed Professional Counselor" means a counselor
115 licensed by a Member State, regardless of the title used by
116 that State, to independently assess, diagnose, and treat
117 behavioral health conditions.

118 P. "Licensee" means an individual who currently holds
119 an authorization from the State to practice as a Licensed
120 Professional Counselor.

121 Q. "Licensing Board" means the agency of a State, or
122 equivalent, that is responsible for the licensing and
123 regulation of Licensed Professional Counselors.

124 R. "Member State" means a State that has enacted the
125 Compact.

126 S. "Privilege to Practice" means a legal
127 authorization, which is equivalent to a license, permitting
128 the practice of Professional Counseling in a Remote State.

129 T. "Professional Counseling" means the assessment,
130 diagnosis, and treatment of behavioral health conditions by
131 a Licensed Professional Counselor.

132 U. "Remote State" means a Member State other than the
133 Home State, where a Licensee is exercising or seeking to
134 exercise the Privilege to Practice.

135 V. "Rule" means a regulation promulgated by the
136 Commission that has the force of law.

137 W. "Single State License" means a Licensed
138 Professional Counselor license issued by a Member State that
139 authorizes practice only within the issuing State and does
140 not include a Privilege to Practice in any other Member
141 State.

142 X. "State" means any state, commonwealth, district, or
143 territory of the United States of America that regulates the
144 practice of Professional Counseling.

145 Y. "Telehealth" means the application of
146 telecommunication technology to deliver Professional
147 Counseling services remotely to assess, diagnose, and treat
148 behavioral health conditions.

149 Z. "Unencumbered License" means a license that
150 authorizes a Licensed Professional Counselor to engage in
151 the full and unrestricted practice of Professional
152 Counseling.

153 SECTION 3. STATE PARTICIPATION IN THE COMPACT

154 A. To Participate in the Compact, a State must
155 currently:

156 1. License and regulate Licensed Professional
157 Counselors;

158 2. Require Licensees to pass a nationally recognized
159 exam approved by the Commission;

160 3. Require Licensees to have a 60 semester-hour (or 90
161 quarter-hour) master's degree in counseling or 60 semester-
162 hours (or 90 quarter-hours) of graduate course work
163 including the following topic areas:

164 a. Professional Counseling Orientation and Ethical
165 Practice;

166 b. Social and Cultural Diversity;

167 c. Human Growth and Development;

168 d. Career Development;

169 e. Counseling and Helping Relationships;

170 f. Group Counseling and Group Work;

171 g. Diagnosis and Treatment; Assessment and Testing;

172 h. Research and Program Evaluation; and

173 i. Other areas as determined by the Commission.

174 4. Require Licensees to complete a supervised
175 postgraduate professional experience as defined by the
176 Commission;

177 5. Have a mechanism in place for receiving and
178 investigating complaints about Licensees.

179 B. A Member State shall:

180 1. Participate fully in the Commission's Data System,
181 including using the Commission's unique identifier as
182 defined in Rules;

183 2. Notify the Commission, in compliance with the terms
184 of the Compact and Rules, of any Adverse Action or the
185 availability of Investigative Information regarding a
186 Licensee;

187 3. Implement or utilize procedures for considering the
188 criminal history records of applicants for an initial
189 Privilege to Practice. These procedures shall include the
190 submission of fingerprints or other biometric-based
191 information by applicants for the purpose of obtaining an
192 applicant's criminal history record information from the
193 Federal Bureau of Investigation and the agency responsible
194 for retaining that State's criminal records;

195 a. A member state must fully implement a criminal
196 background check requirement, within a time frame
197 established by rule, by receiving the results of the Federal
198 Bureau of Investigation record search and shall use the
199 results in making licensure decisions.

200 b. Communication between a Member State, the
201 Commission and among Member States regarding the
202 verification of eligibility for licensure through the
203 Compact shall not include any information received from the
204 Federal Bureau of Investigation relating to a federal

205 criminal records check performed by a Member State under
206 Public Law 92-544.

207 4. Comply with the Rules of the Commission;

208 5. Require an applicant to obtain or retain a license
209 in the Home State and meet the Home State's qualifications
210 for licensure or renewal of licensure, as well as all other
211 applicable State laws;

212 6. Grant the Privilege to Practice to a Licensee
213 holding a valid Unencumbered License in another Member State
214 in accordance with the terms of the Compact and Rules; and

215 7. Provide for the attendance of the State's
216 commissioner to the Counseling Compact Commission meetings.

