

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: AB 2566 **VERSION: AMENDED APRIL 8, 2024**

AUTHOR: WILSON **SPONSOR: CALIFORNIA ASSOCIATION FOR
LICENSED PROFESSIONAL CLINICAL
COUNSELORS (CALPCC)**

RECOMMENDED POSITION: NONE

SUBJECT: HEALING ARTS: COUNSELING

Summary:

This bill would establish California as a member state in the Interstate Counseling Compact, which permits a licensed professional counselor in a member state to practice in other member states, if specified conditions are met.

Existing Law:

- 1) Specifies requirements for licensure in California as a licensed professional clinical counselor (LPCC). For individuals who began their degree program on or after August 1, 2012, applicants for a license must complete a single, integrated master’s or doctoral degree that is counseling or psychotherapy in content, that includes 60 graduate semester or 90 graduate quarter units. There are 13 specified core content areas covering specific topics that must be completed. Additional educational requirements are also prescribed in law. Applicants for an LPCC license must also complete at least 3,000 post degree supervised experience hours over a period of not less than 2 years and pass a California law and ethics exam and a clinical exam. (Business and Professions Code (BPC) §§4999.33, 4999.46 and 4999.53)

- 2) Provides a streamlined licensure process for out-of-state licensees licensed for at least the 2 previous years, who hold an equivalent license in another U.S. jurisdiction at the highest level of independent clinical practice. For these out-of-state licensees, instead of determining whether their past education and experience meets all California requirements, the Board will issue a license if all of the following are met (BPC §4999.60):
 - The license has been unrestricted for at least the past two years. (The Board will review any past restrictions or disciplinary actions.)
 - The qualifying degree is a master’s or doctoral degree from an accredited or approved institution.

- The applicant complies with fingerprint requirements.
 - The applicant completes the following coursework from an accredited or approved school, or an acceptable continuing education provider:
 - 12 hours of California law and ethics.
 - 15 hours of California cultures.
 - 7 hours of California-specific child abuse assessment and reporting.
 - 6 hours of coursework or experience in suicide risk assessment and intervention (required only if they cannot provide proof of previously having this coursework or experience previously).
 - The applicant passes the California law and ethics exam. (Passage of the clinical exam is waived for these applicants.)
- 3)** Provides that under the Federal Servicemembers Civil Relief Act, military members or their spouses who currently hold a valid license in good standing in another state may practice in California in that same profession if they are required to relocate here due to military orders. In order to do this they must register with the Board and meet the following requirements (50 United States Code (USC) §4025a, BPC §115.10):
- Hold a professional or vocational license in good standing in another state, district, or territory of the United States in the same profession.
 - Relocate to California because of military orders for military service.
 - Have used the out-of-state license at some point during the two years immediately preceding relocation to California (e.g., performed at least one activity within the scope and under the authority of the out-of-state license).
 - Maintain in good standing all other valid and active out-of-state licenses in the same profession or vocation.
 - For spouses/domestic partners, maintain marriage or other legal union with a servicemember subject to military orders for military service.
- 4)** Permits a person with a current, active, and unrestricted license in another state in a profession equivalent to the Board's LPCC license, to obtain a temporary practice allowance to provide services to a client travelling in or relocating to California for a period of 30 consecutive days in a calendar year. To qualify for the temporary practice allowance, certain qualifications must be met, including the client being a current client with an established, ongoing client-provider relationship with the therapist before travelling to this state. The therapist must also register with the Board.(BPC §4999.23)

This Bill:

- 1) Establishes California as a member of the Interstate Counseling Compact (Compact) in statute. Specifies that the purpose of the Compact is to facilitate interstate practice of licensed professional counselors (LPCs), with a goal of improving public access to their services. (BPC §4999.130(a))
- 2) Provides that the practice of professional counseling occurs in the state where the client is located at the time of the counseling services. (BPC §4999.130(a))
- 3) States that the Compact is designed to achieve numerous objectives, including increasing public access to counseling services by providing mutual recognition of other states' licenses, encouraging the regulatory cooperation of member states, supporting spouses of relocating military members, and eliminating the need for licenses in multiple states. (BPC §4999.130(b))
- 4) Defines certain terms used in the Compact, including the following (BPC §4999.133):
 - Counseling Compact Commission, or "Commission" is defined as the national administrative body whose membership consists of all states that have enacted the Compact.
 - Data System is defined as the repository of information about licensees, including but not limited to continuing education, exam, licensure, investigative, privilege to practice, and adverse action information.
 - Licensed Professional Counselor is defined as a counselor licensed by a member state, regardless of the title used, to independently assess, diagnose, and treat behavioral health conditions.
 - Professional Counseling means the assessment, diagnosis, and treatment of behavioral health conditions by an LPC.
 - Member State means a state that has enacted the Compact.
 - Home State means the member state that is a licensee's primary state of residence.
 - Remote State means a member state other than the home state where a licensee is exercising or seeking the privilege to practice.
 - Privilege to Practice is defined as a legal authorization equivalent to a license, permitting the practice of professional counseling in a remote state.

State Responsibilities

- 5) Provides that to participate in the Compact, a state must (BPC §4999.140(a)(3)):

- License and regulate LPCs.
 - Require licensees to pass a nationally recognized exam approved by the Compact's commission.
 - Require a 60-semester hour or 90 quarter hour master's degree in counseling, or 60 semester hour or 90 quarter hours of graduate course work. The following topic areas must be covered:
 - Professional counseling orientation and ethical practice
 - Social and cultural diversity
 - Human growth and development
 - Career development
 - Counseling and helping relationships
 - Group counseling and group work
 - Diagnosis and treatment
 - Assessment and testing
 - Research and program evaluation
 - Other areas determined by the Compact Commission
 - Require licensees to complete supervised postgraduate experience.
 - Have a mechanism in place for receiving and investigating complaints.
- 6)** Requires the following of member states who join the Compact (BPC §4999.140(b)):
- a)** They must participate in the data system.
 - b)** They must notify the Commission of an adverse action or investigation of a licensee.
 - c)** They must have procedures for obtaining and considering an applicant's criminal history (via fingerprints or other biometric based information) from the FBI and the state's criminal records agency.
 - d)** They must comply with the Commission's rules.
 - e)** They must require an applicant to obtain or retain a license in their home state and meet that state's qualifications and laws.
 - f)** They must grant a privilege to practice to a licensee holding a valid, unencumbered license in another member state in accordance with Compact rules.
 - g)** They must attend the Compact Commission meetings.

- 7) Permits member states to charge a fee for granting a privilege to practice. (BPC §4999.140(c))
- 8) Requires that an individual living in another state can still apply for California's full single state license, but that single state license does not grant a privilege to practice in other member states. (BPC §4999.140(d))
- 9) Requires a license issued as an LPC by a home state to a resident in that state must be recognized by each member state as authorizing that LPC to practice, under a privilege to practice, in each member state. (BPC §4999.140(f))

Licensee Responsibilities

- 10) Specifies that a licensee must abide by certain requirements to exercise the privilege to practice under the Compact, including the following (BPC §4999.150(a)):
 - Hold a valid license in their home state.
 - Not have had any encumbrance or restriction against their license or privilege to practice within the past 2 years.
 - Notify the Commission they are seeking a privilege to practice in a remote state.
 - Pay any applicable fees, including the state's fee, for a privilege to practice there.
 - Meet any continuing competence or continuing education (CE) requirements of their home state.
 - Meet any jurisprudence requirements of a remote state where they are seeking a privilege to practice.
 - Notify the Commission of any adverse action, encumbrance, or restriction on their license by a non-member state within 30 days.
- 11) Specifies that the licensee's privilege to practice is valid until the expiration of the home state license. (BPC §4999.150(b))
- 12) Requires a licensee providing services in a remote state under a privilege to practice to follow the laws of the remote state. (BPC §4999.150(c))
- 13) Provides that an LPC may hold a home state license in only one member state at a time. They cannot identify two member states as home states. Specifies a process they must follow to change the home state license if they move. (BPC §4999.153)

