



## 2024 South Dakota Legislature

# House Bill 1012

Introduced by: **Representative** Rehfeldt and **Senator** Tobin at the request of the Committee on Sustainable Models for Long Term Care

1 **An Act to adopt the interstate counseling licensure compact and revise educational**  
 2 **requirements to comply with the compact.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 36-32-64 be AMENDED:**

5 **36-32-64.** An applicant for a license as a professional counselor shall file an  
 6 application, in the manner prescribed by the board, together with the application fee  
 7 prescribed by the board in accordance with § 36-32-92. The board may issue a license as  
 8 a professional counselor to an applicant who pays the license fee and demonstrates that:

9 (1) The applicant has received a master's or a doctoral degree, consisting of at least  
 10 ~~forty-eight~~;

11 (a) Forty-eight credit hours in counseling from an accredited counseling  
 12 program recognized by the board, if the applicant began the program before  
 13 July 1, 2024; or

14 (b) Sixty credit hours in counseling from an accredited counseling program  
 15 recognized by the board, if the applicant began the program after July 1,  
 16 2024;

17 (2) The applicant has passed the National Counselor Examination administered by the  
 18 National Board for Certified Counselors;

19 (3) Within the four years preceding the application, the applicant completed two  
 20 thousand hours of postgraduate supervision, in a manner prescribed by the board,  
 21 in counseling under a plan of supervision approved by the board;

22 (4) The applicant has no pending disciplinary proceeding or unresolved disciplinary  
 23 complaint;

24 (5) The applicant is of good moral character; and

25 (6) The applicant is not in violation of any provision of this chapter or any rule  
 26 promulgated under this chapter.

1 The board may refuse to grant a license to an applicant who fails to meet the  
2 requirements of this section.

3 Notwithstanding the provisions of subdivision (3), the board may grant a license,  
4 to an applicant who does not complete the required postgraduate supervision within four  
5 years of the application upon the applicant's show of good cause for exceeding the time  
6 limit.

7 Notwithstanding the provisions of subdivision (5), the board may grant a license  
8 to an applicant who has been convicted of or pled guilty to a felony, to any crime involving  
9 or relating to the practice of counseling, or to any crime involving dishonesty or moral  
10 turpitude, if the board determines that the applicant does not constitute a risk to public  
11 safety.

12 An applicant may appeal the denial of a license in accordance with chapter 1-26.

13 **Section 2. That chapter 36-32 be amended with a NEW SECTION:**

14 Notwithstanding subsection 36-32-64(1)(b), the board may issue a license as a  
15 professional counselor to an applicant who has received a master's or a doctoral degree,  
16 consisting of less than sixty credit hours but no less than forty-eight credit hours in  
17 counseling, from an accredited counseling program recognized by the board, if the  
18 applicant otherwise satisfies the requirements for licensure in § 36-32-64.

19 An applicant who is issued a license as a professional counselor under this section  
20 is not eligible to participate in the counseling licensure compact adopted by section 5 of  
21 this Act.

22 **Section 3. That § 36-32-65 be AMENDED:**

23 **36-32-65.** An applicant for a license as a professional counselor--mental health  
24 shall file an application, in the manner prescribed by the board, together with the  
25 application fee prescribed by the board in accordance with § 36-32-92. The board may  
26 issue a license as a professional counselor--mental health to an applicant who pays the  
27 license fee and demonstrates that:

28 (1) The applicant has obtained licensure as a professional counselor under § 36-32-  
29 64;

30 (2) The applicant has received a master's or a doctoral degree, consisting of at least  
31 ~~forty-eight~~;

32 (a) Forty-eight credit hours in counseling, ~~with an emphasis on mental health~~  
33 counseling, if the applicant began the program before July 1, 2024; or



1 ~~(5)~~(6) The applicant has no pending disciplinary proceeding or unresolved disciplinary  
2 complaint;

3 ~~(6)~~(7) The applicant is of good moral character; and

4 ~~(7)~~(8) The applicant is not in violation of any provision of this chapter or any rule  
5 promulgated under this chapter.

6 The board may refuse to grant a license to an applicant who fails to meet the  
7 requirements of this section.

8 Notwithstanding the provisions of subdivision (4), the board may grant a license  
9 to an applicant who does not complete the required postgraduate supervision within four  
10 years of the application upon the applicant's show of good cause for exceeding the time  
11 limit.

12 Notwithstanding the provisions of subdivision (6), the board may grant a license  
13 to an applicant who has been convicted of or pled guilty to a felony, to any crime involving  
14 or relating to the practice of counseling, or to any crime involving dishonesty or moral  
15 turpitude if the board determines that the applicant does not constitute a risk to public  
16 safety.

17 An applicant may appeal the denial of a license in accordance with chapter 1-26.

18 **Section 4. That chapter 36-32 be amended with a NEW SECTION:**

19 Notwithstanding subsection 36-32-65(2)(b), the board may issue a license as a  
20 professional counselor--mental health to an applicant who has received a master's or a  
21 doctoral degree, consisting of less than sixty credit hours but no less than forty-eight  
22 credit hours in counseling, if the applicant otherwise satisfies the requirements for  
23 licensure in § 36-32-65.

24 An applicant who is issued a license as a professional counselor--mental health  
25 under this section is not eligible to participate in the counseling licensure compact adopted  
26 by section 5 of this Act.