217 C. Member States may charge a fee for granting the
218 Privilege to Practice.

219 D. Individuals not residing in a Member State shall
220 continue to be able to apply for a Member State's Single
221 State License as provided under the laws of each Member
222 State. However, the Single State License granted to these
223 individuals shall not be recognized as granting a Privilege
224 to Practice Professional Counseling in any other Member
225 State.

226 E. Nothing in this Compact shall affect the
227 requirements established by a Member State for the issuance
228 of a Single State License.

229 F. A license issued to a Licensed Professional
230 Counselor by a Home State to a resident in that State shall
231 be recognized by each Member State as authorizing a Licensed
232 Professional Counselor to practice Professional Counseling,
233 under a Privilege to Practice, in each Member State.

234 SECTION 4. PRIVILEGE TO PRACTICE

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

- 237 1. Hold a license in the Home State;
- 238 2. Have a valid United States Social Security Number
239 or National Practitioner Identifier;
- 240 3. Be eligible for a Privilege to Practice in any
241 Member State in accordance with Section 4(D), (G) and (H);
- 242 4. Have not had any Encumbrance or restriction against
243 any license or Privilege to Practice within the previous two
244 (2) years;
- 245 5. Notify the Commission that the Licensee is seeking
246 the Privilege to Practice within a Remote State(s);
- 247 6. Pay any applicable fees, including any State fee,
248 for the Privilege to Practice;
- 249 7. Meet any Continuing Competence/Education
250 requirements established by the Home State;
- 251 8. Meet any Jurisprudence Requirements established by
252 the Remote State(s) in which the Licensee is seeking a
253 Privilege to Practice; and
- 254 9. Report to the Commission any Adverse Action,
255 Encumbrance, or restriction on license taken by any non-
256 Member State within 30 days from the date the action is
257 taken.
- 258 B. The Privilege to Practice is valid until the
259 expiration date of the Home State license. The Licensee
260 must comply with the requirements of Section 4(A) to
261 maintain the Privilege to Practice in the Remote State.
- 262 C. A Licensee providing Professional Counseling in a
263 Remote State under the Privilege to Practice shall adhere to
264 the laws and regulations of the Remote State.
- 265 D. A Licensee providing Professional Counseling
266 services in a Remote State is subject to that State's
267 regulatory authority. A Remote State may, in accordance
268 with due process and that State's laws, remove a Licensee's

269 Privilege to Practice in the Remote State for a specific
270 period of time, impose fines, and/or take any other
271 necessary actions to protect the health and safety of its
272 citizens. The Licensee may be ineligible for a Privilege to
273 Practice in any Member State until the specific time for
274 removal has passed and all fines are paid.

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

- 278 1. The Home State license is no longer encumbered; and
- 279 2. Have not had any Encumbrance or restriction against
280 any license or Privilege to Practice within the previous two
281 (2) years.

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

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

- 290 1. The specific period of time for which the Privilege
291 to Practice was removed has ended;
- 292 2. All fines have been paid; and
- 293 3. Have not had any Encumbrance or restriction against
294 any license or Privilege to Practice within the previous two
295 (2) years.

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

299 SECTION 5: OBTAINING A NEW HOME STATE LICENSE BASED ON
300 A PRIVILEGE TO PRACTICE

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

304 B. If a Licensed Professional Counselor changes
305 primary State of residence by moving between two Member
306 States:

307 1. The Licensed Professional Counselor shall file an
308 application for obtaining a new Home State license based on
309 a Privilege to Practice, pay all applicable fees, and notify
310 the current and new Home State in accordance with applicable
311 Rules adopted by the Commission.

312 2. Upon receipt of an application for obtaining a new
313 Home State license by virtue of a Privilege to Practice, the
314 new Home State shall verify that the Licensed Professional
315 Counselor meets the pertinent criteria outlined in Section 4
316 via the Data System, without need for primary source
317 verification except for:

318 a. a Federal Bureau of Investigation fingerprint based
319 criminal background check if not previously performed or
320 updated pursuant to applicable rules adopted by the
321 Commission in accordance with Public Law 92-544;

322 b. other criminal background check as required by the
323 new Home State; and

324 c. completion of any requisite Jurisprudence
325 Requirements of the new Home State.

