

COUNSELING STATE COMPACT

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Brian S. King

LONG TITLE

General Description:

This bill enacts the Counseling Compact.

Highlighted Provisions:

This bill:

- ▶ enacts the Counseling Compact;
- ▶ provides rulemaking authority; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-301.5, as last amended by Laws of Utah 2020, Chapter 339

58-60-205, as last amended by Laws of Utah 2020, Chapter 339

58-60-305, as last amended by Laws of Utah 2020, Chapter 339

58-60-405, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

ENACTS:

58-60-103.1, Utah Code Annotated 1953

58-60a-101, Utah Code Annotated 1953

58-60a-102, Utah Code Annotated 1953

58-60a-103, Utah Code Annotated 1953

- 30 **58-60a-104**, Utah Code Annotated 1953
- 31 **58-60a-105**, Utah Code Annotated 1953
- 32 **58-60a-106**, Utah Code Annotated 1953
- 33 **58-60a-107**, Utah Code Annotated 1953
- 34 **58-60a-108**, Utah Code Annotated 1953
- 35 **58-60a-109**, Utah Code Annotated 1953
- 36 **58-60a-110**, Utah Code Annotated 1953
- 37 **58-60a-111**, Utah Code Annotated 1953
- 38 **58-60a-112**, Utah Code Annotated 1953
- 39 **58-60a-113**, Utah Code Annotated 1953
- 40 **58-60a-114**, Utah Code Annotated 1953
- 41 **58-60a-115**, Utah Code Annotated 1953
- 42 **58-60a-201**, Utah Code Annotated 1953

43

44 *Be it enacted by the Legislature of the state of Utah:*

45 Section 1. Section **58-1-301.5** is amended to read:

46 **58-1-301.5. Division access to Bureau of Criminal Identification records.**

47 (1) The division shall have direct access to local files maintained by the Bureau of
48 Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification,
49 for background screening of persons who are applying for licensure, licensure renewal,
50 licensure reinstatement, or relicensure, as required in:

- 51 (a) Section **58-17b-307** of [~~Title 58;~~] Chapter 17b, Pharmacy Practice Act;
- 52 (b) Sections **58-24b-302** and **58-24b-302.1** of [~~Title 58;~~] Chapter 24b, Physical
53 Therapy Practice Act;
- 54 (c) Section **58-31b-302** of [~~Title 58;~~] Chapter 31b, Nurse Practice Act;
- 55 (d) Section **58-47b-302** of [~~Title 58;~~] Chapter 47b, Massage Therapy Practice Act;
- 56 (e) Section **58-55-302** of [~~Title 58;~~] Chapter 55, Utah Construction Trades Licensing
57 Act, as it applies to alarm companies and alarm company agents;

58 (f) Sections 58-60-103.1, 58-60-205, 58-60-305, and 58-60-405, of Chapter 60, Mental
59 Health Professional Practice Act;

60 ~~[(f)]~~ (g) Sections 58-61-304 and 58-61-304.1 of ~~[Title 58,]~~ Chapter 61, Psychologist
61 Licensing Act;

62 ~~[(g)]~~ (h) Section 58-63-302 of ~~[Title 58,]~~ Chapter 63, Security Personnel Licensing
63 Act;

64 ~~[(h)]~~ (i) Section 58-64-302 of ~~[Title 58,]~~ Chapter 64, Deception Detection Examiners
65 Licensing Act;

66 ~~[(i)]~~ (j) Sections 58-67-302 and 58-67-302.1 of ~~[Title 58,]~~ Chapter 67, Utah Medical
67 Practice Act; and

68 ~~[(j)]~~ (k) Sections 58-68-302 and 58-68-302.1 of ~~[Title 58,]~~ Chapter 68, Utah
69 Osteopathic Medical Practice Act.

70 (2) The division's access to criminal background information under this section:

71 (a) shall meet the requirements of Section 53-10-108; and

72 (b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere
73 held in abeyance, dismissed charges, and charges without a known disposition.

74 (3) The division may not disseminate outside of the division any criminal history
75 record information that the division obtains from the Bureau of Criminal Identification or the
76 Federal Bureau of Investigation under the criminal background check requirements of this
77 section.

78 Section 2. Section 58-60-103.1 is enacted to read:

79 **58-60-103.1. Criminal background check.**

80 (1) An applicant for licensure under this chapter who requires a criminal background
81 check shall:

82 (a) submit fingerprint cards in a form acceptable to the division at the time the license
83 application is filed; and

84 (b) consent to a fingerprint background check conducted by the Bureau of Criminal
85 Identification and the Federal Bureau of Investigation regarding the application.

86 (2) The division shall:

87 (a) in addition to other fees authorized by this chapter, collect from each applicant
88 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
89 Identification is authorized to collect for the services provided under Section 53-10-108 and the
90 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
91 obtaining federal criminal history record information;

92 (b) submit from each applicant the fingerprint card and the fees described in
93 Subsection (2)(a) to the Bureau of Criminal Identification; and

94 (c) obtain and retain in division records a signed waiver approved by the Bureau of
95 Criminal Identification in accordance with Section 53-10-108 for each applicant.

96 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of
97 Section 53-10-108:

98 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state
99 and regional criminal records databases;

100 (b) forward the fingerprints to the Federal Bureau of Investigation for a national
101 criminal history background check; and

102 (c) provide the results from the state, regional, and nationwide criminal history
103 background checks to the division.

