

COUNSELING STATE COMPACT

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

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



- 28 [58-60a-102](#), Utah Code Annotated 1953
- 29 [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

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

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

45 **58-1-301.5. Division access to Bureau of Criminal Identification records.**

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

50 (a) Section [58-17b-307](#) of [~~Title 58;~~] Chapter 17b, Pharmacy Practice Act;

51 (b) Sections [58-24b-302](#) and [58-24b-302.1](#) of [~~Title 58;~~] Chapter 24b, Physical
 52 Therapy Practice Act;

53 (c) Section [58-31b-302](#) of [~~Title 58;~~] Chapter 31b, Nurse Practice Act;

54 (d) Section [58-47b-302](#) of [~~Title 58;~~] Chapter 47b, Massage Therapy Practice Act;

55 (e) Section [58-55-302](#) of [~~Title 58;~~] Chapter 55, Utah Construction Trades Licensing
 56 Act, as it applies to alarm companies and alarm company agents;

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

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

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

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

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

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

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

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

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

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

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

78 **58-60-103.1. Criminal background check.**

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

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

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

85 (2) The division shall:

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

90 obtaining federal criminal history record information;

91 (b) submit from each applicant the fingerprint card and the fees described in

92 Subsection (2)(a) to the Bureau of Criminal Identification; and

93 (c) obtain and retain in division records a signed waiver approved by the Bureau of

94 Criminal Identification in accordance with Section [53-10-108](#) for each applicant.

95 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of

96 Section [53-10-108](#):

97 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state

98 and regional criminal records databases;

99 (b) forward the fingerprints to the Federal Bureau of Investigation for a national

100 criminal history background check; and

101 (c) provide the results from the state, regional, and nationwide criminal history

102 background checks to the division.

103 (4) For purposes of conducting a criminal background check required under this

104 section, the division shall have direct access to criminal background information maintained

105 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

106 (5) The division may not:

107 (a) disseminate outside of the division any criminal history record information that the

108 division obtains from the Bureau of Criminal Identification or the Federal Bureau of

109 Investigation under the criminal background check requirements of this section; or

110 (b) issue a letter of qualification to participate in the Counseling Compact under

111 Chapter 60a, Counseling Compact, until the criminal background check described in this

112 section is completed.

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

114 **58-60-205. Qualifications for licensure or certification as a clinical social worker,**
115 **certified social worker, and social service worker.**

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

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

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

119 (c) produce certified transcripts from an accredited institution of higher education

120 recognized by the division in collaboration with the board verifying satisfactory completion of

121 an education and an earned degree as follows:

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

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

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

129 (i) in not less than two years;

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

132 (A) clinical mental health counselor;

133 (B) psychiatrist;

134 (C) psychologist;

135 (D) registered psychiatric mental health nurse practitioner;

136 (E) marriage and family therapist; or

137 (F) clinical social worker; and

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

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

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

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

149 and

150 (h) if the applicant is applying to participate in the Counseling Compact under Chapter
151 60a, Counseling Compact, consent to a criminal background check in accordance with Section

152 [58-60-103.1](#) and any requirements established by division rule made in accordance with Title
153 [63G, Chapter 3, Utah Administrative Rulemaking Act.](#)

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

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

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

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

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

162 (ii) a doctoral degree that contains a clinical social work concentration and practicum
163 approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah

164 Administrative Rulemaking Act, that is consistent with Section [58-1-203](#); and

165 (d) pass the examination requirement established by rule under Section [58-1-203](#).

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

168 (b) Certification under Subsection (3)(a) is limited to the time necessary to pass the
169 examination required under Subsection (2)(d) or six months, whichever occurs first.

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

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

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

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

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

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

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

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

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

- 185 (I) social welfare policy;
- 186 (II) human growth and development; and
- 187 (III) social work practice methods, as defined by rule; and

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

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

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

196 (5) The division shall ensure that the rules for an examination described under
197 Subsections (1)(g), (2)(d), and (4)(d) allow additional time to complete the examination if
198 requested by an applicant who is:

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

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

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

203 **58-60-305. Qualifications for licensure.**

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

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

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

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

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

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

213 (d) have completed a minimum of 4,000 hours of marriage and family therapy training

214 as defined by division rule under Section 58-1-203:

215 (i) in not less than two years;