27 **Section 5. That a NEW SECTION be added to title 36:**

28 COUNSELING LICENSURE COMPACT

29 SECTION 1: PURPOSE

30 The purpose of this Compact is to facilitate interstate practice of Licensed  
31 Professional Counselors with the goal of improving public access to Professional  
32 Counseling services. The practice of Professional Counseling occurs in the State where the  
33 client is located at the time of the counseling services. The Compact preserves the

1 regulatory authority of States to protect public health and safety through the current  
2 system of State licensure.

3 This Compact is designed to achieve the following objectives:

- 4 A. Increase public access to Professional Counseling services by providing for the  
5 mutual recognition of other Member State licenses;  
6 B. Enhance the States' ability to protect the public's health and safety;  
7 C. Encourage the cooperation of Member States in regulating multistate practice for  
8 Licensed Professional Counselors;  
9 D. Support spouses of relocating Active Duty Military personnel;  
10 E. Enhance the exchange of licensure, investigative, and disciplinary information  
11 among Member States;  
12 F. Allow for the use of Telehealth technology to facilitate increased access to  
13 Professional Counseling services;  
14 G. Support the uniformity of Professional Counseling licensure requirements  
15 throughout the States to promote public safety and public health benefits;  
16 H. Invest all Member States with the authority to hold a Licensed Professional  
17 Counselor accountable for meeting all State practice laws in the State in which the  
18 client is located at the time care is rendered through the mutual recognition of  
19 Member State licenses;  
20 I. Eliminate the necessity for licenses in multiple States; and  
21 J. Provide opportunities for interstate practice by Licensed Professional Counselors  
22 who meet uniform licensure requirements.

## 23 SECTION 2: DEFINITIONS

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

- 26 A. "Active Duty Military" means full-time duty status in the active uniformed service  
27 of the United States, including members of the National Guard and Reserve on  
28 active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.  
29 B. "Adverse Action" means any administrative, civil, equitable or criminal action  
30 permitted by a State's laws which is imposed by a licensing board or other authority  
31 against a Licensed Professional Counselor, including actions against an individual's  
32 license or Privilege to Practice such as revocation, suspension, probation,  
33 monitoring of the licensee, limitation on the licensee's practice, or any other  
34 Encumbrance on licensure affecting a Licensed Professional Counselor's  
35 authorization to practice, including issuance of a cease and desist action.

- 1        C. "Alternative Program" means a non-disciplinary monitoring or practice remediation  
2        process approved by a Professional Counseling Licensing Board to address  
3        Impaired Practitioners.
- 4        D. "Continuing Competence/Education" means a requirement, as a condition of  
5        license renewal, to provide evidence of participation in, and/or completion of,  
6        educational and professional activities relevant to practice or area of work.
- 7        E. "Counseling Compact Commission" or "Commission" means the national  
8        administrative body whose membership consists of all States that have enacted  
9        the Compact.
- 10       F. "Current Significant Investigative Information" means:
- 11           1. Investigative Information that a Licensing Board, after a preliminary inquiry  
12           that includes notification and an opportunity for the Licensed Professional  
13           Counselor to respond, if required by State law, has reason to believe is not  
14           groundless and, if proved true, would indicate more than a minor infraction;  
15           or
- 16           2. Investigative Information that indicates that the Licensed Professional  
17           Counselor represents an immediate threat to public health and safety  
18           regardless of whether the Licensed Professional Counselor has been notified  
19           and had an opportunity to respond.
- 20       G. "Data System" means a repository of information about Licensees, including, but  
21       not limited to, continuing education, examination, licensure, investigative, Privilege  
22       to Practice and Adverse Action information.
- 23       H. "Encumbered License" means a license in which an Adverse Action restricts the  
24       practice of licensed Professional Counseling by the Licensee and said Adverse  
25       Action has been reported to the National Practitioners Data Bank (NPDB).
- 26       I. "Encumbrance" means a revocation or suspension of, or any limitation on, the full  
27       and unrestricted practice of Licensed Professional Counseling by a Licensing Board.
- 28       J. "Executive Committee" means a group of directors elected or appointed to act on  
29       behalf of, and within the powers granted to them by, the Commission.
- 30       K. "Home State" means the Member State that is the Licensee's primary State of  
31       residence.
- 32       L. "Impaired Practitioner" means an individual who has a condition(s) that may impair  
33       their ability to practice as a Licensed Professional Counselor without some type of  
34       intervention and may include, but are not limited to, alcohol and drug dependence,  
35       mental health impairment, and neurological or physical impairments.

1 M. "Investigative Information" means information, records, and documents received  
2 or generated by a Professional Counseling Licensing Board pursuant to an  
3 investigation.

4 N. "Jurisprudence Requirement" if required by a Member State, means the  
5 assessment of an individual's knowledge of the laws and Rules governing the  
6 practice of Professional Counseling in a State.

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

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

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

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

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

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

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

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

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

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

28 Y. "Telehealth" means the application of telecommunication technology to deliver  
29 Professional Counseling services remotely to assess, diagnose, and treat behavioral  
30 health conditions.

31 Z. "Unencumbered License" means a license that authorizes a Licensed Professional  
32 Counselor to engage in the full and unrestricted practice of Professional Counseling.