326 3. The former Home State shall convert the former Home
327 State license into a Privilege to Practice once the new Home
328 State has activated the new Home State license in accordance
329 with applicable Rules adopted by the Commission.

330 4. Notwithstanding any other provision of this
331 Compact, if the Licensed Professional Counselor cannot meet

332 the criteria in Section 4, the new Home State may apply its
333 requirements for issuing a new Single State License.

334 5. The Licensed Professional Counselor shall pay all
335 applicable fees to the new Home State in order to be issued
336 a new Home State license.

337 C. If a Licensed Professional Counselor changes
338 Primary State of Residence by moving from a Member State to
339 a non-Member State, or from a non-Member State to a Member
340 State, the State criteria shall apply for issuance of a
341 Single State License in the new State.

342 D. Nothing in this Compact shall interfere with a
343 Licensee's ability to hold a Single State License in
344 multiple States, however for the purposes of this Compact, a
345 Licensee shall have only one Home State license.

346 E. Nothing in this Compact shall affect the
347 requirements established by a Member State for the issuance
348 of a Single State License.

349 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR
350 SPOUSES

351 Active Duty Military personnel, or their spouse, shall
352 designate a Home State where the individual has a current
353 license in good standing. The individual may retain the
354 Home State designation during the period the service member
355 is on active duty. Subsequent to designating a Home State,
356 the individual shall only change their Home State through
357 application for licensure in the new State, or through the
358 process outlined in Section 5.

359 SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

360 A. Member States shall recognize the right of a
361 Licensed Professional Counselor, licensed by a Home State in
362 accordance with Section 3 and under Rules promulgated by the
363 Commission, to practice Professional Counseling in any

364 Member State via Telehealth under a Privilege to Practice as
365 provided in the Compact and Rules promulgated by the
366 Commission.

367 B. A Licensee providing Professional Counseling
368 services in a Remote State under the Privilege to Practice
369 shall adhere to the laws and regulations of the Remote State.

370 SECTION 8. ADVERSE ACTIONS

371 A. In addition to the other powers conferred by State
372 law, a Remote State shall have the authority, in accordance
373 with existing State due process law, to:

374 1. Take Adverse Action against a Licensed Professional
375 Counselor's Privilege to Practice within that Member State,
376 and

377 2. Issue subpoenas for both hearings and
378 investigations that require the attendance and testimony of
379 witnesses as well as the production of evidence. Subpoenas
380 issued by a Licensing Board in a Member State for the
381 attendance and testimony of witnesses or the production of
382 evidence from another Member State shall be enforced in the
383 latter State by any court of competent jurisdiction,
384 according to the practice and procedure of that court
385 applicable to subpoenas issued in proceedings pending before
386 it. The issuing authority shall pay any witness fees,
387 travel expenses, mileage, and other fees required by the
388 service statutes of the State in which the witnesses or
389 evidence are located.

390 3. Only the Home State shall have the power to take
391 Adverse Action against a Licensed Professional Counselor's
392 license issued by the Home State.

393 B. For purposes of taking Adverse Action, the Home
394 State shall give the same priority and effect to reported
395 conduct received from a Member State as it would if the

396 conduct had occurred within the Home State. In so doing,
397 the Home State shall apply its own State laws to determine
398 appropriate action.

399 C. The Home State shall complete any pending
400 investigations of a Licensed Professional Counselor who
401 changes primary State of residence during the course of the
402 investigations. The Home State shall also have the authority
403 to take appropriate action(s) and shall promptly report the
404 conclusions of the investigations to the administrator of
405 the Data System. The administrator of the coordinated
406 licensure information system shall promptly notify the new
407 Home State of any Adverse Actions.

408 D. A Member State, if otherwise permitted by State
409 law, may recover from the affected Licensed Professional
410 Counselor the costs of investigations and dispositions of
411 cases resulting from any Adverse Action taken against that
412 Licensed Professional Counselor.

413 E. A Member State may take Adverse Action based on the
414 factual findings of the Remote State, provided that the
415 Member State follows its own procedures for taking the
416 Adverse Action.