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

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

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

221 (e) document successful completion of not less than 1,000 hours of supervised training
222 in mental health therapy obtained after completion of the education requirement described in
223 Subsection (1)(c)(i) or (1)(c)(ii), which training may be included as part of the 4,000 hours of
224 training described in Subsection (1)(d), and of which documented evidence demonstrates not
225 less than 100 of the supervised hours were obtained during direct, personal supervision, as
226 defined by rule, by a mental health therapist supervisor qualified under Section 58-60-307;
227 [and]

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

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

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

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

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

245 **58-60-405. Qualifications for licensure.**

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

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

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

249 (c) produce certified transcripts evidencing completion of:

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

251 (A) clinical mental health counseling, clinical rehabilitation counseling, counselor

252 education and supervision from a program accredited by the Council for Accreditation of

253 Counseling and Related Educational Programs; or

254 (B) clinical mental health counseling or an equivalent field from a program affiliated

255 with an institution that has accreditation that is recognized by the Council for Higher Education

256 Accreditation; and

257 (ii) at least 60 semester credit hours or 90 quarter credit hours of coursework related to

258 an educational program described in Subsection (1)(d)(i);

259 (d) have completed a minimum of 4,000 hours of clinical mental health counselor

260 training as defined by division rule under Section 58-1-203:

261 (i) in not less than two years;

262 (ii) under the supervision of a clinical mental health counselor, psychiatrist,

263 psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or

264 marriage and family therapist supervisor approved by the division in collaboration with the

265 board;

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

267 (iv) including a minimum of two hours of training in suicide prevention via a course

268 that the division designates as approved;

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

270 in mental health therapy obtained after completion of the education requirement in Subsection

271 (1)(c), which training may be included as part of the 4,000 hours of training in Subsection

272 (1)(d), and of which documented evidence demonstrates not less than 100 of the hours were

273 obtained under the direct supervision of a mental health therapist, as defined by rule; ~~and~~

274 (f) pass the examination requirement established by division rule under Section

275 58-1-203[~~;~~]; and

276 (g) if the applicant is applying to participate in the Counseling Compact under Chapter
277 60a, Counseling Compact, consent to a criminal background check in accordance with Section
278 58-60-103.1 and any requirements established by division rule made in accordance with Title
279 63G, Chapter 3, Utah Administrative Rulemaking Act.

280 (2) (a) An applicant for licensure as an associate clinical mental health counselor shall
281 comply with the provisions of Subsections (1)(a), (b), and (c).

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

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

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

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

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

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

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

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

301 (A) the National Counselor Examination; and

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

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

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

306 (ii) the number of applicants who were approved for licensure under this Subsection

307 (3);

308 (iii) any changes to division rule after May 12, 2020, regarding the qualifications for
309 licensure under this section; and

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

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

313 **CHAPTER 60a. COUNSELING COMPACT**

314 **58-60a-101. Section 1 -- Purpose.**

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

320 This Compact is designed to achieve the following objectives:

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

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

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

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

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

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

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

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

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

337 J. Provide opportunities for interstate practice by Licensed Professional Counselors who

338 meet uniform licensure requirements.

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

340 **58-60a-102. Section 2 -- Definitions.**

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

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

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

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

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

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

361 F. "Current Significant Investigative Information" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

416 **58-60a-103. Section 3 -- State participation in the Compact.**

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

418 1. License and regulate Licensed Professional Counselors;

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

420 Commission;

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

424 a. Professional Counseling Orientation and Ethical Practice;

425 b. Social and Cultural Diversity;

426 c. Human Growth and Development;

427 d. Career Development;

428 e. Counseling and Helping Relationships;

429 f. Group Counseling and Group Work;

430 g. Diagnosis and Treatment; Assessment and Testing;

