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Senator Roegner

**Cosponsors: Senators Huffman, S., Antonio, Blessing, Cirino, Gavarone, Hackett,
Johnson, Lang, Maharath, McColley, O'Brien, Peterson, Reineke, Romanchuk,
Rulli, Thomas, Wilson**

A BILL

To enact sections 4757.50 and 4757.511 of the 1
Revised Code to enter into the Counseling 2
Compact. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4757.50 and 4757.511 of the 4
Revised Code be enacted to read as follows: 5

Sec. 4757.50. The "Counseling Compact" is hereby ratified, 6
enacted into law, and entered into by the state of Ohio as a 7
party to the compact with any other state that has legally 8
joined in the compact as follows: 9

COUNSELING COMPACT 10

SECTION 1: PURPOSE 11

The purpose of this Compact is to facilitate interstate 12
practice of Licensed Professional Counselors with the goal of 13
improving public access to Professional Counseling services. The 14
practice of Professional Counseling occurs in the State where 15
the client is located at the time of the counseling services. 16

The Compact preserves the regulatory authority of States to 17
protect public health and safety through the current system of 18
State licensure. 19

This Compact is designed to achieve the following 20
objectives: 21

A. Increase public access to Professional Counseling 22
services by providing for the mutual recognition of other Member 23
State licenses; 24

B. Enhance the States' ability to protect the public's 25
health and safety; 26

C. Encourage the cooperation of Member States in 27
regulating multistate practice for Licensed Professional 28
Counselors; 29

D. Support spouses of relocating Active Duty Military 30
personnel; 31

E. Enhance the exchange of licensure, investigative, and 32
disciplinary information among Member States; 33

F. Allow for the use of Telehealth technology to 34
facilitate increased access to Professional Counseling services; 35

G. Support the uniformity of Professional Counseling 36
licensure requirements throughout the States to promote public 37
safety and public health benefits; 38

H. Invest all Member States with the authority to hold a 39
Licensed Professional Counselor accountable for meeting all 40
State practice laws in the State in which the client is located 41
at the time care is rendered through the mutual recognition of 42
Member State licenses; 43

I. Eliminate the necessity for licenses in multiple States; and 44
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J. Provide opportunities for interstate practice by Licensed Professional Counselors who meet uniform licensure requirements. 46
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SECTION 2. DEFINITIONS 49

As used in this Compact, and except as otherwise provided, the following definitions shall apply: 50
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A. "Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211. 52
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B. "Adverse Action" means any administrative, civil, equitable or criminal action permitted by a State's laws which is imposed by a licensing board or other authority against a Licensed Professional Counselor, including actions against an individual's license or Privilege to Practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other Encumbrance on licensure affecting a Licensed Professional Counselor's authorization to practice, including issuance of a cease and desist action. 56
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C. "Alternative Program" means a non-disciplinary monitoring or practice remediation process approved by a Professional Counseling Licensing Board to address Impaired Practitioners. 66
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D. "Continuing Competence/Education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and 70
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professional activities relevant to practice or area of work. 73

E. "Counseling Compact Commission" or "Commission" means 74
the national administrative body whose membership consists of 75
all States that have enacted the Compact. 76

F. "Current Significant Investigative Information" means: 77

1. Investigative Information that a Licensing Board, after 78
a preliminary inquiry that includes notification and an 79
opportunity for the Licensed Professional Counselor to respond, 80
if required by State law, has reason to believe is not 81
groundless and, if proved true, would indicate more than a minor 82
infraction; or 83

2. Investigative Information that indicates that the 84
Licensed Professional Counselor represents an immediate threat 85
to public health and safety regardless of whether the Licensed 86
Professional Counselor has been notified and had an opportunity 87
to respond. 88

G. "Data System" means a repository of information about 89
Licensees, including, but not limited to, continuing education, 90
examination, licensure, investigative, Privilege to Practice and 91
Adverse Action information. 92

H. "Encumbered License" means a license in which an 93
Adverse Action restricts the practice of licensed Professional 94
Counseling by the Licensee and said Adverse Action has been 95
reported to the National Practitioners Data Bank (NPDB). 96

I. "Encumbrance" means a revocation or suspension of, or 97
any limitation on, the full and unrestricted practice of 98
Licensed Professional Counseling by a Licensing Board. 99

J. "Executive Committee" means a group of directors 100

electd or appointed to act on behalf of, and within the powers 101
granted to them by, the Commission. 102

K. "Home State" means the Member State that is the 103
Licensee's primary State of residence. 104

L. "Impaired Practitioner" means an individual who has a 105
condition(s) that may impair their ability to practice as a 106
Licensed Professional Counselor without some type of 107
intervention and may include, but are not limited to, alcohol 108
and drug dependence, mental health impairment, and neurological 109
or physical impairments. 110

M. "Investigative Information" means information, records, 111
and documents received or generated by a Professional Counseling 112
Licensing Board pursuant to an investigation. 113

N. "Jurisprudence Requirement" if required by a Member 114
State, means the assessment of an individual's knowledge of the 115
laws and Rules governing the practice of Professional Counseling 116
in a State. 117

O. "Licensed Professional Counselor" means a counselor 118
licensed by a Member State, regardless of the title used by that 119
State, to independently assess, diagnose, and treat behavioral 120
health conditions. 121

P. "Licensee" means an individual who currently holds an 122
authorization from the State to practice as a Licensed 123
Professional Counselor. 124

Q. "Licensing Board" means the agency of a State, or 125
equivalent, that is responsible for the licensing and regulation 126
of Licensed Professional Counselors. 127