104 (4) For purposes of conducting a criminal background check required under this
105 section, the division shall have direct access to criminal background information maintained
106 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

107 (5) The division may not:

108 (a) disseminate outside of the division any criminal history record information that the
109 division obtains from the Bureau of Criminal Identification or the Federal Bureau of
110 Investigation under the criminal background check requirements of this section; or

111 (b) issue a letter of qualification to participate in the Counseling Compact under
112 Chapter 60a, Counseling Compact, until the criminal background check described in this
113 section is completed.

114 Section 3. Section **58-60-205** is amended to read:

115 **58-60-205. Qualifications for licensure or certification as a clinical social worker,**
116 **certified social worker, and social service worker.**

117 (1) An applicant for licensure as a clinical social worker shall:

118 (a) submit an application on a form provided by the division;

119 (b) pay a fee determined by the department under Section [63J-1-504](#);

120 (c) produce certified transcripts from an accredited institution of higher education
121 recognized by the division in collaboration with the board verifying satisfactory completion of
122 an education and an earned degree as follows:

123 (i) a master's degree in a social work program accredited by the Council on Social
124 Work Education or by the Canadian Association of Schools of Social Work; or

125 (ii) a doctoral degree that contains a clinical social work concentration and practicum
126 approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah
127 Administrative Rulemaking Act, that is consistent with Section [58-1-203](#);

128 (d) have completed a minimum of 4,000 hours of clinical social work training as
129 defined by division rule under Section [58-1-203](#):

130 (i) in not less than two years;

131 (ii) under the supervision of a supervisor approved by the division in collaboration with
132 the board who is a:

133 (A) clinical mental health counselor;

134 (B) psychiatrist;

135 (C) psychologist;

136 (D) registered psychiatric mental health nurse practitioner;

137 (E) marriage and family therapist; or

138 (F) clinical social worker; and

139 (iii) including a minimum of two hours of training in suicide prevention via a course
140 that the division designates as approved;

141 (e) document successful completion of not less than 1,000 hours of supervised training

142 in mental health therapy obtained after completion of the education requirement in Subsection
143 (1)(c), which training may be included as part of the 4,000 hours of training in Subsection
144 (1)(d), and of which documented evidence demonstrates not less than 100 of the hours were
145 obtained under the direct supervision, as defined by rule, of a supervisor described in
146 Subsection (1)(d)(ii);

147 (f) have completed a case work, group work, or family treatment course sequence with
148 a clinical practicum in content as defined by rule under Section 58-1-203; [~~and~~]

149 (g) pass the examination requirement established by rule under Section 58-1-203[~~;~~];

150 and

151 (h) if the applicant is applying to participate in the Counseling Compact under Chapter
152 60a, Counseling Compact, consent to a criminal background check in accordance with Section
153 58-60-103.1 and any requirements established by division rule made in accordance with Title
154 63G, Chapter 3, Utah Administrative Rulemaking Act.

155 (2) An applicant for licensure as a certified social worker shall:

156 (a) submit an application on a form provided by the division;

157 (b) pay a fee determined by the department under Section 63J-1-504;

158 (c) produce certified transcripts from an accredited institution of higher education
159 recognized by the division in collaboration with the board verifying satisfactory completion of
160 an education and an earned degree as follows:

161 (i) a master's degree in a social work program accredited by the Council on Social
162 Work Education or by the Canadian Association of Schools of Social Work; or

163 (ii) a doctoral degree that contains a clinical social work concentration and practicum
164 approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah
165 Administrative Rulemaking Act, that is consistent with Section 58-1-203; and

166 (d) pass the examination requirement established by rule under Section 58-1-203.

167 (3) (a) An applicant for certification as a certified social worker intern shall meet the
168 requirements of Subsections (2)(a), (b), and (c).

169 (b) Certification under Subsection (3)(a) is limited to the time necessary to pass the

170 examination required under Subsection (2)(d) or six months, whichever occurs first.

171 (c) A certified social worker intern may provide mental health therapy under the
172 general supervision, as defined by rule, of a supervisor described in Subsection (1)(d)(ii).

173 (4) An applicant for licensure as a social service worker shall:

174 (a) submit an application on a form provided by the division;

175 (b) pay a fee determined by the department under Section 63J-1-504;

176 (c) produce certified transcripts from an accredited institution of higher education
177 recognized by the division in collaboration with the board verifying satisfactory completion of
178 an education and an earned degree as follows:

179 (i) a bachelor's degree in a social work program accredited by the Council on Social
180 Work Education or by the Canadian Association of Schools of Social Work;

181 (ii) a master's degree in a field approved by the division in collaboration with the
182 board;

183 (iii) a bachelor's degree in any field if the applicant:

184 (A) has completed at least three semester hours, or the equivalent, in each of the
185 following areas:

186 (I) social welfare policy;

187 (II) human growth and development; and

188 (III) social work practice methods, as defined by rule; and

189 (B) provides documentation that the applicant has completed at least 2,000 hours of
190 qualifying experience under the supervision of a mental health therapist, which experience is
191 approved by the division in collaboration with the board, and which is performed after
192 completion of the requirements to obtain the bachelor's degree required under this Subsection
193 (4); or

194 (iv) successful completion of the first academic year of a Council on Social Work
195 Education approved master's of social work curriculum and practicum; and

196 (d) pass the examination requirement established by rule under Section 58-1-203.

197 (5) The division shall ensure that the rules for an examination described under

198 Subsections (1)(g), (2)(d), and (4)(d) allow additional time to complete the examination if
199 requested by an applicant who is:

200 (a) a foreign born legal resident of the United States for whom English is a second
201 language; or

202 (b) an enrolled member of a federally recognized Native American tribe.