- 431 h. Research and Program Evaluation; and
- 432 i. Other areas as determined by the Commission;
- 433 4. Require Licensees to complete a supervised postgraduate professional experience as
- 434 defined by the Commission; and
- 435 5. Have a mechanism in place for receiving and investigating complaints about
- 436 Licensees.
- 437 B. A Member State shall:
- 438 1. Participate fully in the Commission's Data System, including using the Commission's
- 439 unique identifier as defined in Rules;
- 440 2. Notify the Commission, in compliance with the terms of the Compact and Rules, of
- 441 any Adverse Action or the availability of Investigative Information regarding a Licensee;
- 442 3. Implement or utilize procedures for considering the criminal history records of
- 443 applicants for an initial Privilege to Practice. These procedures shall include the submission of
- 444 fingerprints or other biometric-based information by applicants for the purpose of obtaining an
- 445 applicant's criminal history record information from the Federal Bureau of Investigation and
- 446 the agency responsible for retaining that State's criminal records;
- 447 a. A member state must fully implement a criminal background check requirement,
- 448 within a time frame established by rule, by receiving the results of the Federal Bureau of
- 449 Investigation record search and shall use the results in making licensure decisions;
- 450 b. Communication between a Member State, the Commission and among Member
- 451 States regarding the verification of eligibility for licensure through the Compact shall not
- 452 include any information received from the Federal Bureau of Investigation relating to a federal
- 453 criminal records check performed by a Member State under Public Law 92-544.
- 454 4. Comply with the Rules of the Commission;
- 455 5. Require an applicant to obtain or retain a license in the Home State and meet the
- 456 Home State's qualifications for licensure or renewal of licensure, as well as all other applicable
- 457 State laws;
- 458 6. Grant the Privilege to Practice to a Licensee holding a valid Unencumbered License
- 459 in another Member State in accordance with the terms of the Compact and Rules; and
- 460 7. Provide for the attendance of the State's commissioner to the Counseling Compact
- 461 Commission meetings.

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

463 D. Individuals not residing in a Member State shall continue to be able to apply for a

464 Member State's Single State License as provided under the laws of each Member State.

465 However, the Single State License granted to these individuals shall not be recognized as

466 granting a Privilege to Practice Professional Counseling in any other Member State.

467 E. Nothing in this Compact shall affect the requirements established by a Member State

468 for the issuance of a Single State License.

469 F. A license issued to a Licensed Professional Counselor by a Home State to a resident

470 in that State shall be recognized by each Member State as authorizing a Licensed Professional

471 Counselor to practice Professional Counseling, under a Privilege to Practice, in each Member

472 State.

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

474 **58-60a-104. Section 4 -- Privilege to Practice.**

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

476 the Licensee shall:

477 1. Hold a license in the Home State;

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

479 Identifier;

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

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

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

483 Practice within the previous two (2) years;

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

485 Remote State(s);

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

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

488 State;

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

490 the Licensee is seeking a Privilege to Practice; and

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

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

493 B. The Privilege to Practice is valid until the expiration date of the Home State license.
494 The Licensee must comply with the requirements of Subsection 4(A) to maintain the Privilege
495 to Practice in the Remote State.

496 C. A Licensee providing Professional Counseling in a Remote State under the Privilege
497 to Practice shall adhere to the laws and regulations of the Remote State.

498 D. A Licensee providing Professional Counseling services in a Remote State is subject
499 to that State's regulatory authority. A Remote State may, in accordance with due process and
500 that State's laws, remove a Licensee's Privilege to Practice in the Remote State for a specific
501 period of time, impose fines, and/or take any other necessary actions to protect the health and
502 safety of its citizens. The Licensee may be ineligible for a Privilege to Practice in any Member
503 State until the specific time for removal has passed and all fines are paid.

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

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

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

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

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

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

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

522 **58-60a-105. Section 5 -- Obtaining a new Home State license based on a Privilege**
523 **to Practice.**

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

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

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

531 2. Upon receipt of an application for obtaining a new Home State license by virtue of a
532 Privilege to Practice, the new Home State shall verify that the Licensed Professional Counselor
533 meets the pertinent criteria outlined in Section 58-60a-104 via the Data System, without need
534 for primary source verification except for:

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

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

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

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

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

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

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

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

554 E. Nothing in this Compact shall affect the requirements established by a Member State

555 for the issuance of a Single State License.

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

557 **58-60a-106. Section 6 -- Active Duty Military personnel or their spouses.**

558 Active Duty Military personnel, or their spouses, shall designate a Home State where
559 the individual has a current license in good standing. The individual may retain the Home State
560 designation during the period the service member is on active duty. Subsequent to designating
561 a Home State, the individual shall only change their Home State through application for
562 licensure in the new State, or through the process outlined in Section [58-60a-105](#).