R. "Member State" means a State that has enacted the 128

<u>Compact.</u>	129
<u>S. "Privilege to Practice" means a legal authorization,</u>	130
<u>which is equivalent to a license, permitting the practice of</u>	131
<u>Professional Counseling in a Remote State.</u>	132
<u>T. "Professional Counseling" means the assessment,</u>	133
<u>diagnosis, and treatment of behavioral health conditions by a</u>	134
<u>Licensed Professional Counselor.</u>	135
<u>U. "Remote State" means a Member State other than the Home</u>	136
<u>State, where a Licensee is exercising or seeking to exercise the</u>	137
<u>Privilege to Practice.</u>	138
<u>V. "Rule" means a regulation promulgated by the Commission</u>	139
<u>that has the force of law.</u>	140
<u>W. "Single State License" means a Licensed Professional</u>	141
<u>Counselor license issued by a Member State that authorizes</u>	142
<u>practice only within the issuing State and does not include a</u>	143
<u>Privilege to Practice in any other Member State.</u>	144
<u>X. "State" means any state, commonwealth, district, or</u>	145
<u>territory of the United States of America that regulates the</u>	146
<u>practice of Professional Counseling.</u>	147
<u>Y. "Telehealth" means the application of telecommunication</u>	148
<u>technology to deliver Professional Counseling services remotely</u>	149
<u>to assess, diagnose, and treat behavioral health conditions.</u>	150
<u>Z. "Unencumbered License" means a license that authorizes</u>	151
<u>a Licensed Professional Counselor to engage in the full and</u>	152
<u>unrestricted practice of Professional Counseling.</u>	153
<u>SECTION 3. STATE PARTICIPATION IN THE COMPACT</u>	154
<u>A. To Participate in the Compact, a State must currently:</u>	155

<u>1. License and regulate Licensed Professional Counselors;</u>	156
<u>2. Require Licensees to pass a nationally recognized exam approved by the Commission;</u>	157 158
<u>3. Require Licensees to have a 60 semester-hour (or 90 quarter-hour) master's degree in counseling or 60 semester-hours (or 90 quarter-hours) of graduate course work including the following topic areas:</u>	159 160 161 162
<u>a. Professional Counseling Orientation and Ethical Practice;</u>	163 164
<u>b. Social and Cultural Diversity;</u>	165
<u>c. Human Growth and Development;</u>	166
<u>d. Career Development;</u>	167
<u>e. Counseling and Helping Relationships;</u>	168
<u>f. Group Counseling and Group Work;</u>	169
<u>g. Diagnosis and Treatment; Assessment and Testing;</u>	170
<u>h. Research and Program Evaluation; and</u>	171
<u>i. Other areas as determined by the Commission.</u>	172
<u>4. Require Licensees to complete a supervised postgraduate professional experience as defined by the Commission;</u>	173 174
<u>5. Have a mechanism in place for receiving and investigating complaints about Licensees.</u>	175 176
<u>B. A Member State shall:</u>	177
<u>1. Participate fully in the Commission's Data System, including using the Commission's unique identifier as defined in Rules;</u>	178 179 180

2. Notify the Commission, in compliance with the terms of 181
the Compact and Rules, of any Adverse Action or the availability 182
of Investigative Information regarding a Licensee; 183

3. Implement or utilize procedures for considering the 184
criminal history records of applicants for an initial Privilege 185
to Practice. These procedures shall include the submission of 186
fingerprints or other biometric-based information by applicants 187
for the purpose of obtaining an applicant's criminal history 188
record information from the Federal Bureau of Investigation and 189
the agency responsible for retaining that State's criminal 190
records; 191

a. A member state must fully implement a criminal 192
background check requirement, within a time frame established by 193
rule, by receiving the results of the Federal Bureau of 194
Investigation record search and shall use the results in making 195
licensure decisions. 196

b. Communication between a Member State, the Commission 197
and among Member States regarding the verification of 198
eligibility for licensure through the Compact shall not include 199
any information received from the Federal Bureau of 200
Investigation relating to a federal criminal records check 201
performed by a Member State under Public Law 92-544. 202

4. Comply with the Rules of the Commission; 203

5. Require an applicant to obtain or retain a license in 204
the Home State and meet the Home State's qualifications for 205
licensure or renewal of licensure, as well as all other 206
applicable State laws; 207

6. Grant the Privilege to Practice to a Licensee holding a 208
valid Unencumbered License in another Member State in accordance 209

<u>with the terms of the Compact and Rules; and</u>	210
<u>7. Provide for the attendance of the State's commissioner</u>	211
<u>to the Counseling Compact Commission meetings.</u>	212
<u>C. Member States may charge a fee for granting the</u>	213
<u>Privilege to Practice.</u>	214
<u>D. Individuals not residing in a Member State shall</u>	215
<u>continue to be able to apply for a Member State's Single State</u>	216
<u>License as provided under the laws of each Member State.</u>	217
<u>However, the Single State License granted to these individuals</u>	218
<u>shall not be recognized as granting a Privilege to Practice</u>	219
<u>Professional Counseling in any other Member State.</u>	220
<u>E. Nothing in this Compact shall affect the requirements</u>	221
<u>established by a Member State for the issuance of a Single State</u>	222
<u>License.</u>	223
<u>F. A license issued to a Licensed Professional Counselor</u>	224
<u>by a Home State to a resident in that State shall be recognized</u>	225
<u>by each Member State as authorizing a Licensed Professional</u>	226
<u>Counselor to practice Professional Counseling, under a Privilege</u>	227
<u>to Practice, in each Member State.</u>	228
<u>SECTION 4. PRIVILEGE TO PRACTICE</u>	229
<u>A. To exercise the Privilege to Practice under the terms</u>	230
<u>and provisions of the Compact, the Licensee shall:</u>	231
<u>1. Hold a license in the Home State;</u>	232
<u>2. Have a valid United States Social Security Number or</u>	233
<u>National Practitioner Identifier;</u>	234
<u>3. Be eligible for a Privilege to Practice in any Member</u>	235
<u>State in accordance with Section 4(D), (G) and (H);</u>	236

