



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2856

Introduced 1/19/2024, by Sen. Laura Fine

SYNOPSIS AS INTRODUCED:

New Act
225 ILCS 107/12 new

Creates the Counseling Compact Act. Provides that the State of Illinois enters into the Counseling Compact. Specifies that the Compact's purpose is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. Sets out provisions concerning the privilege to practice, obtaining a new home state license, active duty military personnel, telehealth, adverse actions, Counseling Compact Commission, data systems, rulemaking, oversight, dispute resolution, and enforcement. Contains other provisions concerning the Commission, the Compact, and the procedures governing participating in and construction of the Compact. Amends the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act. Requires the Professional Counselor Licensing and Disciplinary Board to submit a report to the General Assembly with recommendations of any statutory changes and budgetary changes needed to comply with the requirements of the Counseling Compact. Requires the Board and Department of Financial and Professional Regulation to modify, if needed, Board and Department rules to comply with the requirements of the Counseling Compact. Provides that the changes to the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act are effective immediately.

LRB103 36409 AWJ 66511 b

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Counseling Compact Act.

6 Section 5. Counseling Compact. The State of Illinois
7 enters into the Counseling Compact in substantially the
8 following form with all other states joining the Compact:

9 SECTION 1: PURPOSE

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

18 This Compact is designed to achieve the following
19 objectives:

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

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

3 C. Encourage the cooperation of Member States in
4 regulating multistate practice for Licensed Professional
5 Counselors;

6 D. Support spouses of relocating Active Duty Military
7 personnel;

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

10 F. Allow for the use of Telehealth technology to
11 facilitate increased access to Professional Counseling
12 services;

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

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

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

23 J. Provide opportunities for interstate practice by
24 Licensed Professional Counselors who meet uniform
25 licensure requirements.

1 SECTION 2. DEFINITIONS

2 As used in this Compact, and except as otherwise provided,
3 the following definitions apply:

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

8 B. "Adverse Action" means any administrative, civil,
9 equitable or criminal action permitted by a State's laws which
10 is imposed by a licensing board or other authority against a
11 Licensed Professional Counselor, including actions against an
12 individual's license or Privilege to Practice such as
13 revocation, suspension, probation, monitoring of the licensee,
14 limitation on the licensee's practice, or any other
15 Encumbrance on licensure affecting a Licensed Professional
16 Counselor's authorization to practice, including issuance of a
17 cease and desist action.

18 C. "Alternative Program" means a non-disciplinary
19 monitoring or practice remediation process approved by a
20 Professional Counseling Licensing Board to address Impaired
21 Practitioners.

22 D. "Continuing Competence/Education" means a requirement,
23 as a condition of license renewal, to provide evidence of
24 completion of educational and professional activities relevant
25 to practice or area of work.

26 E. "Counseling Compact Commission" or "Commission" means

1 the national administrative body whose membership consists of
2 all States that have enacted the Compact.

3 F. "Current Significant Investigative Information" means:

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

10 2. Investigative Information that indicates that the
11 Licensed Professional Counselor represents an immediate
12 threat to public health and safety regardless of whether
13 the Licensed Professional Counselor has been notified and
14 had an opportunity to respond.

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

19 H. "Encumbered License" means a license in which an
20 Adverse Action restricts the practice of licensed Professional
21 Counseling by the Licensee and said Adverse Action has been
22 reported to the National Practitioner Data Bank (NPDB).

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

26 J. "Executive Committee" means a group of directors

1 elected or appointed to act on behalf of, and within the powers
2 granted to them by, the Commission.

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

5 L. "Impaired Practitioner" means an individual who has a
6 condition(s) that may impair the individual's ability to
7 practice as a Licensed Professional Counselor without some
8 type of intervention and may include, but are not limited to,
9 alcohol and drug dependence, mental health impairment, and
10 neurological or physical impairments.

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

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

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

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

25 Q. "Licensing Board" means the agency of a State, or
26 equivalent, that is responsible for the licensing and

1 regulation of Licensed Professional Counselors.

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

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

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

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

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

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

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

22 Y. "Telehealth" means the application of telecommunication
23 technology to deliver Professional Counseling services
24 remotely to assess, diagnose, and treat behavioral health
25 conditions.

26 Z. "Unencumbered License" means a license that authorizes

1 a Licensed Professional Counselor to engage in the full and
2 unrestricted practice of Professional Counseling.