- 14) Provides that a licensee providing professional counseling services in a remote state under a privilege to practice shall adhere to the laws, regulations, and scope of practice of that state. (BPC §4999.199)

Disciplinary Action

- 15) Permits a remote state, with due process, to remove a licensee's privilege to practice in the remote state for a specific time, impose fines, or take any other necessary actions to protect public health and safety. The licensee may then be ineligible for a privilege to practice in any member state until the time the license is no longer removed and all fines are paid. (BPC §4999.150(d))
- 16) If the home state license is encumbered, the licensee loses the privilege to practice in all remote states until the home state license is no longer encumbered, and there have been no encumbrances or restrictions against their license or any of their privilege to practices within the past 2 years. They must then re-submit and meet the requirements for a privilege to practice. (BPC §4999.150(e) and (f))
- 17) If a privilege to practice in a remote state is removed, the individual loses the privilege to practice in all remote states until the time specified for the privilege to practice to be removed has passed, all fines are paid, and there have been no encumbrances or restrictions against their license or any of their privileges to practice within the past 2 years. They must then re-submit and meet the requirements for a privilege to practice. (BPC §4999.150(g) and (h))
- 18) Provides a remote state the authority to take adverse action against a licensee's privilege to practice in that state, and to issue subpoenas for hearings and investigations. However, only the home state may take adverse action against a license issued by the home state. (BPC §4999.159(a))
- 19) Requires a home state to give the same priority to reported conduct from a member state as it would had the conduct occurred in the home state. The home state shall apply its own laws to determine the appropriate action. (BPC §4999.159(b))
- 20) Permits a member state to recover from an LPC the costs of investigations and dispositions of cases from any adverse action taken against that person. (BPC §4999.159(d)).
- 21) Permits a member state, when following its own procedures for taking action, to take adverse action based on factual findings of a remote state. (BPC §4999.159(e)).
- 22) Permits member states to participate with other member states in joint investigations of licensees. (BPC §4999.159(f)).

The Counseling Compact Commission

- 23)** Establishes a joint public agency of member states called the Counseling Compact Commission (Commission). (BPC §4999.160)
- 24)** Provides that each member state has one delegate selected by its licensing board who may be either a current board member (either an LPCC member of public member) or board administrator. Each delegate is entitled to one vote regarding the adoption of rules and creation of bylaws of the Commission, which meets at least once annually. (BPC §4999.160)
- 25)** Grants the Commission various powers and duties, including (BPC §4999.163):
- Establishing bylaws;
 - Meeting and taking actions consistent with the Compact and the bylaws;
 - Adopting rules that are binding;
 - Bringing and prosecuting legal proceedings in the name of the Commission;
 - Borrowing, accepting or contracting for services of personnel, including employees of a member state;
 - Establishing a budget, making expenditures, and borrowing money;
 - Appointing committees and establishing and electing an executive committee.
- 26)** Requires that Commission meetings must be open to the public, with public notice given. However, permits the Commission to convene in a closed meeting for certain reasons. (BPC §4999.167)
- 27)** Permits the Commission to levy and collect an annual assessment from each member state, or impose fees on other parties to cover its budget. The annual assessment amount shall be adopted via a rule binding on all member states. (BPC §4999.169)
- 28)** Sets forth a rulemaking process for the Commission to follow in adopting rules to achieve the purpose of the compact, which includes a notice of proposed rulemaking, a public comment period, and procedures for a hearing. Rules and amendments to them are binding once adopted. (BPC §4999.173)
- 29)** Requires the Commission to provide a coordinated database and reporting system that contains licensure, adverse action, and investigative information on all licensed individuals in member states. (BPC §4999.175)
- 30)** Requires member states to submit data to the system on all individuals the Compact is applicable to, including: identifying information, licensure data, adverse actions, application denials and the reasoning, and current significant

investigative information. Member states may designate information that is not to be shared publicly. (BPC §4999.175)

- 31) Requires the Commission to promptly notify member states of adverse action taken against a licensee or applicant, and the adverse action information must be available to the other member states. (BPC §4999.175)
- 32) Provides that the Commission must enforce the provisions and rules of the Compact and may initiate legal action against a member state to enforce compliance. (BPC §4999.187)
- 33) States that laws in a member state that are in conflict with the Compact are superseded, and that all lawful actions of the Commission are binding upon member states. (BPC §4999.199)

Comments:

- 1) **Author's Intent.** The author states that the Compact will allow LPCCs in California to fully practice in other member states in person and via telehealth, and will allow licensed counselors in other member states to do the same here in California. In their fact sheet for the bill, the author states the following:

“The Counselor Compact provides greater access to mental health care in California, removes barriers to practice without sacrificing public protection, helps address healthcare workforce shortages, and allows California LPCCs to provide greater continuity of care to patients who travel or relocate, provides seamless ability for military personnel and spouses who relocate to practice, preserves and strengthens the regulatory oversight of the Board of Behavioral Sciences.

The Compact does not impact the scope of practice in any state. Licensed Counselors practicing under the Compact in another state must comply with the counseling Laws and Standards in that state in which they are practicing. Professional Counselors (LPCCs in California) are licensed in all 50 states with consistent licensing requirements. The Compact does not affect the BBS authority to protect public health and safety or regulate the LPCC profession.”

- 2) **Current Members and Start Date.** As of this date, 33 states have officially joined the Compact. A map of states that have joined can be found [here](#).

The Commission indicates they hope to begin issuing privileges to practice in member states by the end of 2024.

- 3) **Who Qualifies as an LPC?** There is a title disparity between the bill (licensed professional counselors) and the Board's license type (licensed professional clinical counselors). It is unclear if this is significant.

- 4999.133(u) in the bill defines professional counseling as the assessment, diagnosis, and treatment of behavioral health conditions by an LPC.
- 4999.133(p) defines an LPC as a counselor licensed by a member state, regardless of title, to independently assess, diagnose, and treat behavioral health conditions.

The broadness of 4999.133(p) raises the question of whether individuals who are not equivalent in scope and experience to LPCCs would be able to practice under the terms of the compact. The Board typically requires out-of-state LPCCs to be licensed at the highest level for independent clinical practice. Additionally, there are other types of licensed mental health professionals that independently assess, diagnose, and treat. Would they qualify as LPCs under the compact?

The Compact Commission provides some explanation of the reasoning behind this in a document on its website titled “The Counseling Compact and Professional Identity” (pg. 2), found [here](#).

- 4) **Potential Education Discrepancies.** To qualify for its LPCC license, the Board requires the qualifying doctoral or master’s degree to be a single, integrated degree program that is counseling or psychotherapy in content. This bill (in 4999.140(a)(3)) appears to permit 60 semester or 90 quarter units of graduate course work that is not necessarily gained in a completed master’s degree in counseling.

Additionally, the specific coursework topic areas that must be covered (4999.40(a)(3)) do not cover all of the Board’s 13 required core content areas.

- 5) **California-Specific Coursework Requirements for Out-of-State Applicants.** Under the Board’s current license portability pathway to licensure (also known as Path A), an out-of-state licensee who has been equivalently licensed for at least 2 years in another state is eligible for a streamlined process to obtain a California license if they meet certain requirements, including passing the California law and ethics exam, and taking certain specific coursework: California law and ethics (12 hours), California cultures (15 hours), and child abuse reporting (7 hours, which must include content on California’s mandated reporting requirements).

The Board implemented this streamlined pathway to licensure via legislation, which became effective in January 2020. Since implemented, LPCCs who have utilized this pathway to licensure are as follows:

Application Received	FY 2019/2020	FY 2020/2021	FY 2021/2022	FY 2022/2023
LPCC Out-Of-State	128	211	282	341

This legislation was developed in a special License Portability Committee that the Board created, which met several times to explore the topic in-depth. One issue that the License Portability Committee found to especially critical was that California has a uniquely diverse population, which may not be found in other states. It also has some laws that reflect California’s values, for example regarding reproductive rights or LGBTQ+ rights, which may differ in other states. For this reason, the Committee felt strongly that out-of-state licensees should have certain supplemental coursework, at at least a continuing education course level, to ensure that out-of-state licensees had knowledge of these unique features so that they could practice with a diverse population safely and competently, and with knowledge of and in alignment with California law. This is why the three California-specific courses became required.