<u>4. Have not had any Encumbrance or restriction against any</u>	237
<u>license or Privilege to Practice within the previous two (2)</u>	238
<u>years;</u>	239
<u>5. Notify the Commission that the Licensee is seeking the</u>	240
<u>Privilege to Practice within a Remote State(s);</u>	241
<u>6. Pay any applicable fees, including any State fee, for</u>	242
<u>the Privilege to Practice;</u>	243
<u>7. Meet any Continuing Competence/Education requirements</u>	244
<u>established by the Home State;</u>	245
<u>8. Meet any Jurisprudence Requirements established by the</u>	246
<u>Remote State(s) in which the Licensee is seeking a Privilege to</u>	247
<u>Practice; and</u>	248
<u>9. Report to the Commission any Adverse Action,</u>	249
<u>Encumbrance, or restriction on license taken by any non-Member</u>	250
<u>State within 30 days from the date the action is taken.</u>	251
<u>B. The Privilege to Practice is valid until the expiration</u>	252
<u>date of the Home State license. The Licensee must comply with</u>	253
<u>the requirements of Section 4(A) to maintain the Privilege to</u>	254
<u>Practice in the Remote State.</u>	255
<u>C. A Licensee providing Professional Counseling in a</u>	256
<u>Remote State under the Privilege to Practice shall adhere to the</u>	257
<u>laws and regulations of the Remote State.</u>	258
<u>D. A Licensee providing Professional Counseling services</u>	259
<u>in a Remote State is subject to that State's regulatory</u>	260
<u>authority. A Remote State may, in accordance with due process</u>	261
<u>and that State's laws, remove a Licensee's Privilege to Practice</u>	262
<u>in the Remote State for a specific period of time, impose fines,</u>	263
<u>and/or take any other necessary actions to protect the health</u>	264

and safety of its citizens. The Licensee may be ineligible for a 265
Privilege to Practice in any Member State until the specific 266
time for removal has passed and all fines are paid. 267

E. If a Home State license is encumbered, the Licensee 268
shall lose the Privilege to Practice in any Remote State until 269
the following occur: 270

1. The Home State license is no longer encumbered; and 271

2. Have not had any Encumbrance or restriction against any 272
license or Privilege to Practice within the previous two (2) 273
years. 274

F. Once an Encumbered License in the Home State is 275
restored to good standing, the Licensee must meet the 276
requirements of Section 4(A) to obtain a Privilege to Practice 277
in any Remote State. 278

G. If a Licensee's Privilege to Practice in any Remote 279
State is removed, the individual may lose the Privilege to 280
Practice in all other Remote States until the following occur: 281

1. The specific period of time for which the Privilege to 282
Practice was removed has ended; 283

2. All fines have been paid; and 284

3. Have not had any Encumbrance or restriction against any 285
license or Privilege to Practice within the previous two (2) 286
years. 287

H. Once the requirements of Section 4(G) have been met, 288
the Licensee must meet the requirements in Section 4(A) to 289
obtain a Privilege to Practice in a Remote State. 290

SECTION 5: OBTAINING A NEW HOME STATE LICENSE BASED ON A 291

<u>PRIVILEGE TO PRACTICE</u>	292
<u>A. A Licensed Professional Counselor may hold a Home State</u>	293
<u>license, which allows for a Privilege to Practice in other</u>	294
<u>Member States, in only one Member State at a time.</u>	295
<u>B. If a Licensed Professional Counselor changes primary</u>	296
<u>State of residence by moving between two Member States:</u>	297
<u>1. The Licensed Professional Counselor shall file an</u>	298
<u>application for obtaining a new Home State license based on a</u>	299
<u>Privilege to Practice, pay all applicable fees, and notify the</u>	300
<u>current and new Home State in accordance with applicable Rules</u>	301
<u>adopted by the Commission.</u>	302
<u>2. Upon receipt of an application for obtaining a new Home</u>	303
<u>State license by virtue of a Privilege to Practice, the new Home</u>	304
<u>State shall verify that the Licensed Professional Counselor</u>	305
<u>meets the pertinent criteria outlined in Section 4 via the Data</u>	306
<u>System, without need for primary source verification except for:</u>	307
<u>a. a Federal Bureau of Investigation fingerprint based</u>	308
<u>criminal background check if not previously performed or updated</u>	309
<u>pursuant to applicable rules adopted by the Commission in</u>	310
<u>accordance with Public Law 92-544;</u>	311
<u>b. other criminal background check as required by the new</u>	312
<u>Home State; and</u>	313
<u>c. completion of any requisite Jurisprudence Requirements</u>	314
<u>of the new Home State.</u>	315
<u>3. The former Home State shall convert the former Home</u>	316
<u>State license into a Privilege to Practice once the new Home</u>	317
<u>State has activated the new Home State license in accordance</u>	318
<u>with applicable Rules adopted by the Commission.</u>	319

4. Notwithstanding any other provision of this Compact, if the Licensed Professional Counselor cannot meet the criteria in Section 4, the new Home State may apply its requirements for issuing a new Single State License. 320
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5. The Licensed Professional Counselor shall pay all applicable fees to the new Home State in order to be issued a new Home State license. 324
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C. If a Licensed Professional Counselor changes Primary State of Residence by moving from a Member State to a non-Member State, or from a non-Member State to a Member State, the State criteria shall apply for issuance of a Single State License in the new State. 327
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D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State License in multiple States, however for the purposes of this Compact, a Licensee shall have only one Home State license. 332
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E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License. 336
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SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES 339

Active Duty Military personnel, or their spouse, shall designate a Home State where the individual has a current license in good standing. The individual may retain the Home State designation during the period the service member is on active duty. Subsequent to designating a Home State, the individual shall only change their Home State through application for licensure in the new State, or through the process outlined in Section 5. 340
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SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH 348

A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Section 3 and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission. 349
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B. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State. 355
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SECTION 8. ADVERSE ACTIONS 358

A. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to: 359
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1. Take Adverse Action against a Licensed Professional Counselor's Privilege to Practice within that Member State, and 362
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2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Board in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State in which the witnesses or evidence are located. 364
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3. Only the Home State shall have the power to take Adverse Action against a Licensed Professional Counselor's 376
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license issued by the Home State. 378

B. For purposes of taking Adverse Action, the Home State 379
shall give the same priority and effect to reported conduct 380
received from a Member State as it would if the conduct had 381
occurred within the Home State. In so doing, the Home State 382
shall apply its own State laws to determine appropriate action. 383

C. The Home State shall complete any pending 384
investigations of a Licensed Professional Counselor who changes 385
primary State of residence during the course of the 386
investigations. The Home State shall also have the authority to 387
take appropriate action(s) and shall promptly report the 388
conclusions of the investigations to the administrator of the 389
Data System. The administrator of the coordinated licensure 390
information system shall promptly notify the new Home State of 391
any Adverse Actions. 392

D. A Member State, if otherwise permitted by State law, 393
may recover from the affected Licensed Professional Counselor 394
the costs of investigations and dispositions of cases resulting 395
from any Adverse Action taken against that Licensed Professional 396
Counselor. 397

E. A Member State may take Adverse Action based on the 398
factual findings of the Remote State, provided that the Member 399
State follows its own procedures for taking the Adverse Action. 400

F. Joint Investigations: 401

1. In addition to the authority granted to a Member State 402
by its respective Professional Counseling practice act or other 403
applicable State law, any Member State may participate with 404
other Member States in joint investigations of Licensees. 405

2. Member States shall share any investigative, 406

litigation, or compliance materials in furtherance of any joint 407
or individual investigation initiated under the Compact. 408

G. If Adverse Action is taken by the Home State against 409
the license of a Licensed Professional Counselor, the Licensed 410
Professional Counselor's Privilege to Practice in all other 411
Member States shall be deactivated until all Encumbrances have 412
been removed from the State license. All Home State disciplinary 413
orders that impose Adverse Action against the license of a 414
Licensed Professional Counselor shall include a Statement that 415
the Licensed Professional Counselor's Privilege to Practice is 416
deactivated in all Member States during the pendency of the 417
order. 418

H. If a Member State takes Adverse Action, it shall 419
promptly notify the administrator of the Data System. The 420
administrator of the Data System shall promptly notify the Home 421
State of any Adverse Actions by Remote States. 422

I. Nothing in this Compact shall override a Member State's 423
decision that participation in an Alternative Program may be 424
used in lieu of Adverse Action. 425

SECTION 9. ESTABLISHMENT OF COUNSELING COMPACT COMMISSION 426

A. The Compact Member States hereby create and establish a 427
joint public agency known as the Counseling Compact Commission: 428

1. The Commission is an instrumentality of the Compact 429
States. 430

2. Venue is proper and judicial proceedings by or against 431
the Commission shall be brought solely and exclusively in a 432
court of competent jurisdiction where the principal office of 433
the Commission is located. The Commission may waive venue and 434
jurisdictional defenses to the extent it adopts or consents to 435

<u>participate in alternative dispute resolution proceedings.</u>	436
<u>3. Nothing in this Compact shall be construed to be a</u>	437
<u>waiver of sovereign immunity.</u>	438
<u>B. Membership, Voting, and Meetings</u>	439
<u>1. Each Member State shall have and be limited to one (1)</u>	440
<u>delegate selected by that Member State's Licensing Board.</u>	441
<u>2. The delegate shall be either:</u>	442
<u>a. A current member of the Licensing Board at the time of</u>	443
<u>appointment, who is a Licensed Professional Counselor or public</u>	444
<u>member; or</u>	445
<u>b. An administrator of the Licensing Board.</u>	446
<u>3. Any delegate may be removed or suspended from office as</u>	447
<u>provided by the law of the State from which the delegate is</u>	448
<u>appointed.</u>	449
<u>4. The Member State Licensing Board shall fill any vacancy</u>	450
<u>occurring on the Commission within 60 days.</u>	451
<u>5. Each delegate shall be entitled to one (1) vote with</u>	452
<u>regard to the promulgation of Rules and creation of bylaws and</u>	453
<u>shall otherwise have an opportunity to participate in the</u>	454
<u>business and affairs of the Commission.</u>	455
<u>6. A delegate shall vote in person or by such other means</u>	456
<u>as provided in the bylaws. The bylaws may provide for delegates'</u>	457
<u>participation in meetings by telephone or other means of</u>	458
<u>communication.</u>	459
<u>7. The Commission shall meet at least once during each</u>	460
<u>calendar year. Additional meetings shall be held as set forth in</u>	461
<u>the bylaws.</u>	462

<u>8. The Commission shall by Rule establish a term of office</u>	463
<u>for delegates and may by Rule establish term limits.</u>	464
<u>C. The Commission shall have the following powers and</u>	465
<u>duties:</u>	466
<u>1. Establish the fiscal year of the Commission;</u>	467
<u>2. Establish bylaws;</u>	468
<u>3. Maintain its financial records in accordance with the</u>	469
<u>bylaws;</u>	470
<u>4. Meet and take such actions as are consistent with the</u>	471
<u>provisions of this Compact and the bylaws;</u>	472
<u>5. Promulgate Rules which shall be binding to the extent</u>	473
<u>and in the manner provided for in the Compact;</u>	474
<u>6. Bring and prosecute legal proceedings or actions in the</u>	475
<u>name of the Commission, provided that the standing of any State</u>	476
<u>Licensing Board to sue or be sued under applicable law shall not</u>	477
<u>be affected;</u>	478
<u>7. Purchase and maintain insurance and bonds;</u>	479
<u>8. Borrow, accept, or contract for services of personnel,</u>	480
<u>including, but not limited to, employees of a Member State;</u>	481
<u>9. Hire employees, elect or appoint officers, fix</u>	482
<u>compensation, define duties, grant such individuals appropriate</u>	483
<u>authority to carry out the purposes of the Compact, and</u>	484
<u>establish the Commission's personnel policies and programs</u>	485
<u>relating to conflicts of interest, qualifications of personnel,</u>	486
<u>and other related personnel matters;</u>	487
<u>10. Accept any and all appropriate donations and grants of</u>	488
<u>money, equipment, supplies, materials, and services, and to</u>	489

receive, utilize, and dispose of the same; provided that at all 490
times the Commission shall avoid any appearance of impropriety 491
and/or conflict of interest; 492