3 SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

5 1. License and regulate Licensed Professional
6 Counselors;

7 2. Require Licensees to pass a nationally recognized
8 exam approved by the Commission;

9 3. Require Licensees to have a 60 semester-hour (or 90
10 quarter-hour) master's degree in counseling or 60 semester
11 hours (or 90 quarter hours) of graduate coursework
12 including the following topic areas:

13 a. Professional Counseling Orientation and Ethical
14 Practice;

15 b. Social and Cultural Diversity;

16 c. Human Growth and Development;

17 d. Career Development;

18 e. Counseling and Helping Relationships;

19 f. Group Counseling and Group Work;

20 g. Diagnosis and Treatment;

21 h. Assessment and Testing;

22 i. Research and Program Evaluation; and

23 j. Other areas as determined by the Commission.

24 4. Require Licensees to complete a supervised
25 postgraduate professional experience as defined by the

1 Commission;

2 5. Have a mechanism in place for receiving and
3 investigating complaints about Licensees.

4 B. A Member State shall:

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

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

12 3. Implement or utilize procedures for considering the
13 criminal history records of applicants for an initial
14 Privilege to Practice. These procedures shall include the
15 submission of fingerprints or other biometric-based
16 information by applicants for the purpose of obtaining an
17 applicant's criminal history record information from the
18 Federal Bureau of Investigation and the agency responsible
19 for retaining that State's criminal records;

20 a. A Member State must fully implement a criminal
21 background check requirement, within a time frame
22 established by rule, by receiving the results of the
23 Federal Bureau of Investigation record search and
24 shall use the results in making licensure decisions.

25 b. Communication between a Member State, the
26 Commission and among Member States regarding the

1 verification of eligibility for licensure through the
2 Compact shall not include any information received
3 from the Federal Bureau of Investigation relating to a
4 federal criminal records check performed by a Member
5 State under Public Law 92-544.

6 c. A Licensing Board may conduct national
7 background checks by submitting fingerprints to the
8 Federal Bureau of Investigation through the Member
9 State's statewide policing authority. However, reports
10 from the background checks may not be shared with
11 entities outside of the Member State. Applicants shall
12 be responsible for all fees associated with the
13 performance of the background checks.

14 4. Comply with the Rules of the Commission;

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

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

23 7. Provide for the attendance of the State's
24 commissioner to the Counseling Compact Commission
25 meetings.

26 C. Member States may charge a fee for granting the

1 Privilege to Practice.

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

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

11 F. A license issued to a Licensed Professional Counselor
12 by a Home State to a resident in that State shall be recognized
13 by each Member State as authorizing a Licensed Professional
14 Counselor to practice Professional Counseling, under a
15 Privilege to Practice, in each Member State.

16 SECTION 4. PRIVILEGE TO PRACTICE

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

- 19 1. Hold a license in the Home State;
- 20 2. Have a valid United States social security number
21 or National Provider Identifier;
- 22 3. Be eligible for a Privilege to Practice in any
23 Member State in accordance with Section 4(D), (G) and (H);
- 24 4. Have not had any Encumbrance or restriction against
25 any license or Privilege to Practice within the previous 2

1 years;

2 5. Notify the Commission that the Licensee is seeking
3 the Privilege to Practice within a Remote State(s);

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

6 7. Meet any Continuing Competence/Education
7 requirements established by the Home State;

8 8. Meet any Jurisprudence Requirements established by
9 the Remote State(s) in which the Licensee is seeking a
10 Privilege to Practice; and

11 9. Report to the Commission any Adverse Action,
12 Encumbrance, or restriction on a license taken by any
13 non-Member State within 30 days from the date the action
14 is taken.

15 B. The Privilege to Practice is valid until the expiration
16 date of the Home State license. The Licensee must comply with
17 the requirements of Section 4(A) to maintain the Privilege to
18 Practice in the Remote State.

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

22 D. A Licensee providing Professional Counseling services
23 in a Remote State is subject to that State's regulatory
24 authority. A Remote State may, in accordance with due process
25 and that State's laws, remove a Licensee's Privilege to
26 Practice in the Remote State for a specific period of time,

1 impose fines, or take any other necessary actions to protect
2 the health and safety of its citizens. The Licensee may be
3 ineligible for a Privilege to Practice in any Member State
4 until the specific time for removal has passed and all fines
5 are paid.