### 33 SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

35 1. License and regulate Licensed Professional Counselors;

- 1           2. Require Licensees to pass a nationally recognized exam approved by the
- 2           Commission;
- 3           3. Require Licensees to have a 60 semester-hour (or 90 quarter-hour)
- 4           master's degree in counseling or 60 semester-hours (or 90 quarter-hours)
- 5           of graduate course work including the following topic areas:
- 6           a. Professional Counseling Orientation and Ethical Practice;
- 7           b. Social and Cultural Diversity;
- 8           c. Human Growth and Development;
- 9           d. Career Development;
- 10          e. Counseling and Helping Relationships;
- 11          f. Group Counseling and Group Work;
- 12          g. Diagnosis and Treatment; Assessment and Testing;
- 13          h. Research and Program Evaluation; and
- 14          i. Other areas as determined by the Commission.
- 15          4. Require Licensees to complete a supervised postgraduate professional
- 16          experience as defined by the Commission;
- 17          5. Have a mechanism in place for receiving and investigating complaints about
- 18          Licensees.
- 19        B. A Member State shall:
- 20          1. Participate fully in the Commission's Data System, including using the
- 21          Commission's unique identifier as defined in Rules;
- 22          2. Notify the Commission, in compliance with the terms of the Compact and
- 23          Rules, of any Adverse Action or the availability of Investigative Information
- 24          regarding a Licensee;
- 25          3. Implement or utilize procedures for considering the criminal history records
- 26          of applicants for an initial Privilege to Practice. These procedures shall
- 27          include the submission of fingerprints or other biometric-based information
- 28          by applicants for the purpose of obtaining an applicant's criminal history
- 29          record information from the Federal Bureau of Investigation and the agency
- 30          responsible for retaining that State's criminal records;
- 31          a. A member state must fully implement a criminal background check
- 32          requirement, within a time frame established by rule, by receiving
- 33          the results of the Federal Bureau of Investigation record search and
- 34          shall use the results in making licensure decisions;





- 1           4. Have not had any Encumbrance or restriction against any license or  
2           Privilege to Practice within the previous two (2) years;
- 3           5. Notify the Commission that the Licensee is seeking the Privilege to Practice  
4           within a Remote State(s);
- 5           6. Pay any applicable fees, including any State fee, for the Privilege to Practice;
- 6           7. Meet any Continuing Competence/Education requirements established by  
7           the Home State;
- 8           8. Meet any Jurisprudence Requirements established by the Remote State(s)  
9           in which the Licensee is seeking a Privilege to Practice; and
- 10          9. Report to the Commission any Adverse Action, Encumbrance, or restriction  
11          on license taken by any non-Member State within 30 days from the date  
12          the action is taken.
- 13          B. The Privilege to Practice is valid until the expiration date of the Home State license.  
14          The Licensee must comply with the requirements of Section 4(A) to maintain the  
15          Privilege to Practice in the Remote State.
- 16          C. A Licensee providing Professional Counseling in a Remote State under the Privilege  
17          to Practice shall adhere to the laws and regulations of the Remote State.
- 18          D. A Licensee providing Professional Counseling services in a Remote State is subject  
19          to that State's regulatory authority. A Remote State may, in accordance with due  
20          process and that State's laws, remove a Licensee's Privilege to Practice in the  
21          Remote State for a specific period of time, impose fines, and/or take any other  
22          necessary actions to protect the health and safety of its citizens. The Licensee may  
23          be ineligible for a Privilege to Practice in any Member State until the specific time  
24          for removal has passed and all fines are paid.
- 25          E. If a Home State license is encumbered, the Licensee shall lose the Privilege to  
26          Practice in any Remote State until the following occur:
- 27                1. The Home State license is no longer encumbered; and
- 28                2. The Licensee has not had any Encumbrance or restriction against any  
29                license or Privilege to Practice within the previous two (2) years.
- 30          F. Once an Encumbered License in the Home State is restored to good standing, the  
31          Licensee must meet the requirements of Section 4(A) to obtain a Privilege to  
32          Practice in any Remote State.
- 33          G. If a Licensee's Privilege to Practice in any Remote State is removed, the individual  
34          may lose the Privilege to Practice in all other Remote States until the following  
35          occur:

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

6   H. Once the requirements of Section 4(G) have been met, the Licensee must meet  
7         the requirements in Section 4(A) to obtain a Privilege to Practice in a Remote St

8           SECTION 5: OBTAINING A NEW HOME STATE LICENSE BASED ON A PRIVILEGE  
9                 TO PRACTICE

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

12   B. If a Licensed Professional Counselor changes primary State of residence by moving  
13         between two Member States:

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

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

23                 a. A Federal Bureau of Investigation fingerprint based criminal  
24                         background check if not previously performed or updated pursuant  
25                         to applicable rules adopted by the Commission in accordance with  
26                         Public Law 92-544;

27                 b. Other criminal background check as required by the new Home  
28                         State; and

29                 c. Completion of any requisite Jurisprudence Requirements of the new  
30                         Home State.

31         3. The former Home State shall convert the former Home State license into a  
32                 Privilege to Practice once the new Home State has activated the new Home  
33                 State license in accordance with applicable Rules adopted by the  
34                 Commission.

1 4. Notwithstanding any other provision of this Compact, if the Licensed  
2 Professional Counselor cannot meet the criteria in Section 4, the new Home  
3 State may apply its requirements for issuing a new Single State License.