This bill permits jurisdictions to require applicants for a privilege to practice under the compact to meet jurisprudence requirements (i.e. a California law and ethics exam). However, under the Compact the Board would not be permitted to require these applicants to take any California-specific coursework.

- 6) **Fiscal Impact Unclear.** The estimated number of LPC licensees nationwide, and what percent of them may want to seek a privilege to practice in California, is unknown. This information is needed to estimate an accurate fiscal impact.

As of January 2024, the Board had 4,100 active LPCC licensees, and 4,400 total LPCC licensees (active, inactive, and delinquent).

New practitioners come with a potential cost to the Board if they face disciplinary action. The bill permits a state to take action against a licensee’s privilege to practice with due process (BPC 4999.150(d)) It also permits a state to recover costs associated with investigations and disciplinary actions from the licensee (BPC 4999.159(d)). However, at this time it is unknown if the Board would have the ability to fully recover costs of the increased number of complaints, investigations, and disciplinary actions against a licensee.

While this bill allows licensing boards to collect a fee for a privilege to practice, the allowable amount of that fee is unclear at this time and could in the future be dictated by rules established by Commission. If the Board receives applications from a large volume of individuals seeking a privilege to practice but cannot recover enough revenue to cover the costs of increased workload, it could run a deficit or require a higher fee from full license holders.

While the number of expected new practitioners is unclear, staff expects fiscal impacts related to the data system and required reporting, the need for the Board to run new regulations to comply with the Compact, and new staff in the licensing and enforcement units.

- 7) **Delegation of Board's Authority.** The bill requires that member states comply with the Compact Commission's rules, which are binding, and its actions, which are binding (4999.173, 4999.199). Each member board gets one delegate on the commission, who has one vote regarding adoption of rules, regardless of a state's market share or number of licensees. This could potentially affect the Board's ability to act autonomously to accomplish its public protection mission.

In addition, it appears the Commission could vote to have member boards incur additional costs. For example, the Commission may levy an annual assessment on member states, which is currently unspecified (BPC §4999.169).

- 8) **Supervision of Associates.** It is unclear from the language of the bill whether licensees holding a privilege to practice would be permitted to supervise associates. The Board would likely need to run regulations to answer this question, and others that would likely arise as a result of the compact.
- 5) **Related Legislation.** [AB 2501](#) (Bonta) would ratify the Psychology Interjurisdictional Compact, which would be applicable to the Board of Psychology.
- 6) **Resources.** The Compact has a website with a variety of information, including a map of states that have already joined, FAQs, and information on meetings of the Compact Commission's committees. That website can be found [here](#).
- 7) **Support and Opposition.**

Support:

- California Association for Licensed Professional Clinical Counselors (CALPCC) (Sponsor)
- American Counseling Association (ACA)
- American Association of State Counseling Boards
- American Mental Health Counselors Association
- National Career Development Association

Oppose:

Unknown at this time.

8) History.

04/08/24 From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.

03/04/24 Referred to Com. on B. & P.

02/15/24 From printer. May be heard in committee March 16.

02/14/24 Read first time. To print.

ASSEMBLY BILL

No. 2566

Introduced by Assembly Member Wilson

February 14, 2024

An act to add Chapter 17 (commencing with Section 4999.130) to Division 2 of the Business and Professions Code, relating to healing arts.

legislative counsel's digest

AB 2566, as amended, Wilson. Healing arts: counseling.

Existing law, the Licensed Professional Clinical Counselor Act, generally governs the provision of professional clinical counseling services in the state and prohibits a person from engaging in the practice of professional clinical counseling, as defined, without a license granted by the Board of Behavioral Sciences. Existing law authorizes a person who holds a license in another jurisdiction of the United States as a professional clinical counselor to provide professional clinical counseling services in this state for a period not to exceed 30 consecutive days in any calendar year, if specified conditions are met.

This bill would enact the Interstate Counseling Compact (the Compact), the purpose of which is to facilitate interstate practice of licensed professional counselors, as specified. The Compact would come into effect on the date on which the Compact statute is enacted into law in the 10th "Member State," defined as a state, commonwealth, district, or territory of the United States of America that has enacted the Compact. Under the Compact, a professional counselor licensed in a Member State would be authorized to practice professional counseling in any other Member State, as specified. The Compact would establish

a joint public agency known as the Counseling Compact Commission, as a instrumentality of the Member States to administer the provisions of the Compact, as specified. The Compact would require the commission to provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in Member States. The Compact would impose certain requirements on Member States, including requiring licensees to pass a nationally recognized exam approved by the Commission, and submitting certain information regarding licensees to the data system.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 17 (commencing with Section 4999.130)
2 is added to Division 2 of the Business and Professions Code, to
3 read:

4
5 **Chapter 17. Interstate Counseling Compact**

6
7 **Article 1. General Provisions**

8
9 4999.130. (a) The purpose of this Compact is to facilitate
10 interstate practice of Licensed Professional Counselors with the
11 goal of improving public access to Professional Counseling
12 services. The practice of Professional Counseling occurs in the
13 state where the client is located at the time of the counseling
14 services. The Compact preserves the regulatory authority of states
15 to protect public health and safety through the current system of
16 state licensure.

17 (b) This Compact is designed to achieve the following
18 objectives:

- 1 (1) Increase public access to Professional Counseling services
2 by providing for the mutual recognition of other Member State
3 licenses.
- 4 (2) Enhance the state’s ability to protect the public’s health and
5 safety.
- 6 (3) Encourage the cooperation of Member States in regulating
7 multistate practice for Licensed Professional Counselors.
- 8 (4) Support spouses of relocating active duty military personnel.
- 9 (5) Enhance the exchange of licensure, investigative, and
10 disciplinary information among Member States.
- 11 (6) Allow for the use of telehealth technology to facilitate
12 increased access to Professional Counseling services.
- 13 (7) Support the uniformity of Professional Counseling licensure
14 requirements throughout the states to promote public safety and
15 public health benefits.
- 16 (8) Invest all Member States with the authority to hold a
17 Licensed Professional Counselor accountable for meeting all state
18 practice laws in the state in which the client is located at the time
19 care is rendered through the mutual recognition of Member State
20 licenses.
- 21 (9) Eliminate the necessity for licenses in multiple states.
- 22 (10) Provide opportunities for interstate practice by Licensed
23 Professional Counselors who meet uniform licensure requirements.
24 4999.133. As used in this Compact, and except as otherwise
25 provided, the following definitions shall apply:
26 (a) “Active duty military” means full-time duty status in the
27 active uniformed service of the United States, including members
28 of the National Guard and Reserve on active duty orders pursuant
29 to Chapter 1209 (commencing with Section 12301) and Chapter
30 1211 (commencing with Section 12401) of Part II of Subtitle E of
31 Title 10 of the United States Code.
32 (b) “Adverse action” means any administrative, civil, equitable,
33 or criminal action permitted by a state’s laws that is imposed by
34 a licensing board or other authority against a Licensed Professional
35 Counselor, including actions against an individual’s license or
36 Privilege to Practice such as revocation, suspension, probation,
37 monitoring of the licensee, limitation on the licensee’s practice,
38 or any other encumbrance on licensure affecting a Licensed
39 Professional Counselor’s authorization to practice, including
40 issuance of a cease and desist action.