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

9 1. The Home State license is no longer encumbered; and

10 2. The licensee has not had any Encumbrance or
11 restriction against any license or Privilege to Practice
12 within the previous 2 years.

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

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

20 1. The specific period of time for which the Privilege
21 to Practice was removed has ended;

22 2. The licensee has paid all fines that have been
23 imposed; and

24 3. The licensee has not had any Encumbrance or
25 restriction against any license or Privilege to Practice
26 within the previous 2 years.

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

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

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

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

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

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

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

1 Public Law 92-544;

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

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

6 3. The former Home State shall convert the former Home
7 State license into a Privilege to Practice once the new
8 Home State has activated the new Home State license in
9 accordance with applicable Rules adopted by the
10 Commission.

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

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

19 C. If a Licensed Professional Counselor changes Primary
20 State of Residence by moving from a Member State to a
21 non-Member State, or from a non-Member State to a Member
22 State, the State criteria shall apply for issuance of a Single
23 State License in the new State.

24 D. Nothing in this Compact shall interfere with a
25 Licensee's ability to hold a Single State License in multiple
26 States. However, for the purposes of this Compact, a Licensee

1 shall have only one Home State license.

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

5 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

6 Active Duty Military personnel, or their spouse, shall
7 designate a Home State where the individual has a current
8 license in good standing. The individual may retain the Home
9 State designation during the period the service member is on
10 active duty. Subsequent to designating a Home State, the
11 individual shall only change their Home State through
12 application for licensure in the new State, or through the
13 process outlined in Section 5.

14 SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

15 A. Member States shall recognize the right of a Licensed
16 Professional Counselor, licensed by a Home State in accordance
17 with Section 3 and under Rules promulgated by the Commission,
18 to practice Professional Counseling in any Member State via
19 Telehealth under a Privilege to Practice as provided in the
20 Compact and Rules promulgated by the Commission.

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

1 SECTION 8. ADVERSE ACTIONS

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

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

8 2. Issue subpoenas for both hearings and
9 investigations that require the attendance and testimony
10 of witnesses as well as the production of evidence.
11 Subpoenas issued by a Licensing Board in a Member State
12 for the attendance and testimony of witnesses or the
13 production of evidence from another Member State shall be
14 enforced in the latter State by any court of competent
15 jurisdiction, according to the practice and procedure of
16 that court applicable to subpoenas issued in proceedings
17 pending before it. The issuing authority shall pay any
18 witness fees, travel expenses, mileage, and other fees
19 required by the service statutes of the State in which the
20 witnesses or evidence are located.

21 Only the Home State shall have the power to take Adverse
22 Action against a Licensed Professional Counselor's license
23 issued by the Home State.

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

1 occurred within the Home State. In so doing, the Home State
2 shall apply its own State laws to determine appropriate
3 action.

4 C. The Home State shall complete any pending
5 investigations of a Licensed Professional Counselor who
6 changes primary State of residence during the course of the
7 investigations. The Home State shall also have the authority
8 to take appropriate action(s) and shall promptly report the
9 conclusions of the investigations to the administrator of the
10 Data System. The administrator of the coordinated licensure
11 information system shall promptly notify the new Home State of
12 any Adverse Actions.

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

18 E. A Member State may take Adverse Action based on the
19 factual findings of the Remote State, provided that the Member
20 State follows its own procedures for taking the Adverse
21 Action.

22 F. Joint Investigations:

23 1. In addition to the authority granted to a Member
24 State by its respective Professional Counseling practice
25 act or other applicable State law, any Member State may
26 participate with other Member States in joint

1 investigations of Licensees.

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

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

16 H. If a Member State takes Adverse Action, it shall
17 promptly notify the administrator of the Data System. The
18 administrator of the Data System shall promptly notify the
19 Home State of any Adverse Actions by Remote States.

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

23 SECTION 9. ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

24 A. The Compact Member States hereby create and establish a
25 joint public agency known as the Counseling Compact

1 Commission:

2 1. The Commission is an instrumentality of the Compact
3 States.

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

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

13 B. Membership, Voting, and Meetings

14 1. Each Member State shall have and be limited to one
15 delegate selected by that Member State's Licensing Board.

16 2. The delegate shall be either:

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

20 b. An administrator of the Licensing Board.