417 F. Joint Investigations:

418 1. In addition to the authority granted to a Member
419 State by its respective Professional Counseling practice act
420 or other applicable State law, any Member State may
421 participate with other Member States in joint investigations
422 of Licensees.

423 2. Member States shall share any investigative,
424 litigation, or compliance materials in furtherance of any
425 joint or individual investigation initiated under the
426 Compact.

427 G. If Adverse Action is taken by the Home State
428 against the license of a Licensed Professional Counselor,
429 the Licensed Professional Counselor's Privilege to Practice
430 in all other Member States shall be deactivated until all
431 Encumbrances have been removed from the State license. All
432 Home State disciplinary orders that impose Adverse Action
433 against the license of a Licensed Professional Counselor
434 shall include a Statement that the Licensed Professional
435 Counselor's Privilege to Practice is deactivated in all
436 Member States during the pendency of the order.

437 H. If a Member State takes Adverse Action, it shall
438 promptly notify the administrator of the Data System. The
439 administrator of the Data System shall promptly notify the
440 Home State of any Adverse Actions by Remote States.

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

444 SECTION 9. ESTABLISHMENT OF COUNSELING COMPACT
445 COMMISSION

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

449 1. The Commission is an instrumentality of the Compact
450 States.

451 2. Venue is proper and judicial proceedings by or
452 against the Commission shall be brought solely and
453 exclusively in a court of competent jurisdiction where the
454 principal office of the Commission is located. The
455 Commission may waive venue and jurisdictional defenses to
456 the extent it adopts or consents to participate in
457 alternative dispute resolution proceedings.

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

460 B. Membership, Voting, and Meetings

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

463 2. The delegate shall be either:

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

467 b. An administrator of the Licensing Board.

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

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

473 5. Each delegate shall be entitled to one (1) vote
474 with regard to the promulgation of Rules and creation of
475 bylaws and shall otherwise have an opportunity to
476 participate in the business and affairs of the Commission.

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

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

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

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

488 1. Establish the fiscal year of the Commission;

489 2. Establish bylaws;

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

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

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

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

500 7. Purchase and maintain insurance and bonds;

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

504 9. Hire employees, elect or appoint officers, fix
505 compensation, define duties, grant such individuals
506 appropriate authority to carry out the purposes of the
507 Compact, and establish the Commission's personnel policies
508 and programs relating to conflicts of interest,
509 qualifications of personnel, and other related personnel
510 matters;

511 10. Accept any and all appropriate donations and
512 grants of money, equipment, supplies, materials, and
513 services, and to receive, utilize, and dispose of the same;
514 provided that at all times the Commission shall avoid any
515 appearance of impropriety and/or conflict of interest;

516 11. Lease, purchase, accept appropriate gifts or
517 donations of, or otherwise to own, hold, improve or use, any
518 property, real, personal or mixed; provided that at all
519 times the Commission shall avoid any appearance of
520 impropriety;

521 12. Sell, convey, mortgage, pledge, lease, exchange,
522 abandon, or otherwise dispose of any property real,
523 personal, or mixed;

524 13. Establish a budget and make expenditures;

525 14. Borrow money;

526 15. Appoint committees, including standing committees
527 composed of members, State regulators, State legislators or
528 their representatives, and consumer representatives, and
529 such other interested persons as may be designated in this
530 Compact and the bylaws;

531 16. Provide and receive information from, and
532 cooperate with, law enforcement agencies;

533 17. Establish and elect an Executive Committee; and

534 18. Perform such other functions as may be necessary
535 or appropriate to achieve the purposes of this Compact
536 consistent with the State regulation of Professional
537 Counseling licensure and practice.

538 D. The Executive Committee

539 1. The Executive Committee shall have the power to act
540 on behalf of the Commission according to the terms of this
541 Compact.

542 2. The Executive Committee shall be composed of up to
543 eleven (11) members:

544 a. Seven voting members who are elected by the
545 Commission from the current membership of the Commission; and

546 b. Up to four (4) ex-officio, nonvoting members from
547 four (4) recognized national professional counselor
548 organizations.

549 c. The ex-officio members will be selected by their
550 respective organizations.

551 3. The Commission may remove any member of the
552 Executive Committee as provided in bylaws.