11. Lease, purchase, accept appropriate gifts or donations 493
of, or otherwise to own, hold, improve or use, any property, 494
real, personal or mixed; provided that at all times the 495
Commission shall avoid any appearance of impropriety; 496

12. Sell convey, mortgage, pledge, lease, exchange, 497
abandon, or otherwise dispose of any property real, personal, or 498
mixed; 499

13. Establish a budget and make expenditures; 500

14. Borrow money; 501

15. Appoint committees, including standing committees 502
composed of members, State regulators, State legislators or 503
their representatives, and consumer representatives, and such 504
other interested persons as may be designated in this Compact 505
and the bylaws; 506

16. Provide and receive information from, and cooperate 507
with, law enforcement agencies; 508

17. Establish and elect an Executive Committee; and 509

18. Perform such other functions as may be necessary or 510
appropriate to achieve the purposes of this Compact consistent 511
with the State regulation of Professional Counseling licensure 512
and practice. 513

D. The Executive Committee 514

1. The Executive Committee shall have the power to act on 515
behalf of the Commission according to the terms of this Compact. 516

<u>2. The Executive Committee shall be composed of up to</u>	517
<u>eleven (11) members:</u>	518
<u>a. Seven voting members who are elected by the Commission</u>	519
<u>from the current membership of the Commission; and</u>	520
<u>b. Up to four (4) ex-officio, nonvoting members from four</u>	521
<u>(4) recognized national professional counselor organizations.</u>	522
<u>c. The ex-officio members will be selected by their</u>	523
<u>respective organizations.</u>	524
<u>3. The Commission may remove any member of the Executive</u>	525
<u>Committee as provided in bylaws.</u>	526
<u>4. The Executive Committee shall meet at least annually.</u>	527
<u>5. The Executive Committee shall have the following duties</u>	528
<u>and responsibilities:</u>	529
<u>a. Recommend to the entire Commission changes to the Rules</u>	530
<u>or bylaws, changes to this Compact legislation, fees paid by</u>	531
<u>Compact Member States such as annual dues, and any Commission</u>	532
<u>Compact fee charged to Licensees for the Privilege to Practice;</u>	533
<u>b. Ensure Compact administration services are</u>	534
<u>appropriately provided, contractual or otherwise;</u>	535
<u>c. Prepare and recommend the budget;</u>	536
<u>d. Maintain financial records on behalf of the Commission;</u>	537
<u>e. Monitor Compact compliance of Member States and provide</u>	538
<u>compliance reports to the Commission;</u>	539
<u>f. Establish additional committees as necessary; and</u>	540
<u>g. Other duties as provided in Rules or bylaws.</u>	541
<u>E. Meetings of the Commission</u>	542

<u>1. All meetings shall be open to the public, and public</u>	543
<u>notice of meetings shall be given in the same manner as required</u>	544
<u>under the Rulemaking provisions in Section 11.</u>	545
<u>2. The Commission or the Executive Committee or other</u>	546
<u>committees of the Commission may convene in a closed, non-public</u>	547
<u>meeting if the Commission or Executive Committee or other</u>	548
<u>committees of the Commission must discuss:</u>	549
<u>a. Non-compliance of a Member State with its obligations</u>	550
<u>under the Compact;</u>	551
<u>b. The employment, compensation, discipline or other</u>	552
<u>matters, practices or procedures related to specific employees</u>	553
<u>or other matters related to the Commissions internal personnel</u>	554
<u>practices and procedures;</u>	555
<u>c. Current, threatened, or reasonably anticipated</u>	556
<u>litigation;</u>	557
<u>d. Negotiation of contracts for the purchase, lease, or</u>	558
<u>sale of goods, services, or real estate;</u>	559
<u>e. Accusing any person of a crime or formally censuring</u>	560
<u>any person;</u>	561
<u>f. Disclosure of trade secrets or commercial or financial</u>	562
<u>information that is privileged or confidential;</u>	563
<u>g. Disclosure of information of a personal nature where</u>	564
<u>disclosure would constitute a clearly unwarranted invasion of</u>	565
<u>personal privacy;</u>	566
<u>h. Disclosure of investigative records compiled for law</u>	567
<u>enforcement purposes;</u>	568
<u>i. Disclosure of information related to any investigative</u>	569

reports prepared by or on behalf of or for use of the Commission 570
or other committee charged with responsibility of investigation 571
or determination of compliance issues pursuant to the Compact; 572
or 573

j. Matters specifically exempted from disclosure by 574
federal or Member State statute. 575

3. If a meeting, or portion of a meeting, is closed 576
pursuant to this provision, the Commission's legal counsel or 577
designee shall certify that the meeting may be closed and shall 578
reference each relevant exempting provision. 579

4. The Commission shall keep minutes that fully and 580
clearly describe all matters discussed in a meeting and shall 581
provide a full and accurate summary of actions taken, and the 582
reasons therefore, including a description of the views 583
expressed. All documents considered in connection with an action 584
shall be identified in such minutes. All minutes and documents 585
of a closed meeting shall remain under seal, subject to release 586
by a majority vote of the Commission or order of a court of 587
competent jurisdiction. 588