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

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

26 5. Each delegate shall be entitled to one vote with

1 regard to the promulgation of Rules and creation of bylaws
2 and shall otherwise have an opportunity to participate in
3 the business and affairs of the Commission.

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

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

11 8. The Commission shall by Rule establish a term of
12 office for delegates and may by Rule establish term
13 limits.

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

16 1. Establish the fiscal year of the Commission;

17 2. Establish bylaws;

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

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

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

24 6. Bring and prosecute legal proceedings or actions in
25 the name of the Commission, provided that the standing of
26 any State Licensing Board to sue or be sued under

1 applicable law shall not be affected;

2 7. Purchase and maintain insurance and bonds;

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

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

13 10. Accept any and all appropriate donations and
14 grants of money, equipment, supplies, materials, and
15 services, and to receive, utilize, and dispose of the
16 same; provided that at all times the Commission shall
17 avoid any appearance of impropriety or conflict of
18 interest;

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

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

- 1 13. Establish a budget and make expenditures;
- 2 14. Borrow money;
- 3 15. Appoint committees, including standing committees
4 composed of members, State regulators, State legislators
5 or their representatives, consumer representatives, and
6 such other interested persons as may be designated in this
7 Compact and the bylaws;
- 8 16. Provide and receive information from, and
9 cooperate with, law enforcement agencies;
- 10 17. Establish and elect an Executive Committee; and
- 11 18. Perform such other functions as may be necessary
12 or appropriate to achieve the purposes of this Compact
13 consistent with the State regulation of Professional
14 Counseling licensure and practice.

15 D. The Executive Committee

16 1. The Executive Committee shall have the power to act
17 on behalf of the Commission according to the terms of this
18 Compact.

19 2. The Executive Committee shall be composed of up to
20 11 members:

21 a. Seven voting members who are elected by the
22 Commission from the current membership of the
23 Commission; and

24 b. Up to 4 ex officio, nonvoting members from 4
25 recognized national professional counselor
26 organizations.

1 c. The ex officio members will be selected by
2 their respective organizations.

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

5 4. The Executive Committee shall meet at least
6 annually.

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

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

14 b. Ensure Compact administration services are
15 appropriately provided, contractual or otherwise;

16 c. Prepare and recommend the budget;

17 d. Maintain financial records on behalf of the
18 Commission;

19 e. Monitor Compact compliance of Member States and
20 provide compliance reports to the Commission;

21 f. Establish additional committees as necessary;
22 and

23 g. Perform other duties as provided in Rules or
24 bylaws.

25 E. Meetings of the Commission

26 1. All meetings shall be open to the public, and

1 public notice of meetings shall be given in the same
2 manner as required under the Rulemaking provisions in
3 Section 11.

4 2. The Commission or the Executive Committee or other
5 committees of the Commission may convene in a closed,
6 nonpublic meeting if the Commission or Executive Committee
7 or other committees of the Commission must discuss:

8 a. Noncompliance of a Member State with its
9 obligations under the Compact;

10 b. The employment, compensation, discipline or
11 other matters, practices or procedures related to
12 specific employees or other matters related to the
13 Commission's internal personnel practices and
14 procedures;

15 c. Current, threatened, or reasonably anticipated
16 litigation;

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

19 e. Accusing any person of a crime or formally
20 censuring any person;

21 f. Disclosure of trade secrets or commercial or
22 financial information that is privileged or
23 confidential;

24 g. Disclosure of information of a personal nature
25 where disclosure would constitute a clearly
26 unwarranted invasion of personal privacy;

1 h. Disclosure of investigative records compiled
2 for law enforcement purposes;

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

8 j. Matters specifically exempted from disclosure
9 by federal or Member State statute.

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

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

24 F. Financing of the Commission

25 1. The Commission shall pay, or provide for the
26 payment of, the reasonable expenses of its establishment,

1 organization, and ongoing activities.

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

5 3. The Commission may levy on and collect an annual
6 assessment from each Member State or impose fees on other
7 parties to cover the cost of the operations and activities
8 of the Commission and its staff, which must be in a total
9 amount sufficient to cover its annual budget as approved
10 each year for which revenue is not provided by other
11 sources. The aggregate annual assessment amount shall be
12 allocated based upon a formula to be determined by the
13 Commission, which shall promulgate a Rule binding upon all
14 Member States.