- 1 (c) “Alternative program” means a nondisciplinary monitoring
2 or practice remediation process approved by a Professional
3 Counseling licensing board to address impaired practitioners.
- 4 (d) “Compact” means this chapter.
- 5 (e) “Continuing competence or education” means a requirement,
6 as a condition of license renewal, to provide evidence of
7 ~~participation in, or completion of,~~ of educational and professional
8 activities relevant to practice or area of work.
- 9 (f) “Counseling Compact Commission” or “Commission” means
10 the national administrative body whose membership consists of
11 all states that have enacted the Compact.
- 12 (g) “Current significant investigative information” means either
13 of the following:
- 14 (1) Investigative information that a licensing board, after a
15 preliminary inquiry that includes notification and an opportunity
16 for the Licensed Professional Counselor to respond, if required by
17 state law, has reason to believe is not groundless and, if proved
18 true, would indicate more than a minor infraction.
- 19 (2) Investigative information that indicates that the Licensed
20 Professional Counselor represents an immediate threat to public
21 health and safety regardless of whether the Licensed Professional
22 Counselor has been notified and had an opportunity to respond.
- 23 (h) “Data system” means a repository of information about
24 licensees, including, but not limited to, continuing education,
25 examination, licensure, investigative, Privilege to Practice, and
26 adverse action information.
- 27 (i) “Encumbered license” means a license in which an adverse
28 action restricts the practice of Licensed Professional Counseling
29 by the licensee and the adverse action has been reported to the
30 National Practitioners Data Bank (NPDB).
- 31 (j) “Encumbrance” means a revocation or suspension of, or any
32 limitation on, the full and unrestricted practice of Licensed
33 Professional Counseling by a licensing board.
- 34 (k) “Executive committee” means a group of directors elected
35 or appointed to act on behalf of, and within the powers granted to
36 them by, the Commission.
- 37 (l) “Home State” means the Member State that is the licensee’s
38 primary state of residence.
- 39 (m) “Impaired practitioner” means an individual who has a
40 condition or conditions that may impair their ability to practice as

1 a Licensed Professional Counselor without some type of
2 intervention and may include, but are not limited to, alcohol and
3 drug dependence, mental health impairment, and neurological or
4 physical impairments.

5 (n) “Investigative information” means information, records, and
6 documents received or generated by a Professional Counseling
7 licensing board pursuant to an investigation.

8 (o) “Jurisprudence requirement” if required by a Member State,
9 means the assessment of an individual’s knowledge of the laws
10 and rules governing the practice of Professional Counseling in a
11 state.

12 (p) “Licensed Professional Counselor” means a counselor
13 licensed by a Member State, regardless of the title used by that
14 state, to independently assess, diagnose, and treat behavioral health
15 conditions.

16 (q) “Licensee” means an individual who currently holds an
17 authorization from the state to practice as a Licensed Professional
18 Counselor.

19 (r) “Licensing board” means the agency of a state, or equivalent,
20 that is responsible for the licensing and regulation of Licensed
21 Professional Counselors.

22 (s) “Member State” means a state that has enacted the Compact.

23 (t) “Privilege to Practice” means a legal authorization, that is
24 equivalent to a license, permitting the practice of Professional
25 Counseling in a Remote State.

26 (u) “Professional Counseling” means the assessment, diagnosis,
27 and treatment of behavioral health conditions by a Licensed
28 Professional Counselor.

29 (v) “Remote State” means a Member State other than the Home
30 State, where a licensee is exercising or seeking to exercise the
31 Privilege to Practice.

32 (w) “Rule” means a regulation adopted by the Commission that
33 has the force of law.

34 (x) “Single state license” means a Licensed Professional
35 Counselor license issued by a Member State that authorizes practice
36 only within the issuing state and does not include a Privilege to
37 Practice in any other Member State.

38 (y) “State” means any state, commonwealth, district, or territory
39 of the United States of America that regulates the practice of
40 Professional Counseling.

1 (z) “Telehealth” means the application of telecommunication
 2 technology to deliver professional counseling services remotely
 3 to assess, diagnose, and treat behavioral health conditions.

4 (aa) “Unencumbered license” means a license that authorizes
 5 a Licensed Professional Counselor to engage in the full and
 6 unrestricted practice of Professional Counseling.

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 9

Article 2. State Participation in the Compact

10 4999.140. (a) To participate in the Compact, a State shall
 11 currently:

- 12 (1) License and regulate Licensed Professional Counselors.
- 13 (2) Require licensees to pass a nationally recognized exam
 14 approved by the Commission.
- 15 (3) Require licensees to have a 60 semester-hour (or 90
 16 quarter-hour) master’s degree in counseling or 60 semester-hours
 17 (or 90 quarter-hours) of graduate course work including the
 18 following topic areas:
 - 19 (A) Professional counseling orientation and ethical practice.
 - 20 (B) Social and cultural diversity.
 - 21 (C) Human growth and development.
 - 22 (D) Career development.
 - 23 (E) Counseling and helping relationships.
 - 24 (F) Group counseling and group work.
 - 25 (G) Diagnosis and treatment.
 - 26 (H) Assessment and testing.
 - 27 (I) Research and program-~~valuation~~-*evaluation*.
 - 28 (J) Other areas as determined by the Commission.

29 (4) Require licensees to complete a supervised postgraduate
 30 professional experience as defined by the Commission.

31 (5) Have a mechanism in place for receiving and investigating
 32 complaints about licensees.

33 (b) A Member State shall do all of the following:

- 34 (1) Participate fully in the Commission’s data system, including
 35 using the Commission’s unique identifier as defined in rules.
- 36 (2) Notify the Commission, in compliance with the terms of the
 37 Compact and rules, of any adverse action or the availability of
 38 investigative information regarding a licensee.
- 39 (3) Implement or utilize procedures for considering the criminal
 40 history records of applicants for an initial Privilege to Practice.

1 These procedures shall include the submission of fingerprints or
2 other biometric-based information by applicants for the purpose
3 of obtaining an applicant’s criminal history record information
4 from the Federal Bureau of Investigation and the agency
5 responsible for retaining that state’s criminal records.

6 (A) A Member State must fully implement a criminal
7 background check requirement, within a time frame established
8 by rule, by receiving the results of the Federal Bureau of
9 Investigation record search and shall use the results in making
10 licensure decisions.

11 (B) Communication between a Member State, the Commission,
12 and among Member States regarding the verification of eligibility
13 for licensure through the Compact shall not include any information
14 received from the Federal Bureau of Investigation relating to a
15 federal criminal records check performed by a Member State under
16 Public Law 92-544.

17 (4) Comply with the rules of the Commission.

18 (5) Require an applicant to obtain or retain a license in the Home
19 State and meet the Home State’s qualifications for licensure or
20 renewal of licensure, as well as all other applicable state laws.

21 (6) Grant the Privilege to Practice to a licensee holding a valid
22 unencumbered license in another Member State in accordance with
23 the terms of the Compact and rules.

24 (7) Provide for the attendance of the State’s commissioner to
25 the Counseling Compact Commission meetings.

26 (c) Member States may charge a fee for granting the Privilege
27 to Practice.

28 (d) Individuals not residing in a Member State shall continue
29 to be able to apply for a Member State’s single state license as
30 provided under the laws of each Member State. However, the
31 single state license granted to these individuals shall not be
32 recognized as granting a Privilege to Practice Professional
33 Counseling in any other Member State.

34 (e) Nothing in this Compact shall affect the requirements
35 established by a Member State for the issuance of a single state
36 license.

37 (f) A license issued to a Licensed Professional Counselor by a
38 Home State to a resident in that state shall be recognized by each
39 Member State as authorizing a Licensed Professional Counselor

1 to practice Professional Counseling, under a Privilege to Practice,
2 in each Member State.

3

4

Article 3. Privilege to Practice

5

6 4999.150. (a) To exercise the Privilege to Practice pursuant
7 to the terms and provisions of the Compact, a licensee shall do all
8 of the following:

9 (1) Hold a license in the Home State.

10 (2) Have a valid United States Social Security Number or
11 National Practitioner Identifier.

12 (3) Be eligible for a Privilege to Practice in any Member State
13 in accordance with subdivisions (d), (g), and (h).

14 (4) Have not had any encumbrance or restriction against any
15 license or Privilege to Practice within the previous two years.

16 (5) Notify the Commission that the licensee is seeking the
17 Privilege to Practice within a Remote State or States.

18 (6) Pay any applicable fees, including any state fee, for the
19 Privilege to Practice.

20 (7) Meet any continuing competence or education requirements
21 established by the Home State.

22 (8) Meet any jurisprudence requirements established by the
23 Remote State or States in which the licensee is seeking a Privilege
24 to Practice.

25 (9) Report to the Commission any adverse action, encumbrance,
26 or restriction on a license taken by any non-Member State within
27 30 days from the date that the action is taken.