203 Section 4. Section **58-60-305** is amended to read:

204 **58-60-305. Qualifications for licensure.**

205 (1) All applicants for licensure as marriage and family therapists shall:

206 (a) submit an application on a form provided by the division;

207 (b) pay a fee determined by the department under Section [63J-1-504](#);

208 (c) produce certified transcripts evidencing completion of a masters or doctorate degree
209 in marriage and family therapy from:

210 (i) a program accredited by the Commission on Accreditation for Marriage and Family
211 Therapy Education; or

212 (ii) an accredited institution meeting criteria for approval established by rule under
213 Section [58-1-203](#);

214 (d) have completed a minimum of 4,000 hours of marriage and family therapy training
215 as defined by division rule under Section [58-1-203](#):

216 (i) in not less than two years;

217 (ii) under the supervision of a mental health therapist supervisor who meets the
218 requirements of Section [58-60-307](#);

219 (iii) obtained after completion of the education requirement in Subsection (1)(c); and

220 (iv) including a minimum of two hours of training in suicide prevention via a course
221 that the division designates as approved;

222 (e) document successful completion of not less than 1,000 hours of supervised training
223 in mental health therapy obtained after completion of the education requirement described in
224 Subsection (1)(c)(i) or (1)(c)(ii), which training may be included as part of the 4,000 hours of
225 training described in Subsection (1)(d), and of which documented evidence demonstrates not

226 less than 100 of the supervised hours were obtained during direct, personal supervision, as
227 defined by rule, by a mental health therapist supervisor qualified under Section 58-60-307;
228 [and]

229 (f) pass the examination requirement established by division rule under Section
230 58-1-203[-]; and

231 (g) if the applicant is applying to participate in the Counseling Compact under Chapter
232 60a, Counseling Compact, consent to a criminal background check in accordance with Section
233 58-60-103.1 and any requirements established by division rule made in accordance with Title
234 63G, Chapter 3, Utah Administrative Rulemaking Act.

235 (2) (a) All applicants for licensure as an associate marriage and family therapist shall
236 comply with the provisions of Subsections (1)(a), (b), and (c).

237 (b) An individual's license as an associate marriage and family therapist is limited to
238 the period of time necessary to complete clinical training as described in Subsections (1)(d) and
239 (e) and extends not more than one year from the date the minimum requirement for training is
240 completed, unless the individual presents satisfactory evidence to the division and the
241 appropriate board that the individual is making reasonable progress toward passing of the
242 qualifying examination for that profession or is otherwise on a course reasonably expected to
243 lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years
244 past the date the minimum supervised clinical training requirement has been completed.

245 Section 5. Section 58-60-405 is amended to read:

246 **58-60-405. Qualifications for licensure.**

247 (1) An applicant for licensure as a clinical mental health counselor shall:

248 (a) submit an application on a form provided by the division;

249 (b) pay a fee determined by the department under Section 63J-1-504;

250 (c) produce certified transcripts evidencing completion of:

251 (i) a master's or doctorate degree conferred to the applicant in:

252 (A) clinical mental health counseling, clinical rehabilitation counseling, counselor
253 education and supervision from a program accredited by the Council for Accreditation of

254 Counseling and Related Educational Programs; or
255 (B) clinical mental health counseling or an equivalent field from a program affiliated
256 with an institution that has accreditation that is recognized by the Council for Higher Education
257 Accreditation; and
258 (ii) at least 60 semester credit hours or 90 quarter credit hours of coursework related to
259 an educational program described in Subsection (1)(d)(i);
260 (d) have completed a minimum of 4,000 hours of clinical mental health counselor
261 training as defined by division rule under Section [58-1-203](#):
262 (i) in not less than two years;
263 (ii) under the supervision of a clinical mental health counselor, psychiatrist,
264 psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or
265 marriage and family therapist supervisor approved by the division in collaboration with the
266 board;
267 (iii) obtained after completion of the education requirement in Subsection (1)(c); and
268 (iv) including a minimum of two hours of training in suicide prevention via a course
269 that the division designates as approved;
270 (e) document successful completion of not less than 1,000 hours of supervised training
271 in mental health therapy obtained after completion of the education requirement in Subsection
272 (1)(c), which training may be included as part of the 4,000 hours of training in Subsection
273 (1)(d), and of which documented evidence demonstrates not less than 100 of the hours were
274 obtained under the direct supervision of a mental health therapist, as defined by rule; ~~and~~
275 (f) pass the examination requirement established by division rule under Section
276 [58-1-203](#)~~[-];~~ and
277 (g) if the applicant is applying to participate in the Counseling Compact under Chapter
278 60a, Counseling Compact, consent to a criminal background check in accordance with Section
279 58-60-103.1 and any requirements established by division rule made in accordance with Title
280 63G, Chapter 3, Utah Administrative Rulemaking Act.
281 (2) (a) An applicant for licensure as an associate clinical mental health counselor shall

282 comply with the provisions of Subsections (1)(a), (b), and (c).

283 (b) Except as provided under Subsection (2)(c), an individual's licensure as an
284 associate clinical mental health counselor is limited to the period of time necessary to complete
285 clinical training as described in Subsections (1)(d) and (e) and extends not more than one year
286 from the date the minimum requirement for training is completed.