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

20 5. The Commission shall keep accurate accounts of all
21 receipts and disbursements. The receipts and disbursements
22 of the Commission shall be subject to the audit and
23 accounting procedures established under its bylaws.
24 However, all receipts and disbursements of funds handled
25 by the Commission shall be audited yearly by a certified
26 or licensed public accountant, and the report of the audit

1 shall be included in and become part of the annual report
2 of the Commission.

3 G. Qualified Immunity, Defense, and Indemnification

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

18 2. The Commission shall defend any member, officer,
19 executive director, employee or representative of the
20 Commission in any civil action seeking to impose liability
21 arising out of any actual or alleged act, error, or
22 omission that occurred within the scope of Commission
23 employment, duties, or responsibilities, or that the
24 person against whom the claim is made had a reasonable
25 basis for believing occurred within the scope of
26 Commission employment, duties, or responsibilities;

1 provided that nothing herein shall be construed to
2 prohibit that person from retaining his or her own
3 counsel; and provided further, that the actual or alleged
4 act, error, or omission did not result from that person's
5 intentional, willful, or wanton misconduct.

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

18 SECTION 10. DATA SYSTEM

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

24 B. Notwithstanding any other provision of State law to the
25 contrary, a Member State shall submit a uniform data set to the

1 Data System on all individuals to whom this Compact is
2 applicable, as required by the Rules of the Commission,
3 including:

4 1. Identifying information;

5 2. Licensure data;

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

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

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

12 6. Current Significant Investigative Information; and

13 7. Other information that may facilitate the
14 administration of this Compact, as determined by the Rules
15 of the Commission.

16 C. Investigative Information pertaining to a Licensee in
17 any Member State will only be available to other Member
18 States.

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

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

1 State.

2 F. Any information submitted to the Data System that is
3 subsequently required to be expunged by the laws of the Member
4 State contributing the information shall be removed from the
5 Data System.

6 SECTION 11. RULEMAKING

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

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

18 C. If a majority of the legislatures of the Member States
19 rejects a Rule, by enactment of a statute or resolution in the
20 same manner used to adopt the Compact within 4 years of the
21 date of adoption of the Rule, then such Rule shall have no
22 further force and effect in any Member State.

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

25 E. Prior to promulgation and adoption of a final Rule or

1 Rules by the Commission, and at least 30 days in advance of the
2 meeting at which the Rule will be considered and voted upon,
3 the Commission shall file a Notice of Proposed Rulemaking:

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

6 2. On the website of each Member State Professional
7 Counseling Licensing Board or other publicly accessible
8 platform or the publication in which each State would
9 otherwise publish proposed Rules.

10 F. The Notice of Proposed Rulemaking shall include:

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

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

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

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

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

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

- 1 1. At least 25 persons;
- 2 2. A State or federal governmental subdivision or
- 3 agency; or
- 4 3. An association having at least 25 members.

5 I. If a hearing is held on the proposed Rule or amendment,
6 the Commission shall publish the place, time, and date of the
7 scheduled public hearing. If the hearing is held via
8 electronic means, the Commission shall publish the mechanism
9 for access to the electronic hearing.

10 1. All persons wishing to be heard at the hearing
11 shall notify the executive director of the Commission or
12 other designated member in writing of their desire to
13 appear and testify at the hearing not less than 5 business
14 days before the scheduled date of the hearing.

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

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

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

24 J. Following the scheduled hearing date, or by the close
25 of business on the scheduled hearing date if the hearing was
26 not held, the Commission shall consider all written and oral

1 comments received.

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

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

10 M. Upon determination that an emergency exists, the
11 Commission may consider and adopt an emergency Rule without
12 prior notice, opportunity for comment, or hearing, provided
13 that the usual Rulemaking procedures provided in the Compact
14 and in this section shall be retroactively applied to the Rule
15 as soon as reasonably possible, in no event later than 90 days
16 after the effective date of the Rule. For the purposes of this
17 provision, an emergency Rule is one that must be adopted
18 immediately in order to:

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

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

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

25 4. Protect public health and safety.

26 N. The Commission or an authorized committee of the

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

14 SECTION 12. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

15 A. Oversight

16 1. The executive, legislative, and judicial branches
17 of State government in each Member State shall enforce
18 this Compact and take all actions necessary and
19 appropriate to effectuate the Compact's purposes and
20 intent. The provisions of this Compact and the Rules
21 promulgated hereunder shall have standing as statutory
22 law.