28 (b) The Privilege to Practice is valid until the expiration date
29 of the Home State license. The licensee must comply with the
30 requirements of subdivision (a) to maintain the Privilege to Practice
31 in the Remote State.

32 (c) A licensee providing Professional Counseling in a Remote
33 State under the Privilege to Practice shall adhere to the laws and
34 regulations of the Remote State.

35 (d) A licensee providing Professional Counseling services in a
36 Remote State is subject to that state’s regulatory authority. A
37 Remote State may, in accordance with due process and that state’s
38 laws, remove a licensee’s Privilege to Practice in the Remote State
39 for a specific period of time, impose fines, or take any other
40 necessary actions to protect the health and safety of its citizens.

1 The licensee may be ineligible for a Privilege to Practice in any
2 Member State until the specific time for removal has passed and
3 all fines are paid.

4 (e) If a Home State license is encumbered, the licensee shall
5 lose the Privilege to Practice in any Remote State until both of the
6 following occur:

7 (1) The Home State license is no longer encumbered.

8 (2) Have not had any encumbrance or restriction against any
9 license or Privilege to Practice within the previous two years.

10 (f) Once an encumbered license in the Home State is restored
11 to good standing, the licensee shall meet the requirements of
12 subdivision (a) to obtain a Privilege to Practice in any Remote
13 State.

14 (g) If a licensee's Privilege to Practice in any Remote State is
15 removed, the individual may lose the Privilege to Practice in all
16 other Remote States until all of the following occur:

17 (1) The specific period of time for which the Privilege to
18 Practice was removed has ended.

19 (2) All fines have been paid.

20 (3) The licensee has not had any encumbrance or restriction
21 against any license or Privilege to Practice within the previous two
22 years.

23 (h) Once the requirements of subdivision (g) have been met,
24 the licensee shall meet the requirements in subdivision (a) to obtain
25 a Privilege to Practice in a Remote State.

26 4999.153. (a) A Licensed Professional Counselor may hold a
27 Home State license, which allows for a Privilege to Practice in
28 other Member States, in only one Member State at a time.

29 (b) If a Licensed Professional Counselor changes primary state
30 of residence by moving between two Member States, all of the
31 following shall occur:

32 (1) The Licensed Professional Counselor shall file an application
33 for obtaining a new Home State license based on a Privilege to
34 Practice, pay all applicable fees, and notify the current and new
35 Home State in accordance with applicable rules adopted by the
36 Commission.

37 (2) Upon receipt of an application for obtaining a new home
38 state license by virtue of a Privilege to Practice, the new Home
39 State shall verify that the Licensed Professional Counselor meets

1 the pertinent criteria outlined in Section 4999.150 via the data
2 system, without need for primary source verification except for:

3 (A) A Federal Bureau of Investigation fingerprint-based criminal
4 background check, if not previously performed or updated pursuant
5 to applicable rules adopted by the Commission, in accordance with
6 Public Law 92-544.

7 (B) Other criminal background check as required by the new
8 Home State.

9 (C) Completion of any requisite jurisprudence requirements of
10 the new Home State.

11 (3) The former Home State shall convert the former Home State
12 license into a Privilege to Practice once the new Home State has
13 activated the new Home State license in accordance with applicable
14 rules adopted by the Commission.

15 (4) Notwithstanding any other provision of this Compact, if the
16 Licensed Professional Counselor cannot meet the criteria in Section
17 4999.150, the new Home State may apply its requirements for
18 issuing a new single state license.

19 (5) The Licensed Professional Counselor shall pay all applicable
20 fees to the new Home State in order to be issued a new Home State
21 license.

22 (c) If a Licensed Professional Counselor changes primary state
23 of residence by moving from a Member State to a non-Member
24 State, or from a non-Member State to a Member State, the state
25 criteria shall apply for issuance of a single state license in the new
26 state.

27 (d) Nothing in this Compact shall interfere with a licensee's
28 ability to hold a single state license in multiple states, however for
29 the purposes of this Compact, a licensee shall have only one Home
30 State license.

31 (e) Nothing in this Compact shall affect the requirements
32 established by a Member State for the issuance of a single state
33 license.

34 4999.155. Active duty military personnel, or their spouse, shall
35 designate a Home State where the individual has a current license
36 in good standing. The individual may retain the Home State
37 designation during the period the service member is on active duty.
38 After designating a Home State, the individual shall only change
39 their Home State through application for licensure in the new state,
40 or through the process outlined in Section 4999.153.

1 4999.157. (a) Member States shall recognize the right of a
2 Licensed Professional Counselor, licensed by a Home State in
3 accordance with Section 4999.140 and pursuant to rules ~~adopt~~
4 *adopted* by the Commission, to practice Professional Counseling
5 in any Member State via Telehealth under a Privilege to Practice
6 as provided in the Compact and rules adopted by the Commission.

7 (b) A licensee providing Professional Counseling services in a
8 Remote State under the Privilege to Practice shall adhere to the
9 laws and regulations of the Remote State.

10 4999.159. (a) In addition to the other powers conferred by
11 state law, a Remote State shall have the authority, in accordance
12 with existing state due process law, to do all of the following:

13 (1) Take adverse action against a Licensed Professional
14 Counselor's Privilege to Practice within that Member State.

15 (2) Issue subpoenas for both hearings and investigations that
16 require the attendance and testimony of witnesses as well as the
17 production of evidence. Subpoenas issued by a licensing board in
18 a Member State for the attendance and testimony of witnesses or
19 the production of evidence from another Member State shall be
20 enforced in the latter state by any court of competent jurisdiction,
21 according to the practice and procedure of that court applicable to
22 subpoenas issued in proceedings pending before it. The issuing
23 authority shall pay any witness fees, travel expenses, mileage, and
24 other fees required by the service statutes of the state in which the
25 witnesses or evidence are located.

26 (3) Only the Home State shall have the power to take adverse
27 action against a Licensed Professional Counselor's license issued
28 by the Home State.

29 (b) For purposes of taking adverse action, the Home State shall
30 give the same priority and effect to reported conduct received from
31 a Member State as it would if the conduct had occurred within the
32 Home State. In so doing, the Home State shall apply its own state
33 laws to determine appropriate action.

34 (c) The Home State shall complete any pending investigations
35 of a Licensed Professional Counselor who changes primary state
36 of residence during the course of the investigations. The Home
37 State shall also have the authority to take appropriate action or
38 actions and shall promptly report the conclusions of the
39 investigations to the administrator of the data system. The

1 administrator of the coordinated licensure information system shall
2 promptly notify the new Home State of any adverse actions.

3 (d) A Member State, if otherwise permitted by state law, may
4 recover from the affected Licensed Professional Counselor the
5 costs of investigations and dispositions of cases resulting from any
6 adverse action taken against that Licensed Professional Counselor.

7 (e) A Member State may take adverse action based on the factual
8 findings of the Remote State, provided that the Member State
9 follows its own procedures for taking the adverse action.

10 (f) (1) In addition to the authority granted to a Member State
11 by its respective professional counseling practice act or other
12 applicable state law, any Member State may participate with other
13 Member States in joint investigations of licensees.

14 (2) Member States shall share any investigative, litigation, or
15 compliance materials in furtherance of any joint or individual
16 investigation initiated under the Compact.

17 (3) If adverse action is taken by the Home State against the
18 license of a Licensed Professional Counselor, the Licensed
19 Professional Counselor’s Privilege to Practice in all other Member
20 States shall be deactivated until all encumbrances have been
21 removed from the state license. All Home State disciplinary orders
22 that impose adverse action against the license of a Licensed
23 Professional Counselor shall include a statement that the Licensed
24 Professional Counselor’s Privilege to Practice is deactivated in all
25 Member States during the pendency of the order.

26 (4) If a Member State takes adverse action, it shall promptly
27 notify the administrator of the data system. The administrator of
28 the data system shall promptly notify the Home State of any
29 adverse actions by Remote States.

30 (5) Nothing in this Compact shall override a Member State’s
31 decision that participation in an alternative program may be used
32 in lieu of adverse action.