F. Financing of the Commission 589

1. The Commission shall pay, or provide for the payment 590
of, the reasonable expenses of its establishment, organization, 591
and ongoing activities. 592

2. The Commission may accept any and all appropriate 593
revenue sources, donations, and grants of money, equipment, 594
supplies, materials, and services. 595

3. The Commission may levy on and collect an annual 596
assessment from each Member State or impose fees on other 597
parties to cover the cost of the operations and activities of 598

the Commission and its staff, which must be in a total amount 599
sufficient to cover its annual budget as approved each year for 600
which revenue is not provided by other sources. The aggregate 601
annual assessment amount shall be allocated based upon a formula 602
to be determined by the Commission, which shall promulgate a 603
Rule binding upon all Member States. 604

4. The Commission shall not incur obligations of any kind 605
prior to securing the funds adequate to meet the same; nor shall 606
the Commission pledge the credit of any of the Member States, 607
except by and with the authority of the Member State. 608

5. The Commission shall keep accurate accounts of all 609
receipts and disbursements. The receipts and disbursements of 610
the Commission shall be subject to the audit and accounting 611
procedures established under its bylaws. However, all receipts 612
and disbursements of funds handled by the Commission shall be 613
audited yearly by a certified or licensed public accountant, and 614
the report of the audit shall be included in and become part of 615
the annual report of the Commission. 616

G. Qualified Immunity, Defense, and Indemnification 617

1. The members, officers, executive director, employees 618
and representatives of the Commission shall be immune from suit 619
and liability, either personally or in their official capacity, 620
for any claim for damage to or loss of property or personal 621
injury or other civil liability caused by or arising out of any 622
actual or alleged act, error or omission that occurred, or that 623
the person against whom the claim is made had a reasonable basis 624
for believing occurred within the scope of Commission 625
employment, duties or responsibilities; provided that nothing in 626
this paragraph shall be construed to protect any such person 627
from suit and/or liability for any damage, loss, injury, or 628

liability caused by the intentional or willful or wanton 629
misconduct of that person. 630

2. The Commission shall defend any member, officer, 631
executive director, employee or representative of the Commission 632
in any civil action seeking to impose liability arising out of 633
any actual or alleged act, error, or omission that occurred 634
within the scope of Commission employment, duties, or 635
responsibilities, or that the person against whom the claim is 636
made had a reasonable basis for believing occurred within the 637
scope of Commission employment, duties, or responsibilities; 638
provided that nothing herein shall be construed to prohibit that 639
person from retaining his or her own counsel; and provided 640
further, that the actual or alleged act, error, or omission did 641
not result from that persons intentional or willful or wanton 642
misconduct. 643

3. The Commission shall indemnify and hold harmless any 644
member, officer, executive director, employee, or representative 645
of the Commission for the amount of any settlement or judgment 646
obtained against that person arising out of any actual or 647
alleged act, error, or omission that occurred within the scope 648
of Commission employment, duties, or responsibilities, or that 649
such person had a reasonable basis for believing occurred within 650
the scope of Commission employment, duties, or responsibilities, 651
provided that the actual or alleged act, error, or omission did 652
not result from the intentional or willful or wanton misconduct 653
of that person. 654

SECTION 10. DATA SYSTEM 655

A. The Commission shall provide for the development, 656
maintenance, operation, and utilization of a coordinated 657
database and reporting system containing licensure, Adverse 658

<u>Action, and Investigative Information on all licensed</u>	659
<u>individuals in Member States.</u>	660
<u>B. Notwithstanding any other provision of State law to the</u>	661
<u>contrary, a Member State shall submit a uniform data set to the</u>	662
<u>Data System on all individuals to whom this Compact is</u>	663
<u>applicable as required by the Rules of the Commission,</u>	664
<u>including:</u>	665
<u>1. Identifying information;</u>	666
<u>2. Licensure data;</u>	667
<u>3. Adverse Actions against a license or Privilege to</u>	668
<u>Practice;</u>	669
<u>4. Non-confidential information related to Alternative</u>	670
<u>Program participation;</u>	671
<u>5. Any denial of application for licensure, and the</u>	672
<u>reason(s) for such denial;</u>	673
<u>6. Current Significant Investigative Information; and</u>	674
<u>7. Other information that may facilitate the</u>	675
<u>administration of this Compact, as determined by the Rules of</u>	676
<u>the Commission.</u>	677
<u>C. Investigative Information pertaining to a Licensee in</u>	678
<u>any Member State will only be available to other Member States.</u>	679
<u>D. The Commission shall promptly notify all Member States</u>	680
<u>of any Adverse Action taken against a Licensee or an individual</u>	681
<u>applying for a license. Adverse Action information pertaining to</u>	682
<u>a Licensee in any Member State will be available to any other</u>	683
<u>Member State.</u>	684
<u>E. Member States contributing information to the Data</u>	685

System may designate information that may not be shared with the 686
public without the express permission of the contributing State. 687

F. Any information submitted to the Data System that is 688
subsequently required to be expunged by the laws of the Member 689
State contributing the information shall be removed from the 690
Data System. 691

SECTION 11. RULEMAKING 692

A. The Commission shall promulgate reasonable Rules in 693
order to effectively and efficiently achieve the purpose of the 694
Compact. Notwithstanding the foregoing, in the event the 695
Commission exercises its Rulemaking authority in a manner that 696
is beyond the scope of the purposes of the Compact, or the 697
powers granted hereunder, then such an action by the Commission 698
shall be invalid and have no force or effect. 699

B. The Commission shall exercise its Rulemaking powers 700
pursuant to the criteria set forth in this Section and the Rules 701
adopted thereunder. Rules and amendments shall become binding as 702
of the date specified in each Rule or amendment. 703

C. If a majority of the legislatures of the Member States 704
rejects a Rule, by enactment of a statute or resolution in the 705
same manner used to adopt the Compact within four (4) years of 706
the date of adoption of the Rule, then such Rule shall have no 707
further force and effect in any Member State. 708