287 (c) The time period under Subsection (2)(b) may be extended to a maximum of two
288 years past the date the minimum supervised clinical training requirement has been completed,
289 if the applicant presents satisfactory evidence to the division and the appropriate board that the
290 individual is:

291 (i) making reasonable progress toward passing of the qualifying examination for that
292 profession; or

293 (ii) otherwise on a course reasonably expected to lead to licensure.

294 (3) (a) Notwithstanding Subsection (1)(c), an applicant satisfies the education
295 requirement described in Subsection (1)(c) if the applicant submits documentation verifying:

296 (i) satisfactory completion of a doctoral or master's degree from an educational
297 program in rehabilitation counseling accredited by the Council for Accreditation of Counseling
298 and Related Educational Programs;

299 (ii) satisfactory completion of at least 60 semester credit hours or 90 quarter credit
300 hours of coursework related to an educational program described in Subsection (1)(c)(i); and

301 (iii) that the applicant received a passing score that is valid and in good standing on:

302 (A) the National Counselor Examination; and

303 (B) the National Clinical Mental Health Counseling Examination.

304 (b) During the 2021 interim, the division shall report to the Occupational and
305 Professional Licensure Review Committee created in Section [36-23-102](#) on:

306 (i) the number of applicants who applied for licensure under this Subsection (3);

307 (ii) the number of applicants who were approved for licensure under this Subsection
308 (3);

309 (iii) any changes to division rule after May 12, 2020, regarding the qualifications for

310 licensure under this section; and

311 (iv) recommendations for legislation or other action that the division considers
312 necessary to carry out the provisions of this Subsection (3).

313 Section 6. Section **58-60a-101** is enacted to read:

314 **CHAPTER 60a. COUNSELING COMPACT**

315 **Part 1. Compact Text**

316 **58-60a-101. Section 1 -- Purpose.**

317 The purpose of this Compact is to facilitate interstate practice of Licensed Professional
318 Counselors with the goal of improving public access to Professional Counseling services. The
319 practice of Professional Counseling occurs in the State where the client is located at the time of
320 the counseling services. The Compact preserves the regulatory authority of States to protect
321 public health and safety through the current system of State licensure.

322 This Compact is designed to achieve the following objectives:

323 A. Increase public access to Professional Counseling services by providing for the
324 mutual recognition of other Member State licenses;

325 B. Enhance the States' ability to protect the public's health and safety;

326 C. Encourage the cooperation of Member States in regulating multistate practice for
327 Licensed Professional Counselors;

328 D. Support spouses of relocating Active Duty Military personnel;

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

331 F. Allow for the use of Telehealth technology to facilitate increased access to
332 Professional Counseling services;

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

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

338 I. Eliminate the necessity for licenses in multiple States; and
339 J. Provide opportunities for interstate practice by Licensed Professional Counselors who
340 meet uniform licensure requirements.

341 Section 7. Section **58-60a-102** is enacted to read:

342 **58-60a-102. Section 2 -- Definitions.**

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

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

348 B. "Adverse Action" means any administrative, civil, equitable or criminal action
349 permitted by a State's laws which is imposed by a licensing board or other authority against a
350 Licensed Professional Counselor, including actions against an individual's license or Privilege
351 to Practice such as revocation, suspension, probation, monitoring of the licensee, limitation on
352 the licensee's practice, or any other Encumbrance on licensure affecting a Licensed
353 Professional Counselor's authorization to practice, including issuance of a cease and desist
354 action.

355 C. "Alternative Program" means a non-disciplinary monitoring or practice remediation
356 process approved by a Professional Counseling Licensing Board to address Impaired
357 Practitioners.

358 D. "Continuing Competence/Education" means a requirement, as a condition of license
359 renewal, to provide evidence of participation in, and/or completion of, educational and
360 professional activities relevant to practice or area of work.

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

363 F. "Current Significant Investigative Information" means:

364 1. Investigative Information that a Licensing Board, after a preliminary inquiry that
365 includes notification and an opportunity for the Licensed Professional Counselor to respond, if

366 required by State law, has reason to believe is not groundless and, if proved true, would
367 indicate more than a minor infraction;

368 2. Investigative Information that indicates that the Licensed Professional Counselor
369 represents an immediate threat to public health and safety regardless of whether the Licensed
370 Professional Counselor has been notified and had an opportunity to respond.

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

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

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

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

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

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

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

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

392 O. "Licensed Professional Counselor" means a counselor licensed by a Member State,
393 regardless of the title used by that State, to independently assess, diagnose, and treat behavioral

394 health conditions.

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

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

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

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

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

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

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

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

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

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

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

417 Section 8. Section **58-60a-103** is enacted to read:

418 **58-60a-103. Section 3 -- State participation in the Compact.**

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

420 1. License and regulate Licensed Professional Counselors;

421 2. Require Licensees to pass a nationally recognized exam approved by the

422 Commission;

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

426 a. Professional Counseling Orientation and Ethical Practice;

427 b. Social and Cultural Diversity;

428 c. Human Growth and Development;

429 d. Career Development;

430 e. Counseling and Helping Relationships;

431 f. Group Counseling and Group Work;

432 g. Diagnosis and Treatment; Assessment and Testing;

433 h. Research and Program Evaluation; and

434 i. Other areas as determined by the Commission;

435 4. Require Licensees to complete a supervised postgraduate professional experience as
436 defined by the Commission; and

437 5. Have a mechanism in place for receiving and investigating complaints about
438 Licensees.