33

34 Article 4. Counseling Compact Commission

35

36 4999.160. (a) The Member States hereby create and establish
37 a joint public agency known as the Counseling Compact
38 Commission.

39 (1) The Commission is an instrumentality of the Member States.

1 (2) Venue is proper and judicial proceedings by or against the
2 Commission shall be brought solely and exclusively in a court of
3 competent jurisdiction where the principal office of the
4 Commission is located. The Commission may waive venue and
5 ~~judicial~~ *judicial jurisdictional* defenses to the extent it adopts or consents
6 to participate in alternative dispute resolution proceedings.

7 (3) Nothing in this Compact shall be construed to be a waiver
8 of sovereign immunity.

9 (b) (1) Each Member State shall have and be limited to one
10 delegate selected by that Member State's licensing board.

11 (2) The delegate shall be either of the following:

12 (A) A current member of the licensing board at the time of
13 appointment, who is a Licensed Professional Counselor or public
14 member.

15 (B) An administrator of the licensing board.

16 (3) Any delegate may be removed or suspended from office as
17 provided by the law of the state from which the delegate is
18 appointed.

19 (c) The Member State licensing board shall fill any vacancy
20 occurring on the Commission within 60 days.

21 (d) (1) Each delegate shall be entitled to one vote with regard
22 to the adoption of rules and creation of bylaws and shall otherwise
23 have an opportunity to participate in the business and affairs of
24 the Commission.

25 (2) A delegate shall vote in person or by such other means as
26 provided in the bylaws. The bylaws may provide for delegates'
27 participation in meetings by telephone or other means of
28 communication.

29 (e) The Commission shall meet at least once during each
30 calendar year. Additional meetings shall be held as set forth in the
31 bylaws.

32 (f) The Commission shall by rule establish a term of office for
33 delegates and may by rule establish term limits.

34 4999.163. The commission shall have all of the following
35 powers and duties:

36 (a) Establish the fiscal year of the Commission.

37 (b) Establish bylaws.

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

39 (d) Meet and take those actions as are consistent with the
40 provisions of this Compact and the bylaws.

- 1 (e) Adopt rules that shall be binding to the extent and in the
2 manner provided for in the Compact.
- 3 (f) Bring and prosecute legal proceedings or actions in the name
4 of the Commission, provided that the standing of any State
5 licensing board to sue or be sued under applicable law shall not
6 be affected.
- 7 (g) Purchase and maintain insurance and bonds.
- 8 (h) Borrow, accept, or contract for services of personnel,
9 including, but not limited to, employees of a Member State.
- 10 (i) Hire employees, elect or appoint officers, fix compensation,
11 define duties, grant those individuals appropriate authority to carry
12 out the purposes of the Compact, and establish the Commission's
13 personnel policies and programs relating to conflicts of interest,
14 qualifications of personnel, and other related personnel matters.
- 15 (j) Accept any and all appropriate donations and grants of
16 money, equipment, supplies, materials, and services, and to receive,
17 utilize, and dispose of the same, provided that at all times the
18 Commission shall avoid any appearance of impropriety or conflict
19 of interest.
- 20 (k) Lease, purchase, accept appropriate gifts or donations of, or
21 otherwise to own, hold, improve or use, any property, real, personal
22 or mixed, provided that at all times the Commission shall avoid
23 any appearance of impropriety.
- 24 (l) Sell, convey, mortgage, pledge, lease, exchange, abandon,
25 or otherwise dispose of any property real, personal, or mixed.
- 26 (m) Establish a budget and make expenditures.
- 27 (n) Borrow money.
- 28 (o) Appoint committees, including standing committees
29 composed of members, state regulators, state legislators or their
30 representatives, and consumer representatives, and such other
31 interested persons as may be designated in this Compact and the
32 bylaws.
- 33 (p) Provide and receive information from, and cooperate with,
34 law enforcement agencies.
- 35 (q) Establish and elect an executive committee.
- 36 (r) Perform other functions as may be necessary or appropriate
37 to achieve the purposes of this Compact consistent with the State
38 regulation of professional counseling licensure and practice.

1 4999.165. (a) The executive committee shall have the power
2 to act on behalf of the commission according to the terms of this
3 Compact.

4 (b) The executive committee shall be composed of up to 11
5 members, as follows:

6 (1) Seven voting members who are elected by the Commission
7 from the current membership of the Commission.

8 (2) Up to four (4) ex officio, nonvoting members from four
9 recognized national professional counselor organizations selected
10 by their respective organizations.

11 (c) The Commission may remove any member of the executive
12 committee as provided in bylaws.

13 (d) The executive committee shall meet at least annually.

14 (e) The executive committee shall have ~~the~~ all of the following
15 duties and responsibilities:

16 (1) Recommend to the entire Commission changes to the rules
17 or bylaws, changes to this Compact, legislation, fees paid by
18 Member States, such as annual dues, and any Commission Compact
19 fee charged to licensees for the Privilege to Practice.

20 (2) Ensure Compact administration services are appropriately
21 provided, contractual or otherwise.

22 (3) Prepare and recommend the budget.

23 (4) Maintain financial records on behalf of the Commission.

24 (5) Monitor Compact compliance of Member States and provide
25 compliance reports to the Commission.

26 (6) Establish additional committees as necessary.

27 (7) Other duties as provided in rules or bylaws.

28 4999.167. (a) Meetings of the Commission shall be open to
29 the public, and public notice of meetings shall be given in the same
30 manner as required under the rulemaking provisions in Section
31 4999.173.

32 (b) The Commission or the executive committee or other
33 committees of the Commission may convene in a closed, nonpublic
34 meeting if the Commission or executive committee or other
35 committees of the Commission must discuss any of the following:

36 (1) Noncompliance of a Member State with its obligations under
37 the Compact.

38 (2) The employment, compensation, discipline, or other matters,
39 practices, or procedures related to specific employees, or other

1 matters related to the Commission's internal personnel practices
2 and procedures.

3 (3) Current, threatened, or reasonably anticipated litigation.

4 (4) Negotiation of contracts for the purchase, lease, or sale of
5 goods, services, or real estate.

6 (5) Accusing any person of a crime or formally censuring any
7 person.

8 (6) Disclosure of trade secrets or commercial or financial
9 information that is privileged or confidential.

10 (7) Disclosure of information of a personal nature if disclosure
11 would constitute a clearly unwarranted invasion of personal
12 privacy.

13 (8) Disclosure of investigative records compiled for law
14 enforcement purposes.

15 (9) Disclosure of information related to any investigative reports
16 prepared by or on behalf of or for use of the Commission or other
17 committee charged with responsibility of investigation or
18 determination of compliance issues pursuant to the Compact.

19 (10) Matters specifically exempted from disclosure by federal
20 or Member State statute.

21 (c) If a meeting, or portion of a meeting, is closed pursuant to
22 this section, the Commission's legal counsel or designee shall
23 certify that the meeting may be closed and shall reference each
24 relevant exempting provision.

25 (d) The Commission shall keep minutes that fully and clearly
26 describe all matters discussed in a meeting and shall provide a full
27 and accurate summary of actions taken, and the reasons therefore,
28 including a description of the views expressed. All documents
29 considered in connection with an action shall be identified in the
30 minutes. All minutes and documents of a closed meeting shall
31 remain under seal, subject to release by a majority vote of the
32 Commission or order of a court of competent jurisdiction.

33 4999.169. (a) The Commission shall pay, or provide for the
34 payment of, the reasonable expenses of its establishment,
35 organization, and ongoing activities.

36 (b) The Commission may accept any and all appropriate revenue
37 sources, donations, and grants of money, equipment, supplies,
38 materials, and services.

39 (c) The Commission may levy on and collect an annual
40 assessment from each Member State or impose fees on other parties

1 to cover the cost of the operations and activities of the Commission
2 and its staff, which must be in a total amount sufficient to cover
3 its annual budget as approved each year for which revenue is not
4 provided by other sources. The aggregate annual assessment
5 amount shall be allocated based upon a formula to be determined
6 by the Commission, which shall adopt a rule binding upon all
7 Member States.