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

6 C. If a Licensed Professional Counselor changes Primary State of Residence by moving  
7 from a Member State to a non-Member State, or from a non-Member State to a  
8 Member State, the State criteria shall apply for issuance of a Single State License  
9 in the new State.

10 D. Nothing in this Compact shall interfere with a Licensee’s ability to hold a Single  
11 State License in multiple States, however for the purposes of this Compact, a  
12 Licensee shall have only one Home State license.

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

15 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

16 Active Duty Military personnel, or their spouse, shall designate a Home State where  
17 the individual has a current license in good standing. The individual may retain the Home  
18 State designation during the period the service member is on active duty. Subsequent to  
19 designating a Home State, the individual shall only change their Home State through  
20 application for licensure in the new State, or through the process outlined in Section 5.

21 SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

22 A. Member States shall recognize the right of a Licensed Professional Counselor,  
23 licensed by a Home State in accordance with Section 3 and under Rules  
24 promulgated by the Commission, to practice Professional Counseling in any  
25 Member State via Telehealth under a Privilege to Practice as provided in the  
26 Compact and Rules promulgated by the Commission.

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

29 SECTION 8. ADVERSE ACTIONS

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

32 1. Take Adverse Action against a Licensed Professional Counselor’s Privilege  
33 to Practice within that Member State, and

34 2. Issue subpoenas for both hearings and investigations that require the  
35 attendance and testimony of witnesses as well as the production of

1 evidence. Subpoenas issued by a Licensing Board in a Member State for the  
2 attendance and testimony of witnesses or the production of evidence from  
3 another Member State shall be enforced in the latter State by any court of  
4 competent jurisdiction, according to the practice and procedure of that court  
5 applicable to subpoenas issued in proceedings pending before it. The issuing  
6 authority shall pay any witness fees, travel expenses, mileage, and other  
7 fees required by the service statutes of the State in which the witnesses or  
8 evidence are located.

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

11 B. For purposes of taking Adverse Action, the Home State shall give the same priority  
12 and effect to reported conduct received from a Member State as it would if the  
13 conduct had occurred within the Home State. In so doing, the Home State shall  
14 apply its own State laws to determine appropriate action.

15 C. The Home State shall complete any pending investigations of a Licensed  
16 Professional Counselor who changes primary State of residence during the course  
17 of the investigations. The Home State shall also have the authority to take  
18 appropriate action(s) and shall promptly report the conclusions of the  
19 investigations to the administrator of the Data System. The administrator of the  
20 coordinated licensure information system shall promptly notify the new Home State  
21 of any Adverse Actions.

22 D. A Member State, if otherwise permitted by State law, may recover from the  
23 affected Licensed Professional Counselor the costs of investigations and  
24 dispositions of cases resulting from any Adverse Action taken against that Licensed  
25 Professional Counselor.

26 E. A Member State may take Adverse Action based on the factual findings of the  
27 Remote State, provided that the Member State follows its own procedures for  
28 taking the Adverse Action.

29 F. Joint Investigations:

30 1. In addition to the authority granted to a Member State by its respective  
31 Professional Counseling practice act or other applicable State law, any  
32 Member State may participate with other Member States in joint  
33 investigations of Licensees.

1           2. Member States shall share any investigative, litigation, or compliance  
2           materials in furtherance of any joint or individual investigation initiated  
3           under the Compact.

4       G. If Adverse Action is taken by the Home State against the license of a Licensed  
5       Professional Counselor, the Licensed Professional Counselor's Privilege to Practice  
6       in all other Member States shall be deactivated until all Encumbrances have been  
7       removed from the State license. All Home State disciplinary orders that impose  
8       Adverse Action against the license of a Licensed Professional Counselor shall  
9       include a Statement that the Licensed Professional Counselor's Privilege to Practice  
10       is deactivated in all Member States during the pendency of the order.

11       H. If a Member State takes Adverse Action, it shall promptly notify the administrator  
12       of the Data System. The administrator of the Data System shall promptly notify  
13       the Home State of any Adverse Actions by Remote States.

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

16           SECTION 9. ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

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

- 19           1. The Commission is an instrumentality of the Compact States.  
20           2. Venue is proper and judicial proceedings by or against the Commission shall  
21           be brought solely and exclusively in a court of competent jurisdiction where  
22           the principal office of the Commission is located. The Commission may  
23           waive venue and jurisdictional defenses to the extent it adopts or consents  
24           to participate in alternative dispute resolution proceedings.  
25           3. Nothing in this Compact shall be construed to be a waiver of sovereign  
26           immunity.

27       B. Membership, Voting, and Meetings

- 28           1. Each Member State shall have and be limited to one (1) delegate selected  
29           by that Member State's Licensing Board.  
30           2. The delegate shall be either:  
31           a. A current member of the Licensing Board at the time of appointment,  
32           who is a Licensed Professional Counselor or public member; or  
33           b. An administrator of the Licensing Board.  
34           3. Any delegate may be removed or suspended from office as provided by the  
35           law of the State from which the delegate is appointed.