439 B. A Member State shall:

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

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

444 3. Implement or utilize procedures for considering the criminal history records of
445 applicants for an initial Privilege to Practice. These procedures shall include the submission of
446 fingerprints or other biometric-based information by applicants for the purpose of obtaining an
447 applicant's criminal history record information from the Federal Bureau of Investigation and
448 the agency responsible for retaining that State's criminal records;

449 a. A member state must fully implement a criminal background check requirement,

450 within a time frame established by rule, by receiving the results of the Federal Bureau of
451 Investigation record search and shall use the results in making licensure decisions;

452 b. Communication between a Member State, the Commission and among Member
453 States regarding the verification of eligibility for licensure through the Compact shall not
454 include any information received from the Federal Bureau of Investigation relating to a federal
455 criminal records check performed by a Member State under Public Law 92-544.

456 4. Comply with the Rules of the Commission;

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

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

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

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

465 D. Individuals not residing in a Member State shall continue to be able to apply for a
466 Member State's Single State License as provided under the laws of each Member State.
467 However, the Single State License granted to these individuals shall not be recognized as
468 granting a Privilege to Practice Professional Counseling in any other Member State.

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

471 F. A license issued to a Licensed Professional Counselor by a Home State to a resident
472 in that State shall be recognized by each Member State as authorizing a Licensed Professional
473 Counselor to practice Professional Counseling, under a Privilege to Practice, in each Member
474 State.

475 Section 9. Section **58-60a-104** is enacted to read:

476 **58-60a-104. Section 4 -- Privilege to Practice.**

477 A. To exercise the Privilege to Practice under the terms and provisions of the Compact,

478 the Licensee shall:

479 1. Hold a license in the Home State;

480 2. Have a valid United States Social Security Number or National Practitioner

481 Identifier;

482 3. Be eligible for a Privilege to Practice in any Member State in accordance with

483 Section 4(D), (G) and (H);

484 4. Have not had any Encumbrance or restriction against any license or Privilege to

485 Practice within the previous two (2) years;

486 5. Notify the Commission that the Licensee is seeking the Privilege to Practice within a

487 Remote State(s);

488 6. Pay any applicable fees, including any State fee, for the Privilege to Practice;

489 7. Meet any Continuing Competence/Education requirements established by the Home

490 State;

491 8. Meet any Jurisprudence Requirements established by the Remote State(s) in which

492 the Licensee is seeking a Privilege to Practice; and

493 9. Report to the Commission any Adverse Action, Encumbrance, or restriction on

494 license taken by any non-Member State within 30 days from the date the action is taken.

495 B. The Privilege to Practice is valid until the expiration date of the Home State license.

496 The Licensee must comply with the requirements of Subsection 4(A) to maintain the Privilege

497 to Practice in the Remote State.

498 C. A Licensee providing Professional Counseling in a Remote State under the Privilege

499 to Practice shall adhere to the laws and regulations of the Remote State.

500 D. A Licensee providing Professional Counseling services in a Remote State is subject

501 to that State's regulatory authority. A Remote State may, in accordance with due process and

502 that State's laws, remove a Licensee's Privilege to Practice in the Remote State for a specific

503 period of time, impose fines, and/or take any other necessary actions to protect the health and

504 safety of its citizens. The Licensee may be ineligible for a Privilege to Practice in any Member

505 State until the specific time for removal has passed and all fines are paid.

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

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

511 F. Once an Encumbered License in the Home State is restored to good standing, the
512 Licensee must meet the requirements of Subsection 4(A) to obtain a Privilege to Practice in any
513 Remote State.

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

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

521 H. Once the requirements of Subsection 4(G) have been met, the Licensee must meet
522 the requirements in Subsection 4(A) to obtain a Privilege to Practice in a Remote State.

523 Section 10. Section **58-60a-105** is enacted to read:

524 **58-60a-105. Section 5 -- Obtaining a new Home State license based on a Privilege**
525 **to Practice.**

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

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

- 530 1. The Licensed Professional Counselor shall file an application for obtaining a new
531 Home State license based on a Privilege to Practice, pay all applicable fees, and notify the
532 current and new Home State in accordance with applicable Rules adopted by the Commission.
533 2. Upon receipt of an application for obtaining a new Home State license by virtue of a

534 Privilege to Practice, the new Home State shall verify that the Licensed Professional Counselor
535 meets the pertinent criteria outlined in Section 58-60a-104 via the Data System, without need
536 for primary source verification except for:

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

540 b. other criminal background checks as required by the new Home State; and

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

542 3. The former Home State shall convert the former Home State license into a Privilege
543 to Practice once the new Home State has activated the new Home State license in accordance
544 with applicable Rules adopted by the Commission.

545 4. Notwithstanding any other provision of this Compact, if the Licensed Professional
546 Counselor cannot meet the criteria in Section 58-60a-104, the new Home State may apply its
547 requirements for issuing a new Single State License.

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

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

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

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

558 Section 11. Section **58-60a-106** is enacted to read:

559 **58-60a-106. Section 6 -- Active Duty Military personnel or their spouses.**

560 Active Duty Military personnel, or their spouses, shall designate a Home State where
561 the individual has a current license in good standing. The individual may retain the Home State

562 designation during the period the service member is on active duty. Subsequent to designating
563 a Home State, the individual shall only change their Home State through application for
564 licensure in the new State, or through the process outlined in Section [58-60a-105](#).