8 (d) The Commission shall not incur obligations of any kind
9 before securing the funds adequate to meet the same, nor shall the
10 Commission pledge the credit of any of the Member States, except
11 by and with the authority of the Member State.

12 (e) The Commission shall keep accurate accounts of all receipts
13 and disbursements. The receipts and disbursements of the
14 Commission shall be subject to the audit and accounting procedures
15 established under its bylaws. However, all receipts and
16 disbursements of funds handled by the Commission shall be audited
17 yearly by a certified or licensed public accountant, and the report
18 of the audit shall be included in, and become part of, the annual
19 report of the Commission.

20 4999.170. (a) The members, officers, executive director,
21 employees, and representatives of the Commission shall be immune
22 from suit and liability, either personally or in their official capacity,
23 for any claim for damage to or loss of property or personal injury
24 or other civil liability caused by or arising out of any actual or
25 alleged act, error, or omission that occurred, or that the person
26 against whom the claim is made had a reasonable basis for
27 believing occurred, within the scope of Commission employment,
28 duties, or responsibilities, provided that nothing in this subdivision
29 shall be construed to protect any such person from suit or liability
30 for any damage, loss, injury, or liability caused by the intentional
31 or willful or wanton misconduct of that person.

32 (b) The Commission shall defend any member, officer, executive
33 director, employee, or representative of the Commission in any
34 civil action seeking to impose liability arising out of any actual or
35 alleged act, error, or omission that occurred within the scope of
36 Commission employment, duties, or responsibilities, or that the
37 person against whom the claim is made had a reasonable basis for
38 believing occurred within the scope of Commission employment,
39 duties, or responsibilities, provided that nothing herein shall be
40 construed to prohibit that person from retaining their own counsel,

1 and provided further, that the actual or alleged act, error, or
2 omission did not result from that person's intentional or willful or
3 wanton misconduct.

4 (c) The Commission shall indemnify and hold harmless any
5 member, officer, executive director, employee, or representative
6 of the Commission for the amount of any settlement or judgment
7 obtained against that person arising out of any actual or alleged
8 act, error, or omission that occurred within the scope of
9 Commission employment, duties, or responsibilities, or that the
10 person had a reasonable basis for believing occurred within the
11 scope of Commission employment, duties, or responsibilities,
12 provided that the actual or alleged act, error, or omission did not
13 result from the intentional or willful or wanton misconduct of that
14 person.

15 4999.173. (a) The Commission shall adopt reasonable rules
16 in order to effectively and efficiently achieve the purpose of the
17 Compact. Notwithstanding the foregoing, in the event that the
18 Commission exercises its rulemaking authority in a manner that
19 is beyond the scope of the purposes of the Compact, or the powers
20 granted hereunder, then that action by the Commission shall be
21 invalid and have no force or effect.

22 (b) The Commission shall exercise its rulemaking powers
23 pursuant to the criteria set forth in this section and the rules adopted
24 thereunder. Rules and amendments shall become binding as of the
25 date specified in each rule or amendment.

26 (c) If a majority of the legislatures of the Member States rejects
27 a rule, by enactment of a statute or resolution in the same manner
28 used to adopt the Compact within four years of the date of adoption
29 of the rule, then the rule shall have no further force and effect in
30 any Member State.

31 (d) Rules or amendments to the rules shall be adopted at a
32 regular or special meeting of the Commission.

33 (e) Before adoption of a final rule or rules by the Commission,
34 and at least 30 days in advance of the meeting at which the rule
35 will be considered and voted upon, the Commission shall file a
36 Notice of Proposed Rulemaking, on both of the following:

37 (1) The website of the Commission or other publicly accessible
38 platform.

39 (2) The website of each Member State professional counseling
40 licensing board or other publicly accessible platform or the

1 publication in which each state would otherwise publish proposed
2 rules.

3 (f) The Notice of Proposed Rulemaking shall include all of the
4 following:

5 (1) The proposed time, date, and location of the meeting in
6 which the rule will be considered and voted upon.

7 (2) The text of the proposed rule or amendment and the reason
8 for the proposed rule.

9 (3) A request for comments on the proposed rule from any
10 interested person.

11 (4) The manner in which interested persons may submit notice
12 to the Commission of their intention to attend the public hearing
13 and any written comments.

14 (g) Before adoption of a proposed rule, the Commission shall
15 allow persons to submit written data, facts, opinions, and
16 arguments, which shall be made available to the public.

17 (h) The Commission shall grant an opportunity for a public
18 hearing before it adopts a rule or amendment if a hearing is
19 requested by the following:

20 (1) At least 25 persons.

21 (2) A state or federal governmental subdivision or agency.

22 (3) An association having at least 25 members.

23 (i) (1) If a hearing is held on the proposed rule or amendment,
24 the Commission shall publish the place, time, and date of the
25 scheduled public hearing. If the hearing is held via electronic
26 means, the Commission shall publish the mechanism for access
27 to the electronic hearing.

28 (2) All persons wishing to be heard at the hearing shall notify
29 the executive director of the Commission or other designated
30 member in writing of their desire to appear and testify at the
31 hearing not less than five business days before the scheduled date
32 of the hearing.

33 (3) Hearings shall be conducted in a manner providing each
34 person who wishes to comment a fair and reasonable opportunity
35 to comment orally or in writing.

36 (4) All hearings shall be recorded. A copy of the recording shall
37 be made available on request.

38 (5) Nothing in this section shall be construed as requiring a
39 separate hearing on each rule. Rules may be grouped for the

1 convenience of the Commission at hearings required by this
2 section.

3 (j) Following the scheduled hearing date, or by the close of
4 business on the scheduled hearing date if the hearing was not held,
5 the Commission shall consider all written and oral comments
6 received.

7 (k) If no written notice of intent to attend the public hearing by
8 interested parties is received, the Commission may proceed with
9 adoption of the proposed rule without a public hearing.

10 (l) The Commission shall, by majority vote of all members, take
11 final action on the proposed rule and shall determine the effective
12 date of the rule, if any, based on the rulemaking record and the
13 full text of the rule.

14 (m) Upon determination that an emergency exists, the
15 Commission may consider and adopt an emergency rule without
16 prior notice, opportunity for comment, or hearing, provided that
17 the usual rulemaking procedures provided in the Compact and in
18 this section shall be retroactively applied to the rule as soon as
19 reasonably possible, in no event later than 90 days after the
20 effective date of the rule. For the purposes of this provision, an
21 emergency rule is one that must be adopted immediately in order
22 to do any of the following:

23 (1) Meet an imminent threat to public health, safety, or welfare.

24 (2) Prevent a loss of Commission or Member State funds.

25 (3) Meet a deadline for the adoption of an administrative rule
26 that is established by federal law or rule.

27 (4) Protect public health and safety.

28 (n) The Commission or an authorized committee of the
29 Commission may direct revisions to a previously adopted rule or
30 amendment for purposes of correcting typographical errors, errors
31 in format, errors in consistency, or grammatical errors. Public
32 notice of any revisions shall be posted on the website of the
33 Commission. The revision shall be subject to challenge by any
34 person for a period of 30 days after posting. The revision may be
35 challenged only on grounds that the revision results in a material
36 change to a rule. A challenge shall be made in writing and delivered
37 to the chair of the Commission before the end of the notice period.
38 If no challenge is made, the revision shall take effect without
39 further action. If the revision is challenged, the revision shall not
40 take effect without the approval of the Commission.

Article 5. Data System

1
2
3 4999.175. (a) The Commission shall provide for the
4 development, maintenance, operation, and utilization of a
5 coordinated database and reporting system containing licensure,
6 adverse action, and investigative information on all licensed
7 individuals in Member States.

8 (b) Notwithstanding any other provision of state law to the
9 contrary, a Member State shall submit a uniform ~~data set~~ *dataset*
10 to the data system on all individuals to whom this Compact is
11 applicable as required by the rules of the Commission, including
12 all of the following:

- 13 (1) Identifying information.
- 14 (2) Licensure data.
- 15 (3) Adverse actions against a license or Privilege to Practice.
- 16 (4) Nonconfidential information related to alternative program
17 participation.
- 18 (5) Any denial of application for licensure, and the reason or
19 reasons for the denial.
- 20 (6) Current significant investigative information.
- 21 (7) Other information that may facilitate the administration of
22 this Compact, as determined by the rules of the Commission.