- 1           4. The Member State Licensing Board shall fill any vacancy occurring on the  
2           Commission within 60 days.
- 3           5. Each delegate shall be entitled to one (1) vote with regard to the  
4           promulgation of Rules and creation of bylaws and shall otherwise have an  
5           opportunity to participate in the business and affairs of the Commission.
- 6           6. A delegate shall vote in person or by such other means as provided in the  
7           bylaws. The bylaws may provide for delegates' participation in meetings by  
8           telephone or other means of communication.
- 9           7. The Commission shall meet at least once during each calendar year.  
10          Additional meetings shall be held as set forth in the bylaws.
- 11          8. The Commission shall by Rule establish a term of office for delegates and  
12          may by Rule establish term limits.
- 13          C. The Commission shall have the following powers and duties:
- 14               1. Establish the fiscal year of the Commission;
- 15               2. Establish bylaws;
- 16               3. Maintain its financial records in accordance with the bylaws;
- 17               4. Meet and take such actions as are consistent with the provisions of this  
18               Compact and the bylaws;
- 19               5. Promulgate Rules which shall be binding to the extent and in the manner  
20               provided for in the Compact;
- 21               6. Bring and prosecute legal proceedings or actions in the name of the  
22               Commission, provided that the standing of any State Licensing Board to sue  
23               or be sued under applicable law shall not be affected;
- 24               7. Purchase and maintain insurance and bonds;
- 25               8. Borrow, accept, or contract for services of personnel, including, but not  
26               limited to, employees of a Member State;
- 27               9. Hire employees, elect or appoint officers, fix compensation, define duties,  
28               grant such individuals appropriate authority to carry out the purposes of the  
29               Compact, and establish the Commission's personnel policies and programs  
30               relating to conflicts of interest, qualifications of personnel, and other related  
31               personnel matters;
- 32               10. Accept any and all appropriate donations and grants of money, equipment,  
33               supplies, materials, and services, and to receive, utilize, and dispose of the  
34               same; provided that at all times the Commission shall avoid any appearance  
35               of impropriety and/or conflict of interest;

- 1 11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to  
2 own, hold, improve or use, any property, real, personal or mixed; provided  
3 that at all times the Commission shall avoid any appearance of impropriety;
- 4 12. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise  
5 dispose of any property real, personal, or mixed;
- 6 13. Establish a budget and make expenditures;
- 7 14. Borrow money;
- 8 15. Appoint committees, including standing committees composed of members,  
9 State regulators, State legislators or their representatives, and consumer  
10 representatives, and such other interested persons as may be designated  
11 in this Compact and the bylaws;
- 12 16. Provide and receive information from, and cooperate with, law enforcement  
13 agencies;
- 14 17. Establish and elect an Executive Committee; and
- 15 18. Perform such other functions as may be necessary or appropriate to achieve  
16 the purposes of this Compact consistent with the State regulation of  
17 Professional Counseling licensure and practice.

18 D. The Executive Committee

- 19 1. The Executive Committee shall have the power to act on behalf of the  
20 Commission according to the terms of this Compact.
- 21 2. The Executive Committee shall be composed of up to eleven (11) members:
  - 22 a. Seven voting members who are elected by the Commission from the  
23 current membership of the Commission; and
  - 24 b. Up to four (4) ex-officio, nonvoting members from four (4)  
25 recognized national professional counselor organizations.
  - 26 c. The ex-officio members will be selected by their respective  
27 organizations.
- 28 3. The Commission may remove any member of the Executive Committee as  
29 provided in bylaws.
- 30 4. The Executive Committee shall meet at least annually.
- 31 5. The Executive Committee shall have the following duties and  
32 responsibilities:
  - 33 a. Recommend to the entire Commission changes to the Rules or  
34 bylaws, changes to this Compact legislation, fees paid by Compact



- 1                   Member States such as annual dues, and any Commission Compact  
2                   fee charged to Licensees for the Privilege to Practice;  
3           b. Ensure Compact administration services are appropriately provided,  
4                   contractual or otherwise;  
5           c. Prepare and recommend the budget;  
6           d. Maintain financial records on behalf of the Commission;  
7           e. Monitor Compact compliance of Member States and provide  
8                   compliance reports to the Commission;  
9           f. Establish additional committees as necessary; and  
10           g. Other duties as provided in Rules or bylaws.  
11   E. Meetings of the Commission  
12           1. All meetings shall be open to the public, and public notice of meetings shall  
13                   be given in the same manner as required under the Rulemaking provisions  
14                   in Section 11.  
15           2. The Commission or the Executive Committee or other committees of the  
16                   Commission may convene in a closed, non-public meeting if the Commission  
17                   or Executive Committee or other committees of the Commission must  
18                   discuss:  
19                   a. Non-compliance of a Member State with its obligations under the  
20                           Compact;  
21                   b. The employment, compensation, discipline or other matters,  
22                           practices or procedures related to specific employees or other  
23                           matters related to the Commission's internal personnel practices and  
24                           procedures;  
25                   c. Current, threatened, or reasonably anticipated litigation;  
26                   d. Negotiation of contracts for the purchase, lease, or sale of goods,  
27                           services, or real estate;  
28                   e. Accusing any person of a crime or formally censuring any person;  
29                   f. Disclosure of trade secrets or commercial or financial information  
30                           that is privileged or confidential;  
31                   g. Disclosure of information of a personal nature where disclosure  
32                           would constitute a clearly unwarranted invasion of personal privacy;  
33                   h. Disclosure of investigative records compiled for law enforcement  
34                           purposes;

1 i. Disclosure of information related to any investigative reports  
2 prepared by or on behalf of or for use of the Commission or other  
3 committee charged with responsibility of investigation or  
4 determination of compliance issues pursuant to the Compact; or

5 j. Matters specifically exempted from disclosure by federal or Member  
6 State statute.