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

564 **58-60a-107. Section 7 -- Compact Privilege to Practice Telehealth.**

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

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

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

573 **58-60a-108. Section 8 -- Adverse actions.**

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

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

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

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

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

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

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

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

604 F. Joint Investigations:

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

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

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

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

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

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

623 **58-60a-109. Section 9 -- Establishment of Counseling Compact Commission.**

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

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

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

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

632 B. Membership, Voting, and Meetings:

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

635 2. The delegate shall be either:

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

638 b. An administrator of the Licensing Board.

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

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

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

646 6. A delegate shall vote in person or by such other means as provided in the bylaws.

647 The bylaws may provide for delegates' participation in meetings by telephone or other means of

648 communication.

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

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

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

654 1. Establish the fiscal year of the Commission;

655 2. Establish bylaws;

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

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

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

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

664 7. Purchase and maintain insurance and bonds;

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

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

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

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

678 12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of

679 any property real, personal, or mixed;

680 13. Establish a budget and make expenditures;

681 14. Borrow money;

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

685 16. Provide and receive information from, and cooperate with, law enforcement
686 agencies;

687 17. Establish and elect an Executive Committee; and

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

691 D. The Executive Committee

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

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

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

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

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

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

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

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

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

707 b. Ensure Compact administration services are appropriately provided, contractual or
708 otherwise;

709 c. Prepare and recommend the budget;

- 710 d. Maintain financial records on behalf of the Commission;
- 711 e. Monitor Compact compliance of Member States and provide compliance reports to
- 712 the Commission;
- 713 f. Establish additional committees as necessary; and
- 714 g. Other duties as provided in Rules or bylaws.
- 715 E. Meetings of the Commission
- 716 1. All meetings shall be open to the public, and public notice of meetings shall be
- 717 given in the same manner as required under the Rulemaking provisions in Section [58-60a-111](#).
- 718 2. The Commission or the Executive Committee or other committees of the
- 719 Commission may convene in a closed, non-public meeting if the Commission or Executive
- 720 Committee or other committees of the Commission must discuss:
- 721 a. Non-compliance of a Member State with its obligations under the Compact;
- 722 b. The employment, compensation, discipline or other matters, practices or procedures
- 723 related to specific employees or other matters related to the Commission's internal personnel
- 724 practices and procedures;
- 725 c. Current, threatened, or reasonably anticipated litigation;
- 726 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real
- 727 estate;
- 728 e. Accusing any person of a crime or formally censuring any person;
- 729 f. Disclosure of trade secrets or commercial or financial information that is privileged
- 730 or confidential;
- 731 g. Disclosure of information of a personal nature where disclosure would constitute a
- 732 clearly unwarranted invasion of personal privacy;
- 733 h. Disclosure of investigative records compiled for law enforcement purposes;
- 734 i. Disclosure of information related to any investigative reports prepared by or on behalf
- 735 of or for use of the Commission or other committee charged with responsibility of investigation
- 736 or determination of compliance issues pursuant to the Compact; or
- 737 j. Matters specifically exempted from disclosure by federal or Member State statute.
- 738 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the
- 739 Commission's legal counsel or designee shall certify that the meeting may be closed and shall
- 740 reference each relevant exempting provision.

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

747 F. Financing of the Commission

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

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

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

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

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

767 G. Qualified Immunity, Defense, and Indemnification

768 1. The members, officers, executive director, employees and representatives of the
769 Commission shall be immune from suit and liability, either personally or in their official
770 capacity, for any claim for damage to or loss of property or personal injury or other civil
771 liability caused by or arising out of any actual or alleged act, error or omission that occurred, or

772 that the person against whom the claim is made had a reasonable basis for believing occurred
773 within the scope of Commission employment, duties or responsibilities; provided that nothing
774 in this paragraph shall be construed to protect any such person from suit and/or liability for any
775 damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of
776 that person.

777 2. The Commission shall defend any member, officer, executive director, employee or
778 representative of the Commission in any civil action seeking to impose liability arising out of
779 any actual or alleged act, error, or omission that occurred within the scope of Commission
780 employment, duties, or responsibilities, or that the person against whom the claim is made had
781 a reasonable basis for believing occurred within the scope of Commission employment, duties,
782 or responsibilities; provided that nothing herein shall be construed to prohibit that person from
783 retaining his or her own counsel; and provided further, that the actual or alleged act, error, or
784 omission did not result from that person's intentional or willful or wanton misconduct.

