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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 Representatives Pavliga, Abrams, Addison, Blackshear, Brent, Brown, Carruthers, Cutrona, Edwards, Fowler Arthur, Galonski, Grendell, Gross, Hall, Hicks-Hudson, Hillyer, Hoops, Humphrey, Jarrells, Jones, Lampton, Lanese, LaRe, Leland, Lepore-Hagan, Lightbody, Liston, Loychik, Miller, A., Miranda, O'Brien, Patton, Plummer, Richardson, Riedel, Roemer, Russo, Schmidt, Seitz, Sheehy, Smith, M., SobECKi, Stein, Upchurch, Weinstein, West, White, Young, T.

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 44
States; and 45

J. Provide opportunities for interstate practice by 46
Licensed Professional Counselors who meet uniform licensure 47
requirements. 48

SECTION 2. DEFINITIONS 49

As used in this Compact, and except as otherwise provided, 50
the following definitions shall apply: 51

A. "Active Duty Military" means full-time duty status in 52
the active uniformed service of the United States, including 53
members of the National Guard and Reserve on active duty orders 54
pursuant to 10 U.S.C. Chapters 1209 and 1211. 55

B. "Adverse Action" means any administrative, civil, 56
equitable or criminal action permitted by a State's laws which 57
is imposed by a licensing board or other authority against a 58
Licensed Professional Counselor, including actions against an 59
individual's license or Privilege to Practice such as 60
revocation, suspension, probation, monitoring of the licensee, 61
limitation on the licensee's practice, or any other Encumbrance 62
on licensure affecting a Licensed Professional Counselor's 63
authorization to practice, including issuance of a cease and 64
desist action. 65

C. "Alternative Program" means a non-disciplinary 66
monitoring or practice remediation process approved by a 67
Professional Counseling Licensing Board to address Impaired 68

<u>Practitioners.</u>	69
<u>D. "Continuing Competence/Education" means a requirement,</u>	70
<u>as a condition of license renewal, to provide evidence of</u>	71
<u>participation in, and/or completion of, educational and</u>	72
<u>professional activities relevant to practice or area of work.</u>	73
<u>E. "Counseling Compact Commission" or "Commission" means</u>	74
<u>the national administrative body whose membership consists of</u>	75
<u>all States that have enacted the Compact.</u>	76
<u>F. "Current Significant Investigative Information" means:</u>	77
<u>1. Investigative Information that a Licensing Board, after</u>	78
<u>a preliminary inquiry that includes notification and an</u>	79
<u>opportunity for the Licensed Professional Counselor to respond,</u>	80
<u>if required by State law, has reason to believe is not</u>	81
<u>groundless and, if proved true, would indicate more than a minor</u>	82
<u>infraction; or</u>	83
<u>2. Investigative Information that indicates that the</u>	84
<u>Licensed Professional Counselor represents an immediate threat</u>	85
<u>to public health and safety regardless of whether the Licensed</u>	86
<u>Professional Counselor has been notified and had an opportunity</u>	87
<u>to respond.</u>	88
<u>G. "Data System" means a repository of information about</u>	89
<u>Licensees, including, but not limited to, continuing education,</u>	90
<u>examination, licensure, investigative, Privilege to Practice and</u>	91
<u>Adverse Action information.</u>	92
<u>H. "Encumbered License" means a license in which an</u>	93
<u>Adverse Action restricts the practice of licensed Professional</u>	94
<u>Counseling by the Licensee and said Adverse Action has been</u>	95
<u>reported to the National Practitioners Data Bank (NPDB).</u>	96

<u>I. "Encumbrance" means a revocation or suspension of, or</u>	97
<u>any limitation on, the full and unrestricted practice of</u>	98
<u>Licensed Professional Counseling by a Licensing Board.</u>	99
<u>J. "Executive Committee" means a group of directors</u>	100
<u>elected or appointed to act on behalf of, and within the powers</u>	101
<u>granted to them by, the Commission.</u>	102
<u>K. "Home State" means the Member State that is the</u>	103
<u>Licensee's primary State of residence.</u>	104
<u>L. "Impaired Practitioner" means an individual who has a</u>	105
<u>condition(s) that may impair their ability to practice as a</u>	106
<u>Licensed Professional Counselor without some type of</u>	107
<u>intervention and may include, but are not limited to, alcohol</u>	108
<u>and drug dependence, mental health impairment, and neurological</u>	109
<u>or physical impairments.</u>	110
<u>M. "Investigative Information" means information, records,</u>	111
<u>and documents received or generated by a Professional Counseling</u>	112
<u>Licensing Board pursuant to an investigation.</u>	113
<u>N. "Jurisprudence Requirement" if required by a Member</u>	114
<u>State, means the assessment of an individual's knowledge of the</u>	115
<u>laws and Rules governing the practice of Professional Counseling</u>	116
<u>in a State.</u>	117
<u>O. "Licensed Professional Counselor" means a counselor</u>	118
<u>licensed by a Member State, regardless of the title used by that</u>	119
<u>State, to independently assess, diagnose, and treat behavioral</u>	120
<u>health conditions.</u>	121
<u>P. "Licensee" means an individual who currently holds an</u>	122
<u>authorization from the State to practice as a Licensed</u>	123
<u>Professional Counselor.</u>	124