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

10 4. The Commission shall keep minutes that fully and clearly describe all  
11 matters discussed in a meeting and shall provide a full and accurate  
12 summary of actions taken, and the reasons therefore, including a  
13 description of the views expressed. All documents considered in connection  
14 with an action shall be identified in such minutes. All minutes and  
15 documents of a closed meeting shall remain under seal, subject to release  
16 by a majority vote of the Commission or order of a court of competent  
17 jurisdiction.

18 F. Financing of the Commission

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

21 2. The Commission may accept any and all appropriate revenue sources,  
22 donations, and grants of money, equipment, supplies, materials, and  
23 services.

24 3. The Commission may levy on and collect an annual assessment from each  
25 Member State or impose fees on other parties to cover the cost of the  
26 operations and activities of the Commission and its staff, which must be in  
27 a total amount sufficient to cover its annual budget as approved each year  
28 for which revenue is not provided by other sources. The aggregate annual  
29 assessment amount shall be allocated based upon a formula to be  
30 determined by the Commission, which shall promulgate a Rule binding upon  
31 all Member States.

32 4. The Commission shall not incur obligations of any kind prior to securing the  
33 funds adequate to meet the same; nor shall the Commission pledge the  
34 credit of any of the Member States, except by and with the authority of the  
35 Member State.

1           5. The Commission shall keep accurate accounts of all receipts and  
 2           disbursements. The receipts and disbursements of the Commission shall be  
 3           subject to the audit and accounting procedures established under its  
 4           bylaws. However, all receipts and disbursements of funds handled by the  
 5           Commission shall be audited yearly by a certified or licensed public  
 6           accountant, and the report of the audit shall be included in and become part  
 7           of the annual report of the Commission.

8           G. Qualified Immunity, Defense, and Indemnification

9           1. The members, officers, executive director, employees and representatives  
 10           of the Commission shall be immune from suit and liability, either personally  
 11           or in their official capacity, for any claim for damage to or loss of property  
 12           or personal injury or other civil liability caused by or arising out of any actual  
 13           or alleged act, error or omission that occurred, or that the person against  
 14           whom the claim is made had a reasonable basis for believing occurred within  
 15           the scope of Commission employment, duties or responsibilities; provided  
 16           that nothing in this paragraph shall be construed to protect any such person  
 17           from suit and/or liability for any damage, loss, injury, or liability caused by  
 18           the intentional or willful or wanton misconduct of that person.

19           2. The Commission shall defend any member, officer, executive director,  
 20           employee or representative of the Commission in any civil action seeking to  
 21           impose liability arising out of any actual or alleged act, error, or omission  
 22           that occurred within the scope of Commission employment, duties, or  
 23           responsibilities, or that the person against whom the claim is made had a  
 24           reasonable basis for believing occurred within the scope of Commission  
 25           employment, duties, or responsibilities; provided that nothing herein shall  
 26           be construed to prohibit that person from retaining his or her own counsel;  
 27           and provided further, that the actual or alleged act, error, or omission did  
 28           not result from that person’s intentional or willful or wanton misconduct.

29           3. The Commission shall indemnify and hold harmless any member, officer,  
 30           executive director, employee, or representative of the Commission for the  
 31           amount of any settlement or judgment obtained against that person arising  
 32           out of any actual or alleged act, error, or omission that occurred within the  
 33           scope of Commission employment, duties, or responsibilities, or that such  
 34           person had a reasonable basis for believing occurred within the scope of  
 35           Commission employment, duties, or responsibilities, provided that the

1 actual or alleged act, error, or omission did not result from the intentional  
2 or willful or wanton misconduct of that person.

### 3 SECTION 10. DATA SYSTEM

4 A. The Commission shall provide for the development, maintenance, operation, and  
5 utilization of a coordinated database and reporting system containing licensure,  
6 Adverse Action, and Investigative Information on all licensed individuals in Member  
7 States.

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

11 1. Identifying information;

12 2. Licensure data;

13 3. Adverse Actions against a license or Privilege to Practice;

14 4. Non-confidential information related to Alternative Program participation;

15 5. Any denial of application for licensure, and the reason(s) for such denial;

16 6. Current Significant Investigative Information; and

17 7. Other information that may facilitate the administration of this Compact, as  
18 determined by the Rules of the Commission.

19 C. Investigative Information pertaining to a Licensee in any Member State will only  
20 be available to other Member States.

21 D. The Commission shall promptly notify all Member States of any Adverse Action  
22 taken against a Licensee or an individual applying for a license. Adverse Action  
23 information pertaining to a Licensee in any Member State will be available to any  
24 other Member State.

25 E. Member States contributing information to the Data System may designate  
26 information that may not be shared with the public without the express permission  
27 of the contributing State.

28 F. Any information submitted to the Data System that is subsequently required to be  
29 expunged by the laws of the Member State contributing the information shall be  
30 removed from the Data System.