565 Section 12. Section **58-60a-107** is enacted to read:

566 **58-60a-107. Section 7 -- Compact Privilege to Practice Telehealth.**

567 A. Member States shall recognize the right of a Licensed Professional Counselor,
568 licensed by a Home State in accordance with Section [58-60a-103](#) and under Rules promulgated
569 by the Commission, to practice Professional Counseling in any Member State via Telehealth
570 under a Privilege to Practice as provided in the Compact and Rules promulgated by the
571 Commission.

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

574 Section 13. Section **58-60a-108** is enacted to read:

575 **58-60a-108. Section 8 -- Adverse actions.**

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

578 1. Take Adverse Action against a Licensed Professional Counselor's Privilege to
579 Practice within that Member State; and

580 2. Issue subpoenas for both hearings and investigations that require the attendance and
581 testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing
582 Board in a Member State for the attendance and testimony of witnesses or the production of
583 evidence from another Member State shall be enforced in the latter State by any court of
584 competent jurisdiction, according to the practice and procedure of that court applicable to
585 subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness
586 fees, travel expenses, mileage, and other fees required by the service statutes of the State in
587 which the witnesses or evidence are located.

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

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

594 C. The Home State shall complete any pending investigations of a Licensed
595 Professional Counselor who changes primary State of residence during the course of the
596 investigations. The Home State shall also have the authority to take appropriate action(s) and
597 shall promptly report the conclusions of the investigations to the administrator of the Data
598 System. The administrator of the coordinated licensure information system shall promptly
599 notify the new Home State of any Adverse Actions.

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

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

606 F. Joint Investigations:

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

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

612 G. If Adverse Action is taken by the Home State against the license of a Licensed
613 Professional Counselor, the Licensed Professional Counselor's Privilege to Practice in all other
614 Member States shall be deactivated until all Encumbrances have been removed from the State
615 license. All Home State disciplinary orders that impose Adverse Action against the license of a
616 Licensed Professional Counselor shall include a Statement that the Licensed Professional
617 Counselor's Privilege to Practice is deactivated in all Member States during the pendency of the

618 order.

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

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

624 Section 14. Section **58-60a-109** is enacted to read:

625 **58-60a-109. Section 9 -- Establishment of Counseling Compact Commission.**

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

628 1. The Commission is an instrumentality of the Compact States.

629 2. Venue is proper and judicial proceedings by or against the Commission shall be
630 brought solely and exclusively in a court of competent jurisdiction where the principal office of
631 the Commission is located. The Commission may waive venue and jurisdictional defenses to
632 the extent it adopts or consents to participate in alternative dispute resolution proceedings.

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

634 B. Membership, Voting, and Meetings

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

637 2. The delegate shall be either:

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

640 b. An administrator of the Licensing Board.

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

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

645 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of

646 Rules and creation of bylaws and shall otherwise have an opportunity to participate in the
647 business and affairs of the Commission.

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

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

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

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

656 1. Establish the fiscal year of the Commission;

657 2. Establish bylaws;

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

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

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

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

666 7. Purchase and maintain insurance and bonds;

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

669 9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such
670 individuals appropriate authority to carry out the purposes of the Compact, and establish the
671 Commission's personnel policies and programs relating to conflicts of interest, qualifications of
672 personnel, and other related personnel matters;

673 10. Accept any and all appropriate donations and grants of money, equipment,

674 supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that
675 at all times the Commission shall avoid any appearance of impropriety and/or conflict of
676 interest;

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

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

682 13. Establish a budget and make expenditures;

683 14. Borrow money;

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

687 16. Provide and receive information from, and cooperate with, law enforcement
688 agencies;

689 17. Establish and elect an Executive Committee; and

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

693 D. The Executive Committee

694 1. The Executive Committee shall have the power to act on behalf of the Commission
695 according to the terms of this Compact.

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

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

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

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

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

704 4. The Executive Committee shall meet at least annually.

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

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

709 b. Ensure Compact administration services are appropriately provided, contractual or
710 otherwise;

711 c. Prepare and recommend the budget;

712 d. Maintain financial records on behalf of the Commission;

713 e. Monitor Compact compliance of Member States and provide compliance reports to
714 the Commission;

715 f. Establish additional committees as necessary; and

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

717 E. Meetings of the Commission

718 1. All meetings shall be open to the public, and public notice of meetings shall be
719 given in the same manner as required under the Rulemaking provisions in Section [58-60a-111](#).

720 2. The Commission or the Executive Committee or other committees of the
721 Commission may convene in a closed, non-public meeting if the Commission or Executive
722 Committee or other committees of the Commission must discuss:

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

724 b. The employment, compensation, discipline or other matters, practices or procedures
725 related to specific employees or other matters related to the Commission's internal personnel
726 practices and procedures;

727 c. Current, threatened, or reasonably anticipated litigation;