Q. "Licensing Board" means the agency of a State, or equivalent, that is responsible for the licensing and regulation of Licensed Professional Counselors. 125
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R. "Member State" means a State that has enacted the Compact. 128
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S. "Privilege to Practice" means a legal authorization, which is equivalent to a license, permitting the practice of Professional Counseling in a Remote State. 130
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T. "Professional Counseling" means the assessment, diagnosis, and treatment of behavioral health conditions by a Licensed Professional Counselor. 133
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U. "Remote State" means a Member State other than the Home State, where a Licensee is exercising or seeking to exercise the Privilege to Practice. 136
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V. "Rule" means a regulation promulgated by the Commission that has the force of law. 139
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W. "Single State License" means a Licensed Professional Counselor license issued by a Member State that authorizes practice only within the issuing State and does not include a Privilege to Practice in any other Member State. 141
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X. "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of Professional Counseling. 145
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Y. "Telehealth" means the application of telecommunication technology to deliver Professional Counseling services remotely to assess, diagnose, and treat behavioral health conditions. 148
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Z. "Unencumbered License" means a license that authorizes a Licensed Professional Counselor to engage in the full and 151
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<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</u> <u>approved by the Commission;</u>	157 158
<u>3. Require Licensees to have a 60 semester-hour (or 90</u> <u>quarter-hour) master's degree in counseling or 60 semester-hours</u> <u>(or 90 quarter-hours) of graduate course work including the</u> <u>following topic areas:</u>	159 160 161 162
<u>a. Professional Counseling Orientation and Ethical</u> <u>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</u> <u>professional experience as defined by the Commission;</u>	173 174
<u>5. Have a mechanism in place for receiving and</u> <u>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,</u>	178
<u>including using the Commission's unique identifier as defined in</u>	179
<u>Rules;</u>	180
<u>2. Notify the Commission, in compliance with the terms of</u>	181
<u>the Compact and Rules, of any Adverse Action or the availability</u>	182
<u>of Investigative Information regarding a Licensee;</u>	183
<u>3. Implement or utilize procedures for considering the</u>	184
<u>criminal history records of applicants for an initial Privilege</u>	185
<u>to Practice. These procedures shall include the submission of</u>	186
<u>fingerprints or other biometric-based information by applicants</u>	187
<u>for the purpose of obtaining an applicant's criminal history</u>	188
<u>record information from the Federal Bureau of Investigation and</u>	189
<u>the agency responsible for retaining that State's criminal</u>	190
<u>records;</u>	191
<u>a. A member state must fully implement a criminal</u>	192
<u>background check requirement, within a time frame established by</u>	193
<u>rule, by receiving the results of the Federal Bureau of</u>	194
<u>Investigation record search and shall use the results in making</u>	195
<u>licensure decisions.</u>	196
<u>b. Communication between a Member State, the Commission</u>	197
<u>and among Member States regarding the verification of</u>	198
<u>eligibility for licensure through the Compact shall not include</u>	199
<u>any information received from the Federal Bureau of</u>	200
<u>Investigation relating to a federal criminal records check</u>	201
<u>performed by a Member State under Public Law 92-544.</u>	202
<u>4. Comply with the Rules of the Commission;</u>	203
<u>5. Require an applicant to obtain or retain a license in</u>	204
<u>the Home State and meet the Home State's qualifications for</u>	205

<u>licensure or renewal of licensure, as well as all other</u>	206
<u>applicable State laws;</u>	207
<u>6. Grant the Privilege to Practice to a Licensee holding a</u>	208
<u>valid Unencumbered License in another Member State in accordance</u>	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

in a Remote State is subject to that State's regulatory 260
authority. A Remote State may, in accordance with due process 261
and that State's laws, remove a Licensee's Privilege to Practice 262
in the Remote State for a specific period of time, impose fines, 263
and/or take any other necessary actions to protect the health 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
PRIVILEGE TO PRACTICE 292