D. Rules or amendments to the Rules shall be adopted at a 709
regular or special meeting of the Commission. 710

E. Prior to promulgation and adoption of a final Rule or 711
Rules by the Commission, and at least thirty (30) days in 712
advance of the meeting at which the Rule will be considered and 713
voted upon, the Commission shall file a Notice of Proposed 714

<u>Rulemaking:</u>	715
<u>1. On the website of the Commission or other publicly accessible platform; and</u>	716 717
<u>2. On the website of each Member State Professional Counseling Licensing Board or other publicly accessible platform or the publication in which each State would otherwise publish proposed Rules.</u>	718 719 720 721
<u>F. The Notice of Proposed Rulemaking shall include:</u>	722
<u>1. The proposed time, date, and location of the meeting in which the Rule will be considered and voted upon;</u>	723 724
<u>2. The text of the proposed Rule or amendment and the reason for the proposed Rule;</u>	725 726
<u>3. A request for comments on the proposed Rule from any interested person; and</u>	727 728
<u>4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.</u>	729 730 731
<u>G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.</u>	732 733 734
<u>H. The Commission shall grant an opportunity for a public hearing before it adopts a Rule or amendment if a hearing is requested by:</u>	735 736 737
<u>1. At least twenty-five (25) persons;</u>	738
<u>2. A State or federal governmental subdivision or agency;</u> <u>or</u>	739 740
<u>3. An association having at least twenty-five (25)</u>	741

members. 742

I. If a hearing is held on the proposed Rule or amendment, 743
the Commission shall publish the place, time, and date of the 744
scheduled public hearing. If the hearing is held via electronic 745
means, the Commission shall publish the mechanism for access to 746
the electronic hearing. 747

1. All persons wishing to be heard at the hearing shall 748
notify the executive director of the Commission or other 749
designated member in writing of their desire to appear and 750
testify at the hearing not less than five (5) business days 751
before the scheduled date of the hearing. 752

2. Hearings shall be conducted in a manner providing each 753
person who wishes to comment a fair and reasonable opportunity 754
to comment orally or in writing. 755

3. All hearings will be recorded. A copy of the recording 756
will be made available on request. 757

4. Nothing in this section shall be construed as requiring 758
a separate hearing on each Rule. Rules may be grouped for the 759
convenience of the Commission at hearings required by this 760
section. 761

J. Following the scheduled hearing date, or by the close 762
of business on the scheduled hearing date if the hearing was not 763
held, the Commission shall consider all written and oral 764
comments received. 765

K. If no written notice of intent to attend the public 766
hearing by interested parties is received, the Commission may 767
proceed with promulgation of the proposed Rule without a public 768
hearing. 769

L. The Commission shall, by majority vote of all members, 770
take final action on the proposed Rule and shall determine the 771
effective date of the Rule, if any, based on the Rulemaking 772
record and the full text of the Rule. 773

M. Upon determination that an emergency exists, the 774
Commission may consider and adopt an emergency Rule without 775
prior notice, opportunity for comment, or hearing, provided that 776
the usual Rulemaking procedures provided in the Compact and in 777
this section shall be retroactively applied to the Rule as soon 778
as reasonably possible, in no event later than ninety (90) days 779
after the effective date of the Rule. For the purposes of this 780
provision, an emergency Rule is one that must be adopted 781
immediately in order to: 782

1. Meet an imminent threat to public health, safety, or 783
welfare; 784

2. Prevent a loss of Commission or Member State funds; 785

3. Meet a deadline for the promulgation of an 786
administrative Rule that is established by federal law or Rule; 787
or 788

4. Protect public health and safety. 789

N. The Commission or an authorized committee of the 790
Commission may direct revisions to a previously adopted Rule or 791
amendment for purposes of correcting typographical errors, 792
errors in format, errors in consistency, or grammatical errors. 793
Public notice of any revisions shall be posted on the website of 794
the Commission. The revision shall be subject to challenge by 795
any person for a period of thirty (30) days after posting. The 796
revision may be challenged only on grounds that the revision 797
results in a material change to a Rule. A challenge shall be 798

made in writing and delivered to the chair of the Commission 799
prior to the end of the notice period. If no challenge is made, 800
the revision will take effect without further action. If the 801
revision is challenged, the revision may not take effect without 802
the approval of the Commission. 803

SECTION 12. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT 804

A. Oversight 805

1. The executive, legislative, and judicial branches of 806
State government in each Member State shall enforce this Compact 807
and take all actions necessary and appropriate to effectuate the 808
Compacts purposes and intent. The provisions of this Compact and 809
the Rules promulgated hereunder shall have standing as statutory 810
law. 811

2. All courts shall take judicial notice of the Compact 812
and the Rules in any judicial or administrative proceeding in a 813
Member State pertaining to the subject matter of this Compact 814
which may affect the powers, responsibilities, or actions of the 815
Commission. 816

3. The Commission shall be entitled to receive service of 817
process in any such proceeding and shall have standing to 818
intervene in such a proceeding for all purposes. Failure to 819
provide service of process to the Commission shall render a 820
judgment or order void as to the Commission, this Compact, or 821
promulgated Rules. 822