23 2. All courts shall take judicial notice of the
24 Compact and the Rules in any judicial or administrative
25 proceeding in a Member State pertaining to the subject

1 matter of this Compact which may affect the powers,
2 responsibilities, or actions of the Commission.

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

9 B. Default, Technical Assistance, and Termination

10 1. If the Commission determines that a Member State
11 has defaulted in the performance of its obligations or
12 responsibilities under this Compact or the promulgated
13 Rules, the Commission shall:

14 a. Provide written notice to the defaulting State
15 and other Member States of the nature of the default,
16 the proposed means of curing the default or any other
17 action to be taken by the Commission; and

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

20 C. If a Member State in default fails to cure the default,
21 the defaulting Member State may be terminated from the Compact
22 upon an affirmative vote of a majority of the Member States,
23 and all rights, privileges and benefits conferred by this
24 Compact may be terminated on the effective date of
25 termination. A cure of the default does not relieve the
26 offending Member State of obligations or liabilities incurred

1 during the period of default.

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

8 E. A Member State that has been terminated is responsible
9 for all assessments, obligations, and liabilities incurred
10 through the effective date of termination, including
11 obligations that extend beyond the effective date of
12 termination.

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

17 G. The defaulting Member State may appeal the action of
18 the Commission by petitioning the U.S. District Court for the
19 District of Columbia or the federal district where the
20 Commission has its principal offices. The prevailing Member
21 State shall be awarded all costs of such litigation, including
22 reasonable attorney's fees.

23 H. Dispute Resolution

24 1. Upon request by a Member State, the Commission
25 shall attempt to resolve disputes related to the Compact
26 that arise among Member States and between Member and

1 non-Member States.

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

5 I. Enforcement

6 1. The Commission, in the reasonable exercise of its
7 discretion, shall enforce the provisions and Rules of this
8 Compact.

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

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

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

25 A. The Compact shall come into effect on the date on which

1 the Compact statute is enacted into law in the tenth Member
2 State. The provisions, which become effective at that time,
3 shall be limited to the powers granted to the Commission
4 relating to assembly and the promulgation of Rules.
5 Thereafter, the Commission shall meet and exercise Rulemaking
6 powers necessary to the implementation and administration of
7 the Compact.

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

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

16 1. A Member State's withdrawal shall not take effect
17 until 6 months after enactment of the repealing statute.

18 2. Withdrawal shall not affect the continuing
19 requirement of the withdrawing State's Professional
20 Counseling Licensing Board to comply with the
21 investigative and Adverse Action reporting requirements of
22 this Compact prior to the effective date of withdrawal.

23 D. Nothing contained in this Compact shall be construed to
24 invalidate or prevent any Professional Counseling licensure
25 agreement or other cooperative arrangement between a Member
26 State and a non-Member State that does not conflict with the

1 provisions of this Compact.

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

6 SECTION 14. CONSTRUCTION AND SEVERABILITY

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

21 SECTION 15. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

1 the Remote State.

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

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

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

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

12 F. In the event any provision of the Compact exceeds the
13 constitutional limits imposed on the legislature of any Member
14 State, the provision shall be ineffective to the extent of the
15 conflict with the constitutional provision in question in that
16 Member State.

17 Section 90. The Professional Counselor and Clinical
18 Professional Counselor Licensing and Practice Act is amended
19 by adding Section 12 as follows:

20 (225 ILCS 107/12 new)

21 Sec. 12. Counseling Compact.

22 (a) No later than 2 months after this Section's effective
23 date under this amendatory Act of the 103rd General Assembly,
24 the Board must submit a report to the General Assembly with

1 recommendations of any statutory changes and budgetary changes
2 needed to comply with the requirements of the Counseling
3 Compact that will be entered into pursuant to the Counseling
4 Compact Act.

5 (b) No later than 6 months after this Section's effective
6 date under this amendatory Act of the 103rd General Assembly,
7 the Board and the Department shall modify, if needed, the
8 Board's and the Department's rules to comply with the
9 requirements of the Counseling Compact that will be entered
10 into pursuant to the Counseling Compact Act.

11 Section 99. Effective date. This Section and Section 90
12 take effect upon becoming law.