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

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

794 **58-60a-110. Section 10 -- Data System.**

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

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

801 1. Identifying information;

802 2. Licensure data;

803 3. Adverse Actions against a license or Privilege to Practice;
804 4. Non-confidential information related to Alternative Program participation;
805 5. Any denial of application for licensure, and the reason(s) for such denial;
806 6. Current Significant Investigative Information; and
807 7. Other information that may facilitate the administration of this Compact, as
808 determined by the Rules of the Commission.

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

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

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

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

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

821 **58-60a-111. Section 11 -- Rulemaking.**

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

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

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

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

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

- 839 1. On the website of the Commission or other publicly accessible platform; and
840 2. On the website of each Member State Professional Counseling Licensing Board or
841 other publicly accessible platform or the publication in which each State would otherwise
842 publish proposed Rules.

843 F. The Notice of Proposed Rulemaking shall include:

- 844 1. The proposed time, date, and location of the meeting in which the Rule will be
845 considered and voted upon;
846 2. The text of the proposed Rule or amendment and the reason for the proposed Rule;
847 3. A request for comments on the proposed Rule from any interested person; and
848 4. The manner in which interested persons may submit notice to the Commission of
849 their intention to attend the public hearing and any written comments.

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

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

- 854 1. At least twenty-five (25) persons;
855 2. A State or federal governmental subdivision or agency; or
856 3. An association having at least twenty-five (25) members.

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

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

864 2. Hearings shall be conducted in a manner providing each person who wishes to

865 comment a fair and reasonable opportunity to comment orally or in writing.

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

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

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

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

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

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

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

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

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

890 4. Protect public health and safety.

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

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

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

902 **58-60a-112. Section 12 -- Oversight, dispute resolution, and enforcement.**

903 A. Oversight

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

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

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

915 B. Default, Technical Assistance, and Termination

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

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

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

923 C. If a State in default fails to cure the default, the defaulting State may be terminated
924 from the Compact upon an affirmative vote of a majority of the Member States, and all rights,
925 privileges and benefits conferred by this Compact may be terminated on the effective date of
926 termination. A cure of the default does not relieve the offending State of obligations or

927 liabilities incurred during the period of default.

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

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

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

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

942 H. Dispute Resolution

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

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

948 I. Enforcement

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

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

957 3. The remedies herein shall not be the exclusive remedies of the Commission. The

958 Commission may pursue any other remedies available under federal or State law.

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

960 **58-60a-113. Section 13 -- Date of implementation of the Counseling Compact**

961 **Commission and associated Rules, withdrawal, and amendment.**

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

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

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

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

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

978 D. Nothing contained in this Compact shall be construed to invalidate or prevent any
979 Professional Counseling licensure agreement or other cooperative arrangement between a
980 Member State and a non-Member State that does not conflict with the provisions of this
981 Compact.

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

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

986 **58-60a-114. Section 14 -- Construction and severability.**

987 This Compact shall be liberally construed so as to effectuate the purposes thereof. The
988 provisions of this Compact shall be severable and if any phrase, clause, sentence or provision

989 of this Compact is declared to be contrary to the constitution of any Member State or of the
990 United States or the applicability thereof to any government, agency, person or circumstance is
991 held invalid, the validity of the remainder of this Compact and the applicability thereof to any
992 government, agency, person or circumstance shall not be affected thereby. If this Compact shall
993 be held contrary to the constitution of any Member State, the Compact shall remain in full
994 force and effect as to the remaining Member States and in full force and effect as to the
995 Member State affected as to all severable matters.

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

997 **58-60a-115. Section 15 -- Binding Effect of Compact and other Laws.**

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

1001 B. Nothing herein prevents the enforcement of any other law of a Member State that is
1002 not inconsistent with the Compact.

1003 C. Any laws in a Member State in conflict with the Compact are superseded to the
1004 extent of the conflict.

1005 D. Any lawful actions of the Commission, including all Rules and bylaws properly
1006 promulgated by the Commission, are binding upon the Member States.

1007 E. All permissible agreements between the Commission and the Member States are
1008 binding in accordance with their terms.

1009 F. In the event any provision of the Compact exceeds the constitutional limits imposed
1010 on the legislature of any Member State, the provision shall be ineffective to the extent of the
1011 conflict with the constitutional provision in question in that Member State.