B. Default, Technical Assistance, and Termination 823

1. If the Commission determines that a Member State has 824
defaulted in the performance of its obligations or 825
responsibilities under this Compact or the promulgated Rules, 826
the Commission shall: 827

a. Provide written notice to the defaulting State and 828
other Member States of the nature of the default, the proposed 829
means of curing the default and/or any other action to be taken 830
by the Commission; and 831

b. Provide remedial training and specific technical 832
assistance regarding the default. 833

c. If a State in default fails to cure the default, the 834
defaulting State may be terminated from the Compact upon an 835
affirmative vote of a majority of the Member States, and all 836
rights, privileges and benefits conferred by this Compact may be 837
terminated on the effective date of termination. A cure of the 838
default does not relieve the offending State of obligations or 839
liabilities incurred during the period of default. 840

d. Termination of membership in the Compact shall be 841
imposed only after all other means of securing compliance have 842
been exhausted. Notice of intent to suspend or terminate shall 843
be given by the Commission to the governor, the majority and 844
minority leaders of the defaulting States legislature, and each 845
of the Member States. 846

e. A State that has been terminated is responsible for all 847
assessments, obligations, and liabilities incurred through the 848
effective date of termination, including obligations that extend 849
beyond the effective date of termination. 850

f. The Commission shall not bear any costs related to a 851
State that is found to be in default or that has been terminated 852
from the Compact, unless agreed upon in writing between the 853
Commission and the defaulting State. 854

g. The defaulting State may appeal the action of the 855
Commission by petitioning the U.S. District Court for the 856

District of Columbia or the federal district where the 857
Commission has its principal offices. The prevailing member 858
shall be awarded all costs of such litigation, including 859
reasonable attorneys fees. 860

H. Dispute Resolution 861

1. Upon request by a Member State, the Commission shall 862
attempt to resolve disputes related to the Compact that arise 863
among Member States and between member and non-Member States. 864

2. The Commission shall promulgate a Rule providing for 865
both mediation and binding dispute resolution for disputes as 866
appropriate. 867

I. Enforcement 868

1. The Commission, in the reasonable exercise of its 869
discretion, shall enforce the provisions and Rules of this 870
Compact. 871

2. By majority vote, the Commission may initiate legal 872
action in the United States District Court for the District of 873
Columbia or the federal district where the Commission has its 874
principal offices against a Member State in default to enforce 875
compliance with the provisions of the Compact and its 876
promulgated Rules and bylaws. The relief sought may include both 877
injunctive relief and damages. In the event judicial enforcement 878
is necessary, the prevailing member shall be awarded all costs 879
of such litigation, including reasonable attorneys fees. 880

3. The remedies herein shall not be the exclusive remedies 881
of the Commission. The Commission may pursue any other remedies 882
available under federal or State law. 883

SECTION 13. DATE OF IMPLEMENTATION OF THE COUNSELING 884

COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND 885

AMENDMENT 886

A. The Compact shall come into effect on the date on which 887
the Compact statute is enacted into law in the tenth Member 888
State. The provisions, which become effective at that time, 889
shall be limited to the powers granted to the Commission 890
relating to assembly and the promulgation of Rules. Thereafter, 891
the Commission shall meet and exercise Rulemaking powers 892
necessary to the implementation and administration of the 893
Compact. 894

B. Any State that joins the Compact subsequent to the 895
Commissions initial adoption of the Rules shall be subject to 896
the Rules as they exist on the date on which the Compact becomes 897
law in that State. Any Rule that has been previously adopted by 898
the Commission shall have the full force and effect of law on 899
the day the Compact becomes law in that State. 900

C. Any Member State may withdraw from this Compact by 901
enacting a statute repealing the same. 902

1. A Member State's withdrawal shall not take effect until 903
six (6) months after enactment of the repealing statute. 904

2. Withdrawal shall not affect the continuing requirement 905
of the withdrawing States Professional Counseling Licensing 906
Board to comply with the investigative and Adverse Action 907
reporting requirements of this act prior to the effective date 908
of withdrawal. 909

D. Nothing contained in this Compact shall be construed to 910
invalidate or prevent any Professional Counseling licensure 911
agreement or other cooperative arrangement between a Member 912
State and a non-Member State that does not conflict with the 913

provisions of this Compact. 914

E. This Compact may be amended by the Member States. No 915
amendment to this Compact shall become effective and binding 916
upon any Member State until it is enacted into the laws of all 917
Member States. 918

SECTION 14. CONSTRUCTION AND SEVERABILITY 919

This Compact shall be liberally construed so as to 920
effectuate the purposes thereof. The provisions of this Compact 921
shall be severable and if any phrase, clause, sentence or 922
provision of this Compact is declared to be contrary to the 923
constitution of any Member State or of the United States or the 924
applicability thereof to any government, agency, person or 925
circumstance is held invalid, the validity of the remainder of 926
this Compact and the applicability thereof to any government, 927
agency, person or circumstance shall not be affected thereby. If 928
this Compact shall be held contrary to the constitution of any 929
Member State, the Compact shall remain in full force and effect 930
as to the remaining Member States and in full force and effect 931
as to the Member State affected as to all severable matters. 932

SECTION 15. BINDING EFFECT OF COMPACT AND OTHER LAWS 933

A. A Licensee providing Professional Counseling services 934
in a Remote State under the Privilege to Practice shall adhere 935
to the laws and regulations, including scope of practice, of the 936
Remote State. 937

B. Nothing herein prevents the enforcement of any other 938
law of a Member State that is not inconsistent with the Compact. 939

C. Any laws in a Member State in conflict with the Compact 940
are superseded to the extent of the conflict. 941

D. Any lawful actions of the Commission, including all 942
Rules and bylaws properly promulgated by the Commission, are 943
binding upon the Member States. 944

E. All permissible agreements between the Commission and 945
the Member States are binding in accordance with their terms. 946

F. In the event any provision of the Compact exceeds the 947
constitutional limits imposed on the legislature of any Member 948
State, the provision shall be ineffective to the extent of the 949
conflict with the constitutional provision in question in that 950
Member State. 951

Sec. 4757.511. Not later than sixty days after the 952
"Counseling Compact" is entered into under section 4757.51 of 953
the Revised Code, the counselor, social worker, and marriage and 954
family therapist board, in accordance with section 9 of the 955
compact, shall select an individual to serve as a delegate to 956
the counseling compact commission created under the compact. The 957
board shall fill a vacancy in this position not later than sixty 958
days after the vacancy occurs. 959