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

- 730 e. Accusing any person of a crime or formally censuring any person;
- 731 f. Disclosure of trade secrets or commercial or financial information that is privileged
- 732 or confidential;
- 733 g. Disclosure of information of a personal nature where disclosure would constitute a
- 734 clearly unwarranted invasion of personal privacy;
- 735 h. Disclosure of investigative records compiled for law enforcement purposes;
- 736 i. Disclosure of information related to any investigative reports prepared by or on behalf
- 737 of or for use of the Commission or other committee charged with responsibility of investigation
- 738 or determination of compliance issues pursuant to the Compact; or
- 739 j. Matters specifically exempted from disclosure by federal or Member State statute.
- 740 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the
- 741 Commission's legal counsel or designee shall certify that the meeting may be closed and shall
- 742 reference each relevant exempting provision.
- 743 4. The Commission shall keep minutes that fully and clearly describe all matters
- 744 discussed in a meeting and shall provide a full and accurate summary of actions taken, and the
- 745 reasons therefore, including a description of the views expressed. All documents considered in
- 746 connection with an action shall be identified in such minutes. All minutes and documents of a
- 747 closed meeting shall remain under seal, subject to release by a majority vote of the Commission
- 748 or order of a court of competent jurisdiction.
- 749 F. Financing of the Commission
- 750 1. The Commission shall pay, or provide for the payment of, the reasonable expenses
- 751 of its establishment, organization, and ongoing activities.
- 752 2. The Commission may accept any and all appropriate revenue sources, donations, and
- 753 grants of money, equipment, supplies, materials, and services.
- 754 3. The Commission may levy on and collect an annual assessment from each Member
- 755 State or impose fees on other parties to cover the cost of the operations and activities of the
- 756 Commission and its staff, which must be in a total amount sufficient to cover its annual budget
- 757 as approved each year for which revenue is not provided by other sources. The aggregate

758 annual assessment amount shall be allocated based upon a formula to be determined by the
759 Commission, which shall promulgate a Rule binding upon all Member States.

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

763 5. The Commission shall keep accurate accounts of all receipts and disbursements. The
764 receipts and disbursements of the Commission shall be subject to the audit and accounting
765 procedures established under its bylaws. However, all receipts and disbursements of funds
766 handled by the Commission shall be audited yearly by a certified or licensed public accountant,
767 and the report of the audit shall be included in and become part of the annual report of the
768 Commission.

769 G. Qualified Immunity, Defense, and Indemnification

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

779 2. The Commission shall defend any member, officer, executive director, employee or
780 representative of the Commission in any civil action seeking to impose liability arising out of
781 any actual or alleged act, error, or omission that occurred within the scope of Commission
782 employment, duties, or responsibilities, or that the person against whom the claim is made had
783 a reasonable basis for believing occurred within the scope of Commission employment, duties,
784 or responsibilities; provided that nothing herein shall be construed to prohibit that person from
785 retaining his or her own counsel; and provided further, that the actual or alleged act, error, or

786 omission did not result from that person's intentional or willful or wanton misconduct.

787 3. The Commission shall indemnify and hold harmless any member, officer, executive
788 director, employee, or representative of the Commission for the amount of any settlement or
789 judgment obtained against that person arising out of any actual or alleged act, error, or
790 omission that occurred within the scope of Commission employment, duties, or
791 responsibilities, or that such person had a reasonable basis for believing occurred within the
792 scope of Commission employment, duties, or responsibilities, provided that the actual or
793 alleged act, error, or omission did not result from the intentional or willful or wanton
794 misconduct of that person.

795 Section 15. Section **58-60a-110** is enacted to read:

796 **58-60a-110. Section 10 -- Data System.**

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

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

803 1. Identifying information;

804 2. Licensure data;

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

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

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

808 6. Current Significant Investigative Information; and

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

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

813 D. The Commission shall promptly notify all Member States of any Adverse Action

814 taken against a Licensee or an individual applying for a license. Adverse Action information
815 pertaining to a Licensee in any Member State will be available to any other Member State.

816 E. Member States contributing information to the Data System may designate
817 information that may not be shared with the public without the express permission of the
818 contributing State.

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

822 Section 16. Section **58-60a-111** is enacted to read:

823 **58-60a-111. Section 11 -- Rulemaking.**

824 A. The Commission shall promulgate reasonable Rules in order to effectively and
825 efficiently achieve the purpose of the Compact. Notwithstanding the foregoing, in the event the
826 Commission exercises its Rulemaking authority in a manner that is beyond the scope of the
827 purposes of the Compact, or the powers granted hereunder, then such an action by the
828 Commission shall be invalid and have no force or effect.

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

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

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

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

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

842 2. On the website of each Member State Professional Counseling Licensing Board or
843 other publicly accessible platform or the publication in which each State would otherwise
844 publish proposed Rules.

845 F. The Notice of Proposed Rulemaking shall include:

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

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

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

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

852 G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit
853 written data, facts, opinions, and arguments, which shall be made available to the public.

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

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

857 2. A State or federal governmental subdivision or agency; or

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

859 I. If a hearing is held on the proposed Rule or amendment, the Commission shall
860 publish the place, time, and date of the scheduled public hearing. If the hearing is held via
861 electronic means, the Commission shall publish the mechanism for access to the electronic
862 hearing.

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

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

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

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

873 J. Following the scheduled hearing date, or by the close of business on the scheduled
874 hearing date if the hearing was not held, the Commission shall consider all written and oral
875 comments received.

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

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

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

- 888 1. Meet an imminent threat to public health, safety, or welfare;
889 2. Prevent a loss of Commission or Member State funds;
890 3. Meet a deadline for the promulgation of an administrative Rule that is established by
891 federal law or Rule; or
892 4. Protect public health and safety.

893 N. The Commission or an authorized committee of the Commission may direct
894 revisions to a previously adopted Rule or amendment for purposes of correcting typographical
895 errors, errors in format, errors in consistency, or grammatical errors. Public notice of any
896 revisions shall be posted on the website of the Commission. The revision shall be subject to
897 challenge by any person for a period of thirty (30) days after posting. The revision may be

898 challenged only on grounds that the revision results in a material change to a Rule. A challenge
899 shall be made in writing and delivered to the chair of the Commission prior to the end of the
900 notice period. If no challenge is made, the revision will take effect without further action. If the
901 revision is challenged, the revision may not take effect without the approval of the
902 Commission.