553 4. The Executive Committee shall meet at least
554 annually.

555 5. The Executive Committee shall have the following
556 duties and responsibilities:

557 a. Recommend to the entire Commission changes to the
558 Rules or bylaws, changes to this Compact legislation, fees
559 paid by Compact Member States such as annual dues, and any
560 Commission Compact fee charged to Licensees for the
561 Privilege to Practice;

562 b. Ensure Compact administration services are
563 appropriately provided, contractual or otherwise;

564 c. Prepare and recommend the budget;

565 d. Maintain financial records on behalf of the
566 Commission;

567 e. Monitor Compact compliance of Member States and
568 provide compliance reports to the Commission;

569 f. Establish additional committees as necessary; and

570 g. Other duties as provided in Rules or bylaws.

571 E. Meetings of the Commission

572 1. All meetings shall be open to the public, and
573 public notice of meetings shall be given in the same manner
574 as required under the Rulemaking provisions in Section 11.

575 2. The Commission or the Executive Committee or other
576 committees of the Commission may convene in a closed, non-
577 public meeting if the Commission or Executive Committee or
578 other committees of the Commission must discuss:

579 a. Non-compliance of a Member State with its
580 obligations under the Compact;

581 b. The employment, compensation, discipline or other
582 matters, practices or procedures related to specific
583 employees or other matters related to the Commission's
584 internal personnel practices and procedures;

585 c. Current, threatened, or reasonably anticipated
586 litigation;

587 d. Negotiation of contracts for the purchase, lease,
588 or sale of goods, services, or real estate;

589 e. Accusing any person of a crime or formally
590 censuring any person;

591 f. Disclosure of trade secrets or commercial or
592 financial information that is privileged or confidential;

593 g. Disclosure of information of a personal nature
594 where disclosure would constitute a clearly unwarranted
595 invasion of personal privacy;

596 h. Disclosure of investigative records compiled for
597 law enforcement purposes;

598 i. Disclosure of information related to any
599 investigative reports prepared by or on behalf of or for use
600 of the Commission or other committee charged with
601 responsibility of investigation or determination of
602 compliance issues pursuant to the Compact; or

603 j. Matters specifically exempted from disclosure by
604 federal or Member State statute.

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

609 4. The Commission shall keep minutes that fully and
610 clearly describe all matters discussed in a meeting and
611 shall provide a full and accurate summary of actions taken,
612 and the reasons therefore, including a description of the
613 views expressed. All documents considered in connection
614 with an action shall be identified in such minutes. All
615 minutes and documents of a closed meeting shall remain under

616 seal, subject to release by a majority vote of the
617 Commission or order of a court of competent jurisdiction.

618 F. Financing of the Commission

619 1. The Commission shall pay, or provide for the
620 payment of, the reasonable expenses of its establishment,
621 organization, and ongoing activities.

622 2. The Commission may accept any and all appropriate
623 revenue sources, donations, and grants of money, equipment,
624 supplies, materials, and services.

625 3. The Commission may levy on and collect an annual
626 assessment from each Member State or impose fees on other
627 parties to cover the cost of the operations and activities
628 of the Commission and its staff, which must be in a total
629 amount sufficient to cover its annual budget as approved
630 each year for which revenue is not provided by other
631 sources. The aggregate annual assessment amount shall be
632 allocated based upon a formula to be determined by the
633 Commission, which shall promulgate a Rule binding upon all
634 Member States.

635 4. The Commission shall not incur obligations of any
636 kind prior to securing the funds adequate to meet the same;
637 nor shall the Commission pledge the credit of any of the
638 Member States, except by and with the authority of the
639 Member State.

640 5. The Commission shall keep accurate accounts of all
641 receipts and disbursements. The receipts and disbursements
642 of the Commission shall be subject to the audit and
643 accounting procedures established under its bylaws.
644 However, all receipts and disbursements of funds handled by
645 the Commission shall be audited yearly by a certified or
646 licensed public accountant, and the report of the audit

647 shall be included in and become part of the annual report of
648 the Commission.