23 (c) Investigative information pertaining to a licensee in any
24 Member State shall only be available to other Member States.

25 (d) The Commission shall promptly notify all Member States
26 of any adverse action taken against a licensee or an individual
27 applying for a license. Adverse action information pertaining to a
28 licensee in any Member State shall be available to any other
29 Member State.

30 (e) Member States contributing information to the data system
31 may designate information that shall not be shared with the public
32 without the express permission of the contributing state.

33 (f) Any information submitted to the data system that is
34 subsequently required to be expunged by the laws of the Member
35 State contributing the information shall be removed from the data
36 system.

1 convenience of the Commission at hearings required by this

2

3 4999.180. (a) The executive, legislative, and judicial branches
4 of state government in each Member State shall enforce this
5 Compact and take all actions necessary and appropriate to
6 effectuate the Compact’s purposes and intent. The provisions of
7 this Compact and the rules adopted hereunder shall have standing
8 as statutory law.

9 (b) All courts shall take judicial notice of the Compact and the
10 rules in any judicial or administrative proceeding in a Member
11 State pertaining to the subject matter of this Compact that may
12 affect the powers, responsibilities, or actions of the Commission.

13 (c) The Commission shall be entitled to receive service of
14 process in any such proceeding and shall have standing to intervene
15 in the proceeding for all purposes. Failure to provide service of
16 process to the Commission shall render a judgment or order void
17 as to the Commission, this Compact, or adopted rules.

18 4999.183. (a) If the Commission determines that a Member
19 State has defaulted in the performance of its obligations or
20 responsibilities under this Compact or the adopted rules, the
21 Commission shall do both of the following:

22 (1) Provide written notice to the defaulting state and other
23 Member States of the nature of the default, the proposed means
24 of curing the default, or any other action to be taken by the
25 Commission.

26 (2) Provide remedial training and specific technical assistance
27 regarding the default.

28 (b) If a state in default fails to cure the default, the defaulting
29 state may be terminated from the Compact upon an affirmative
30 vote of a majority of the Member States, and all rights, privileges
31 and benefits conferred by this Compact may be terminated on the
32 effective date of termination. A cure of the default does not relieve
33 the offending state of obligations or liabilities incurred during the
34 period of default.

35 (c) Termination of membership in the Compact shall be imposed
36 only after all other means of securing compliance have been
37 exhausted. Notice of intent to suspend or terminate shall be given
38 by the Commission to the governor, the majority and minority
39 leaders of the defaulting state’s legislature, and each of the Member
40 States.

1 (d) A state that has been terminated is responsible for all
2 assessments, obligations, and liabilities incurred through the
3 effective date of termination, including obligations that extend
4 beyond the effective date of termination.

5 (e) The Commission shall not bear any costs related to a State
6 that is found to be in default or that has been terminated from the
7 Compact, unless agreed upon in writing between the Commission
8 and the defaulting state.

9 (f) The defaulting state may appeal the action of the Commission
10 by petitioning the United States District Court for the District of
11 Columbia or the federal district where the Commission has its
12 principal offices. The prevailing member shall be awarded all costs
13 of the litigation, including reasonable attorney’s fees.

14 4999.185. (a) Upon request by a Member State, the
15 Commission shall attempt to resolve disputes related to the
16 Compact that arise among Member States and between Member
17 and non-Member States.

18 (b) The Commission shall adopt a rule providing for both
19 mediation and binding dispute resolution for disputes as
20 appropriate.

21 4999.187. (a) The Commission, in the reasonable exercise of
22 its discretion, shall enforce the provisions and rules of this
23 Compact.

24 (b) By majority vote, the Commission may initiate legal action
25 in the United States District Court for the District of Columbia or
26 the federal district where the Commission has its principal offices
27 against a Member State in default to enforce compliance with the
28 provisions of the Compact and its adopted rules and bylaws.

29 (c) The relief sought may include both injunctive relief and
30 damages. In the event judicial enforcement is necessary, the
31 prevailing member shall be awarded all costs of the litigation,
32 including reasonable attorney’s fees.

33 (d) The remedies described in this section shall not be the
34 exclusive remedies of the Commission. The Commission may
35 pursue any other remedies available under federal or state law.

36
37 Article 7. Implementation, Withdrawal, and Amendment

38
39 4999.190. (a) The Compact shall come into effect on the date
40 on which the Compact statute is enacted into law in the 10th

1 Member State. The provisions, which become effective at that
2 time, shall be limited to the powers granted to the Commission
3 relating to assembly and the adoption of rules. Thereafter, the
4 Commission shall meet and exercise rulemaking powers necessary
5 to the implementation and administration of the Compact.

6 (b) Any state that joins the Compact after the Commission's
7 initial adoption of the rules shall be subject to the rules as they
8 exist on the date on which the Compact becomes law in that state.
9 Any rule that has been previously adopted by the Commission
10 shall have the full force and effect of law on the day the Compact
11 becomes law in that state.

12 4999.193. (a) Any Member State may withdraw from this
13 Compact by enacting a statute repealing the same.

14 (b) A Member State's withdrawal shall not take effect until six
15 months after enactment of the repealing statute.

16 (c) Withdrawal shall not affect the continuing requirement of
17 the withdrawing state's professional counseling licensing board
18 to comply with the investigative and adverse action reporting
19 requirements of this act before the effective date of withdrawal.

20 4999.195. Nothing contained in this Compact shall be construed
21 to invalidate or prevent any professional counseling licensure
22 agreement or other cooperative arrangement between a Member
23 State and a non-Member State that does not conflict with the
24 provisions of this Compact.

25 4999.197. This Compact may be amended by the Member
26 States. No amendment to this Compact shall become effective and
27 binding upon any Member State until it is enacted into the laws
28 of all Member States.

29 4999.198. This Compact shall be liberally construed so as to
30 effectuate the purposes thereof. The provisions of this Compact
31 shall be severable and if any phrase, clause, sentence, or provision
32 of this Compact is declared to be contrary to the constitution of
33 any Member State or of the United States or the applicability
34 thereof to any government, agency, person, or circumstance is held
35 invalid, the validity of the remainder of this Compact and the
36 applicability thereof to any government, agency, person, or
37 circumstance shall not be affected thereby. If this Compact is held
38 contrary to the constitution of any Member State, the Compact
39 shall remain in full force and effect as to the remaining Member

1 States and in full force and effect as to the Member State affected
2 as to all severable matters.

3 4999.199. (a) A licensee providing professional counseling
4 services in a Remote State under the Privilege to Practice shall
5 adhere to the laws and regulations, including scope of practice, of
6 the Remote State.

7 (b) Nothing herein prevents the enforcement of any other law
8 of a Member State that is not inconsistent with the Compact.

9 (c) Any laws in a Member State that are in conflict with the
10 Compact are superseded to the extent of the conflict.

11 (d) Any lawful actions of the Commission, including all rules
12 and bylaws properly adopted by the Commission, are binding upon
13 the Member States.

14 (e) All permissible agreements between the Commission and
15 the Member States are binding in accordance with their terms.

16 (f) In the event that any provision of the Compact exceeds the
17 constitutional limits imposed on the Legislature of any Member
18 State, the provision shall be ineffective to the extent of the conflict
19 with the constitutional provision in question in that Member State.

20 SEC. 2. The Legislature finds and declares that Section 1 of
21 this act, which adds Chapter 17 (commencing with Section
22 4999.130) to the Business and Professions Code, imposes a
23 limitation on the public's right of access to the meetings of public
24 bodies or the writings of public officials and agencies within the
25 meaning of Section 3 of Article I of the California Constitution.
26 Pursuant to that constitutional provision, the Legislature makes
27 the following findings to demonstrate the interest protected by this
28 limitation and the need for protecting that interest:

29 In order to protect the privacy rights of individuals, it is necessary
30 that this act limit the public's right of access to that information.

O