### 31 SECTION 11. RULEMAKING

32 A. The Commission shall promulgate reasonable Rules in order to effectively and  
33 efficiently achieve the purpose of the Compact. Notwithstanding the foregoing, in  
34 the event the Commission exercises its Rulemaking authority in a manner that is  
35 beyond the scope of the purposes of the Compact, or the powers granted

- 1           hereunder, then such an action by the Commission shall be invalid and have no  
2           force or effect.
- 3        B. The Commission shall exercise its Rulemaking powers pursuant to the criteria set  
4           forth in this Section and the Rules adopted thereunder. Rules and amendments  
5           shall become binding as of the date specified in each Rule or amendment.
- 6        C. If a majority of the legislatures of the Member States rejects a Rule, by enactment  
7           of a statute or resolution in the same manner used to adopt the Compact within  
8           four (4) years of the date of adoption of the Rule, then such Rule shall have no  
9           further force and effect in any Member State.
- 10       D. Rules or amendments to the Rules shall be adopted at a regular or special meeting  
11           of the Commission.
- 12       E. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and  
13           at least thirty (30) days in advance of the meeting at which the Rule will be  
14           considered and voted upon, the Commission shall file a Notice of Proposed  
15           Rulemaking:
- 16           1. On the website of the Commission or other publicly accessible platform; and  
17           2. On the website of each Member State Professional Counseling Licensing  
18           Board or other publicly accessible platform or the publication in which each  
19           State would otherwise publish proposed Rules.
- 20       F. The Notice of Proposed Rulemaking shall include:
- 21           1. The proposed time, date, and location of the meeting in which the Rule will  
22           be considered and voted upon;
- 23           2. The text of the proposed Rule or amendment and the reason for the  
24           proposed Rule;
- 25           3. A request for comments on the proposed Rule from any interested person;  
26           and
- 27           4. The manner in which interested persons may submit notice to the  
28           Commission of their intention to attend the public hearing and any written  
29           comments.
- 30       G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit  
31           written data, facts, opinions, and arguments, which shall be made available to the  
32           public.
- 33       H. The Commission shall grant an opportunity for a public hearing before it adopts a  
34           Rule or amendment if a hearing is requested by:
- 35           1. At least twenty-five (25) persons;

- 1           2. A State or federal governmental subdivision or agency; or  
2           3. An association having at least twenty-five (25) members.  
3       I. If a hearing is held on the proposed Rule or amendment, the Commission shall  
4       publish the place, time, and date of the scheduled public hearing. If the hearing is  
5       held via electronic means, the Commission shall publish the mechanism for access  
6       to the electronic hearing.  
7           1. All persons wishing to be heard at the hearing shall notify the executive  
8           director of the Commission or other designated member in writing of their  
9           desire to appear and testify at the hearing not less than five (5) business  
10          days before the scheduled date of the hearing.  
11          2. Hearings shall be conducted in a manner providing each person who wishes  
12          to comment a fair and reasonable opportunity to comment orally or in  
13          writing.  
14          3. All hearings will be recorded. A copy of the recording will be made available  
15          on request.  
16          4. Nothing in this section shall be construed as requiring a separate hearing  
17          on each Rule. Rules may be grouped for the convenience of the Commission  
18          at hearings required by this section.  
19       J. Following the scheduled hearing date, or by the close of business on the scheduled  
20       hearing date if the hearing was not held, the Commission shall consider all written  
21       and oral comments received.  
22       K. If no written notice of intent to attend the public hearing by interested parties is  
23       received, the Commission may proceed with promulgation of the proposed Rule  
24       without a public hearing.  
25       L. The Commission shall, by majority vote of all members, take final action on the  
26       proposed Rule and shall determine the effective date of the Rule, if any, based on  
27       the Rulemaking record and the full text of the Rule.  
28       M. Upon determination that an emergency exists, the Commission may consider and  
29       adopt an emergency Rule without prior notice, opportunity for comment, or  
30       hearing, provided that the usual Rulemaking procedures provided in the Compact  
31       and in this section shall be retroactively applied to the Rule as soon as reasonably  
32       possible, in no event later than ninety (90) days after the effective date of the  
33       Rule. For the purposes of this provision, an emergency Rule is one that must be  
34       adopted immediately in order to:  
35           1. Meet an imminent threat to public health, safety, or welfare;

- 1           2. Prevent a loss of Commission or Member State funds;
- 2           3. Meet a deadline for the promulgation of an administrative Rule that is
- 3                 established by federal law or Rule; or
- 4           4. Protect public health and safety.

5    N. The Commission or an authorized committee of the Commission may direct  
6    revisions to a previously adopted Rule or amendment for purposes of correcting  
7    typographical errors, errors in format, errors in consistency, or grammatical errors.  
8    Public notice of any revisions shall be posted on the website of the Commission.  
9    The revision shall be subject to challenge by any person for a period of thirty (30)  
10 days after posting. The revision may be challenged only on grounds that the  
11 revision results in a material change to a Rule. A challenge shall be made in writing  
12 and delivered to the chair of the Commission prior to the end of the notice period.  
13 If no challenge is made, the revision will take effect without further action. If the  
14 revision is challenged, the revision may not take effect without the approval of the  
15 Commission.

16           SECTION 12. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

17    A. Oversight

- 18           1. The executive, legislative, and judicial branches of State government in  
19                 each Member State shall enforce this Compact and take all actions  
20                 necessary and appropriate to effectuate the Compact’s purposes and intent.  
21                 The provisions of this Compact and the Rules promulgated hereunder shall  
22                 have standing as statutory law.
- 23           2. All courts shall take judicial notice of the Compact and the Rules in any  
24                 judicial or administrative proceeding in a Member State pertaining to the  
25                 subject matter of this Compact which may affect the powers,  
26                 responsibilities, or actions of the Commission.
- 27           3. The Commission shall be entitled to receive service of process in any such  
28                 proceeding and shall have standing to intervene in such a proceeding for all  
29                 purposes. Failure to provide service of process to the Commission shall  
30                 render a judgment or order void as to the Commission, this Compact, or  
31                 promulgated Rules.