903 Section 17. Section **58-60a-112** is enacted to read:

904 **58-60a-112. Section 12 -- Oversight, dispute resolution, and enforcement.**

905 A. Oversight

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

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

913 3. The Commission shall be entitled to receive service of process in any such
914 proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure
915 to provide service of process to the Commission shall render a judgment or order void as to the
916 Commission, this Compact, or promulgated Rules.

917 B. Default, Technical Assistance, and Termination

918 1. If the Commission determines that a Member State has defaulted in the performance
919 of its obligations or responsibilities under this Compact or the promulgated Rules, the
920 Commission shall:

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

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

925 C. If a State in default fails to cure the default, the defaulting State may be terminated

926 from the Compact upon an affirmative vote of a majority of the Member States, and all rights,
927 privileges and benefits conferred by this Compact may be terminated on the effective date of
928 termination. A cure of the default does not relieve the offending State of obligations or
929 liabilities incurred during the period of default.

930 D. Termination of membership in the Compact shall be imposed only after all other
931 means of securing compliance have been exhausted. Notice of intent to suspend or terminate
932 shall be given by the Commission to the governor, the majority and minority leaders of the
933 defaulting State's legislature, and each of the Member States.

934 E. A State that has been terminated is responsible for all assessments, obligations, and
935 liabilities incurred through the effective date of termination, including obligations that extend
936 beyond the effective date of termination.

937 F. The Commission shall not bear any costs related to a State that is found to be in
938 default or that has been terminated from the Compact, unless agreed upon in writing between
939 the Commission and the defaulting State.

940 G. The defaulting State may appeal the action of the Commission by petitioning the
941 United States District Court for the District of Columbia or the federal district where the
942 Commission has its principal offices. The prevailing member shall be awarded all costs of such
943 litigation, including reasonable attorney fees.

944 H. Dispute Resolution

945 1. Upon request by a Member State, the Commission shall attempt to resolve disputes
946 related to the Compact that arise among Member States and between member and non-Member
947 States.

948 2. The Commission shall promulgate a Rule providing for both mediation and binding
949 dispute resolution for disputes as appropriate.

950 I. Enforcement

951 1. The Commission, in the reasonable exercise of its discretion, shall enforce the
952 provisions and Rules of this Compact.

953 2. By majority vote, the Commission may initiate legal action in the United States

954 District Court for the District of Columbia or the federal district where the Commission has its
955 principal offices against a Member State in default to enforce compliance with the provisions
956 of the Compact and its promulgated Rules and bylaws. The relief sought may include both
957 injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing
958 member shall be awarded all costs of such litigation, including reasonable attorney fees.

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

961 Section 18. Section **58-60a-113** is enacted to read:

962 **58-60a-113. Section 13 -- Date of implementation of the Counseling Compact**
963 **Commission and associated Rules, withdrawal, and amendment.**

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

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

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

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

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

980 D. Nothing contained in this Compact shall be construed to invalidate or prevent any
981 Professional Counseling licensure agreement or other cooperative arrangement between a

982 Member State and a non-Member State that does not conflict with the provisions of this
983 Compact.

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

987 Section 19. Section **58-60a-114** is enacted to read:

988 **58-60a-114. Section 14 -- Construction and severability.**

989 This Compact shall be liberally construed so as to effectuate the purposes thereof. The
990 provisions of this Compact shall be severable and if any phrase, clause, sentence or provision
991 of this Compact is declared to be contrary to the constitution of any Member State or of the
992 United States or the applicability thereof to any government, agency, person or circumstance is
993 held invalid, the validity of the remainder of this Compact and the applicability thereof to any
994 government, agency, person or circumstance shall not be affected thereby. If this Compact shall
995 be held contrary to the constitution of any Member State, the Compact shall remain in full
996 force and effect as to the remaining Member States and in full force and effect as to the
997 Member State affected as to all severable matters.

998 Section 20. Section **58-60a-115** is enacted to read:

999 **58-60a-115. Section 15 -- Binding Effect of Compact and other Laws.**

1000 A. A Licensee providing Professional Counseling services in a Remote State under the
1001 Privilege to Practice shall adhere to the laws and regulations, including scope of practice, of the
1002 Remote State.

1003 B. Nothing herein prevents the enforcement of any other law of a Member State that is
1004 not inconsistent with the Compact.

1005 C. Any laws in a Member State in conflict with the Compact are superseded to the
1006 extent of the conflict.

1007 D. Any lawful actions of the Commission, including all Rules and bylaws properly
1008 promulgated by the Commission, are binding upon the Member States.

1009 E. All permissible agreements between the Commission and the Member States are

1010 binding in accordance with their terms.

1011 F. In the event any provision of the Compact exceeds the constitutional limits imposed
1012 on the legislature of any Member State, the provision shall be ineffective to the extent of the
1013 conflict with the constitutional provision in question in that Member State.

1014 Section 21. Section **58-60a-201** is enacted to read:

1015 **Part 2. Division Implementation**

1016 **58-60a-201. Rulemaking authority -- State authority over scope of practice.**

1017 (1) The division may make rules in accordance with Title 63G, Chapter 3, Utah
1018 Administrative Rulemaking Act, to implement this chapter.

1019 (2) Notwithstanding any provision in Sections [58-60a-101](#) through [58-60a-115](#),
1020 Sections [58-60a-101](#) through [58-60a-115](#) do not supersede state law related to an individual's
1021 scope of practice under this title.