649 G. Qualified Immunity, Defense, and Indemnification

650 1. The members, officers, executive director,
651 employees and representatives of the Commission shall be
652 immune from suit and liability, either personally or in
653 their official capacity, for any claim for damage to or loss
654 of property or personal injury or other civil liability
655 caused by or arising out of any actual or alleged act, error
656 or omission that occurred, or that the person against whom
657 the claim is made had a reasonable basis for believing
658 occurred within the scope of Commission employment, duties
659 or responsibilities; provided that nothing in this paragraph
660 shall be construed to protect any such person from suit
661 and/or liability for any damage, loss, injury, or liability
662 caused by the intentional or willful or wanton misconduct of
663 that person.

664 2. The Commission shall defend any member, officer,
665 executive director, employee or representative of the
666 Commission in any civil action seeking to impose liability
667 arising out of any actual or alleged act, error, or omission
668 that occurred within the scope of Commission employment,
669 duties, or responsibilities, or that the person against whom
670 the claim is made had a reasonable basis for believing
671 occurred within the scope of Commission employment, duties,
672 or responsibilities; provided that nothing herein shall be
673 construed to prohibit that person from retaining his or her
674 own counsel; and provided further, that the actual or
675 alleged act, error, or omission did not result from that
676 person's intentional or willful or wanton misconduct.

677 3. The Commission shall indemnify and hold harmless
678 any member, officer, executive director, employee, or

679 representative of the Commission for the amount of any
680 settlement or judgment obtained against that person arising
681 out of any actual or alleged act, error, or omission that
682 occurred within the scope of Commission employment, duties,
683 or responsibilities, or that such person had a reasonable
684 basis for believing occurred within the scope of Commission
685 employment, duties, or responsibilities, provided that the
686 actual or alleged act, error, or omission did not result
687 from the intentional or willful or wanton misconduct of that
688 person.

689 SECTION 10. DATA SYSTEM

690 A. The Commission shall provide for the development,
691 maintenance, operation, and utilization of a coordinated
692 database and reporting system containing licensure, Adverse
693 Action, and Investigative Information on all licensed
694 individuals in Member States.

695 B. Notwithstanding any other provision of State law to
696 the contrary, a Member State shall submit a uniform data set
697 to the Data System on all individuals to whom this Compact
698 is applicable as required by the Rules of the Commission,
699 including:

- 700 1. Identifying information;
- 701 2. Licensure data;
- 702 3. Adverse Actions against a license or Privilege to
703 Practice;
- 704 4. Non-confidential information related to Alternative
705 Program participation;
- 706 5. Any denial of application for licensure, and the
707 reason(s) for such denial;
- 708 6. Current Significant Investigative Information; and

709 7. Other information that may facilitate the
710 administration of this Compact, as determined by the Rules
711 of the Commission.

712 C. Investigative Information pertaining to a Licensee
713 in any Member State will only be available to other Member
714 States.

715 D. The Commission shall promptly notify all Member
716 States of any Adverse Action taken against a Licensee or an
717 individual applying for a license. Adverse Action
718 information pertaining to a Licensee in any Member State
719 will be available to any other Member State.

720 E. Member States contributing information to the Data
721 System may designate information that may not be shared with
722 the public without the express permission of the
723 contributing State.

724 F. Any information submitted to the Data System that
725 is subsequently required to be expunged by the laws of the
726 Member State contributing the information shall be removed
727 from the Data System.

728 SECTION 11. RULEMAKING

729 A. The Commission shall promulgate reasonable Rules in
730 order to effectively and efficiently achieve the purpose of
731 the Compact. Notwithstanding the foregoing, in the event
732 the Commission exercises its Rulemaking authority in a
733 manner that is beyond the scope of the purposes of the
734 Compact, or the powers granted hereunder, then such an
735 action by the Commission shall be invalid and have no force
736 or effect.

737 B. The Commission shall exercise its Rulemaking powers
738 pursuant to the criteria set forth in this Section and the
739 Rules adopted thereunder. Rules and amendments shall become
740 binding as of the date specified in each Rule or amendment.

741 C. If a majority of the legislatures of the Member
742 States rejects a Rule, by enactment of a statute or
743 resolution in the same manner used to adopt the Compact
744 within four (4) years of the date of adoption of the Rule,
745 then such Rule shall have no further force and effect in any
746 Member State.