32    B. Default, Technical Assistance, and Termination

- 33           1. If the Commission determines that a Member State has defaulted in the  
34                 performance of its obligations or responsibilities under this Compact or the  
35                 promulgated Rules, the Commission shall:

- 1                   a. Provide written notice to the defaulting State and other Member  
2                   States of the nature of the default, the proposed means of curing  
3                   the default and/or any other action to be taken by the Commission;  
4                   and  
5                   b. Provide remedial training and specific technical assistance regarding  
6                   the default.
- 7           C. If a State in default fails to cure the default, the defaulting State may be terminated  
8           from the Compact upon an affirmative vote of a majority of the Member States,  
9           and all rights, privileges and benefits conferred by this Compact may be terminated  
10           on the effective date of termination. A cure of the default does not relieve the  
11           offending State of obligations or liabilities incurred during the period of default.
- 12           D. Termination of membership in the Compact shall be imposed only after all other  
13           means of securing compliance have been exhausted. Notice of intent to suspend  
14           or terminate shall be given by the Commission to the governor, the majority and  
15           minority leaders of the defaulting State’s legislature, and each of the Member  
16           States.
- 17           E. A State that has been terminated is responsible for all assessments, obligations,  
18           and liabilities incurred through the effective date of termination, including  
19           obligations that extend beyond the effective date of termination.
- 20           F. The Commission shall not bear any costs related to a State that is found to be in  
21           default or that has been terminated from the Compact, unless agreed upon in  
22           writing between the Commission and the defaulting State.
- 23           G. The defaulting State may appeal the action of the Commission by petitioning the  
24           U.S. District Court for the District of Columbia or the federal district where the  
25           Commission has its principal offices. The prevailing member shall be awarded all  
26           costs of such litigation, including reasonable attorney’s fees.
- 27           H. Dispute Resolution
- 28                   1. Upon request by a Member State, the Commission shall attempt to resolve  
29                   disputes related to the Compact that arise among Member States and  
30                   between member and non-Member States.
- 31                   2. The Commission shall promulgate a Rule providing for both mediation and  
32                   binding dispute resolution for disputes as appropriate.
- 33           I. Enforcement
- 34                   1. The Commission, in the reasonable exercise of its discretion, shall enforce  
35                   the provisions and Rules of this Compact.



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

9           3. The remedies herein shall not be the exclusive remedies of the Commission.  
10          The Commission may pursue any other remedies available under federal or  
11          State law.

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

14          A. The Compact shall come into effect on the date on which the Compact statute is  
15          enacted into law in the tenth Member State. The provisions, which become effective  
16          at that time, shall be limited to the powers granted to the Commission relating to  
17          assembly and the promulgation of Rules. Thereafter, the Commission shall meet  
18          and exercise Rulemaking powers necessary to the implementation and  
19          administration of the Compact.

20          B. Any State that joins the Compact subsequent to the Commission's initial adoption  
21          of the Rules shall be subject to the Rules as they exist on the date on which the  
22          Compact becomes law in that State. Any Rule that has been previously adopted by  
23          the Commission shall have the full force and effect of law on the day the Compact  
24          becomes law in that State.

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

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

29                2. Withdrawal shall not affect the continuing requirement of the withdrawing  
30                State's Professional Counseling Licensing Board to comply with the  
31                investigative and Adverse Action reporting requirements of this act prior to  
32                the effective date of withdrawal.

33          D. Nothing contained in this Compact shall be construed to invalidate or prevent any  
34          Professional Counseling licensure agreement or other cooperative arrangement

1           between a Member State and a non-Member State that does not conflict with the  
2           provisions of this Compact.

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

6                               SECTION 14. CONSTRUCTION AND SEVERABILITY

7           This Compact shall be liberally construed so as to effectuate the purposes thereof.  
8       The provisions of this Compact shall be severable and if any phrase, clause, sentence or  
9       provision of this Compact is declared to be contrary to the constitution of any Member  
10       State or of the United States or the applicability thereof to any government, agency,  
11       person or circumstance is held invalid, the validity of the remainder of this Compact and  
12       the applicability thereof to any government, agency, person or circumstance shall not be  
13       affected thereby. If this Compact shall be held contrary to the constitution of any Member  
14       State, the Compact shall remain in full force and effect as to the remaining Member States  
15       and in full force and effect as to the Member State affected as to all severable matters.

16                               SECTION 15. BINDING EFFECT OF COMPACT AND OTHER LAWS

17       A. A Licensee providing Professional Counseling services in a Remote State under the  
18           Privilege to Practice shall adhere to the laws and regulations, including scope of  
19           practice, of the Remote State.

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

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

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

26       E. All permissible agreements between the Commission and the Member States are  
27           binding in accordance with their terms.

28       F. In the event any provision of the Compact exceeds the constitutional limits imposed  
29           on the legislature of any Member State, the provision shall be ineffective to the  
30           extent of the conflict with the constitutional provision in question in that Member  
31           State.