747 D. Rules or amendments to the Rules shall be adopted
748 at a regular or special meeting of the Commission.

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

754 1. On the website of the Commission or other publicly
755 accessible platform; and

756 2. On the website of each Member State Professional
757 Counseling Licensing Board or other publicly accessible
758 platform or the publication in which each State would
759 otherwise publish proposed Rules.

760 F. The Notice of Proposed Rulemaking shall include:

761 1. The proposed time, date, and location of the
762 meeting in which the Rule will be considered and voted upon;

763 2. The text of the proposed Rule or amendment and the
764 reason for the proposed Rule;

765 3. A request for comments on the proposed Rule from
766 any interested person; and

767 4. The manner in which interested persons may submit
768 notice to the Commission of their intention to attend the
769 public hearing and any written comments.

770 G. Prior to adoption of a proposed Rule, the
771 Commission shall allow persons to submit written data,

772 facts, opinions, and arguments, which shall be made
773 available to the public.

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

777 1. At least twenty-five (25) persons;

778 2. A State or federal governmental subdivision or
779 agency; or

780 3. An association having at least twenty-five (25)
781 members.

782 I. If a hearing is held on the proposed Rule or
783 amendment, the Commission shall publish the place, time, and
784 date of the scheduled public hearing. If the hearing is
785 held via electronic means, the Commission shall publish the
786 mechanism for access to the electronic hearing.

787 1. All persons wishing to be heard at the hearing
788 shall notify the executive director of the Commission or
789 other designated member in writing of their desire to appear
790 and testify at the hearing not less than five (5) business
791 days before the scheduled date of the hearing.

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

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

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

801 J. Following the scheduled hearing date, or by the
802 close of business on the scheduled hearing date if the

803 hearing was not held, the Commission shall consider all
804 written and oral comments received.

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

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

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

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

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

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

828 4. Protect public health and safety.

829 N. The Commission or an authorized committee of the
830 Commission may direct revisions to a previously adopted Rule
831 or amendment for purposes of correcting typographical
832 errors, errors in format, errors in consistency, or
833 grammatical errors. Public notice of any revisions shall be
834 posted on the website of the Commission. The revision shall

835 be subject to challenge by any person for a period of thirty
836 (30) days after posting. The revision may be challenged
837 only on grounds that the revision results in a material
838 change to a Rule. A challenge shall be made in writing and
839 delivered to the chair of the Commission prior to the end of
840 the notice period. If no challenge is made, the revision
841 will take effect without further action. If the revision is
842 challenged, the revision may not take effect without the
843 approval of the Commission.

844 SECTION 12. OVERSIGHT, DISPUTE RESOLUTION, AND
845 ENFORCEMENT

846 A. Oversight

847 1. The executive, legislative, and judicial branches
848 of State government in each Member State shall enforce this
849 Compact and take all actions necessary and appropriate to
850 effectuate the Compact's purposes and intent. The
851 provisions of this Compact and the Rules promulgated
852 hereunder shall have standing as statutory law.

853 2. All courts shall take judicial notice of the
854 Compact and the Rules in any judicial or administrative
855 proceeding in a Member State pertaining to the subject
856 matter of this Compact which may affect the powers,
857 responsibilities, or actions of the Commission.

858 3. The Commission shall be entitled to receive service
859 of process in any such proceeding and shall have standing to
860 intervene in such a proceeding for all purposes. Failure to
861 provide service of process to the Commission shall render a
862 judgment or order void as to the Commission, this Compact,
863 or promulgated Rules.

864 B. Default, Technical Assistance, and Termination

865 1. If the Commission determines that a Member State
866 has defaulted in the performance of its obligations or

867 responsibilities under this Compact or the promulgated
868 Rules, the Commission shall:

869 a. Provide written notice to the defaulting State and
870 other Member States of the nature of the default, the
871 proposed means of curing the default and/or any other action
872 to be taken by the Commission; and

873 b. Provide remedial training and specific technical
874 assistance regarding the default.

875 c. If a State in default fails to cure the default,
876 the defaulting State may be terminated from the Compact upon
877 an affirmative vote of a majority of the Member States, and
878 all rights, privileges and benefits conferred by this
879 Compact may be terminated on the effective date of
880 termination. A cure of the default does not relieve the
881 offending State of obligations or liabilities incurred
882 during the period of default.

883 d. Termination of membership in the Compact shall be
884 imposed only after all other means of securing compliance
885 have been exhausted. Notice of intent to suspend or
886 terminate shall be given by the Commission to the governor,
887 the majority and minority leaders of the defaulting State's
888 legislature, and each of the Member States.

889 e. A State that has been terminated is responsible for
890 all assessments, obligations, and liabilities incurred
891 through the effective date of termination, including
892 obligations that extend beyond the effective date of
893 termination.

894 f. The Commission shall not bear any costs related to
895 a State that is found to be in default or that has been
896 terminated from the Compact, unless agreed upon in writing
897 between the Commission and the defaulting State.

898 G. The defaulting State may appeal the action of the
899 Commission by petitioning the U.S. District Court for the
900 District of Columbia or the federal district where the
901 Commission has its principal offices. The prevailing member
902 shall be awarded all costs of such litigation, including
903 reasonable attorney's fees.

904 H. Dispute Resolution

905 1. Upon request by a Member State, the Commission
906 shall attempt to resolve disputes related to the Compact
907 that arise among Member States and between member and non-
908 Member States.

909 2. The Commission shall promulgate a Rule providing
910 for both mediation and binding dispute resolution for
911 disputes as appropriate.

912 I. Enforcement

913 1. The Commission, in the reasonable exercise of its
914 discretion, shall enforce the provisions and Rules of this
915 Compact.

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

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

929 SECTION 13. DATE OF IMPLEMENTATION OF THE COUNSELING
930 COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND
931 AMENDMENT

932 A. The Compact shall come into effect on the date on
933 which the Compact statute is enacted into law in the tenth
934 Member State. The provisions, which become effective at
935 that time, shall be limited to the powers granted to the
936 Commission relating to assembly and the promulgation of
937 Rules. Thereafter, the Commission shall meet and exercise
938 Rulemaking powers necessary to the implementation and
939 administration of the Compact.

940 B. Any State that joins the Compact subsequent to the
941 Commission's initial adoption of the Rules shall be subject
942 to the Rules as they exist on the date on which the Compact
943 becomes law in that State. Any Rule that has been
944 previously adopted by the Commission shall have the full
945 force and effect of law on the day the Compact becomes law
946 in that State.

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

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

952 2. Withdrawal shall not affect the continuing
953 requirement of the withdrawing State's Professional
954 Counseling Licensing Board to comply with the investigative
955 and Adverse Action reporting requirements of this act prior
956 to the effective date of withdrawal.

957 D. Nothing contained in this Compact shall be
958 construed to invalidate or prevent any Professional
959 Counseling licensure agreement or other cooperative

960 arrangement between a Member State and a non-Member State
961 that does not conflict with the provisions of this Compact.

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

966 SECTION 14. CONSTRUCTION AND SEVERABILITY

967 This Compact shall be liberally construed so as to
968 effectuate the purposes thereof. The provisions of this
969 Compact shall be severable and if any phrase, clause,
970 sentence or provision of this Compact is declared to be
971 contrary to the constitution of any Member State or of the
972 United States or the applicability thereof to any
973 government, agency, person or circumstance is held invalid,
974 the validity of the remainder of this Compact and the
975 applicability thereof to any government, agency, person or
976 circumstance shall not be affected thereby. If this Compact
977 shall be held contrary to the constitution of any Member
978 State, the Compact shall remain in full force and effect as
979 to the remaining Member States and in full force and effect
980 as to the Member State affected as to all severable matters.

981 SECTION 15. BINDING EFFECT OF COMPACT AND OTHER LAWS

982 A. A Licensee providing Professional Counseling
983 services in a Remote State under the Privilege to Practice
984 shall adhere to the laws and regulations, including scope of
985 practice, of the Remote State.

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

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

991 D. Any lawful actions of the Commission, including all
992 Rules and bylaws properly promulgated by the Commission, are
993 binding upon the Member States.

994 E. All permissible agreements between the Commission
995 and the Member States are binding in accordance with their
996 terms.

997 F. In the event any provision of the Compact exceeds
998 the constitutional limits imposed on the legislature of any
999 Member State, the provision shall be ineffective to the
1000 extent of the conflict with the constitutional provision in
1001 question in that Member State.

✓