A. A Licensed Professional Counselor may hold a Home State 293
license, which allows for a Privilege to Practice in other 294
Member States, in only one Member State at a time. 295

B. If a Licensed Professional Counselor changes primary 296
State of residence by moving between two Member States: 297

1. The Licensed Professional Counselor shall file an 298
application for obtaining a new Home State license based on a 299
Privilege to Practice, pay all applicable fees, and notify the 300
current and new Home State in accordance with applicable Rules 301
adopted by the Commission. 302

2. Upon receipt of an application for obtaining a new Home 303
State license by virtue of a Privilege to Practice, the new Home 304
State shall verify that the Licensed Professional Counselor 305
meets the pertinent criteria outlined in Section 4 via the Data 306
System, without need for primary source verification except for: 307

a. a Federal Bureau of Investigation fingerprint based 308
criminal background check if not previously performed or updated 309
pursuant to applicable rules adopted by the Commission in 310
accordance with Public Law 92-544; 311

b. other criminal background check as required by the new 312
Home State; and 313

c. completion of any requisite Jurisprudence Requirements 314
of the new Home State. 315

3. The former Home State shall convert the former Home State license into a Privilege to Practice once the new Home State has activated the new Home State license in accordance with applicable Rules adopted by the Commission. 316
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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 340
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individual shall only change their Home State through 345
application for licensure in the new State, or through the 346
process outlined in Section 5. 347

SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH 348

A. Member States shall recognize the right of a Licensed 349
Professional Counselor, licensed by a Home State in accordance 350
with Section 3 and under Rules promulgated by the Commission, to 351
practice Professional Counseling in any Member State via 352
Telehealth under a Privilege to Practice as provided in the 353
Compact and Rules promulgated by the Commission. 354

B. A Licensee providing Professional Counseling services 355
in a Remote State under the Privilege to Practice shall adhere 356
to the laws and regulations of the Remote State. 357

SECTION 8. ADVERSE ACTIONS 358

A. In addition to the other powers conferred by State law, 359
a Remote State shall have the authority, in accordance with 360
existing State due process law, to: 361

1. Take Adverse Action against a Licensed Professional 362
Counselor's Privilege to Practice within that Member State, and 363

2. Issue subpoenas for both hearings and investigations 364
that require the attendance and testimony of witnesses as well 365
as the production of evidence. Subpoenas issued by a Licensing 366
Board in a Member State for the attendance and testimony of 367
witnesses or the production of evidence from another Member 368
State shall be enforced in the latter State by any court of 369
competent jurisdiction, according to the practice and procedure 370
of that court applicable to subpoenas issued in proceedings 371
pending before it. The issuing authority shall pay any witness 372
fees, travel expenses, mileage, and other fees required by the 373

service statutes of the State in which the witnesses or evidence 374
are located. 375

3. Only the Home State shall have the power to take 376
Adverse Action against a Licensed Professional Counselor's 377
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
participate in alternative dispute resolution proceedings. 436

3. Nothing in this Compact shall be construed to be a 437
waiver of sovereign immunity. 438

B. Membership, Voting, and Meetings 439

1. Each Member State shall have and be limited to one (1) 440
delegate selected by that Member State's Licensing Board. 441

2. The delegate shall be either: 442

a. A current member of the Licensing Board at the time of 443
appointment, who is a Licensed Professional Counselor or public 444
member; or 445

b. An administrator of the Licensing Board. 446

3. Any delegate may be removed or suspended from office as 447
provided by the law of the State from which the delegate is 448
appointed. 449

4. The Member State Licensing Board shall fill any vacancy 450
occurring on the Commission within 60 days. 451

5. Each delegate shall be entitled to one (1) vote with 452
regard to the promulgation of Rules and creation of bylaws and 453
shall otherwise have an opportunity to participate in the 454
business and affairs of the Commission. 455

6. A delegate shall vote in person or by such other means 456
as provided in the bylaws. The bylaws may provide for delegates' 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

establish the Commission's personnel policies and programs 485
relating to conflicts of interest, qualifications of personnel, 486
and other related personnel matters; 487

10. Accept any and all appropriate donations and grants of 488
money, equipment, supplies, materials, and services, and to 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

<u>and practice.</u>	513
<u>D. The Executive Committee</u>	514
<u>1. The Executive Committee shall have the power to act on</u>	515
<u>behalf of the Commission according to the terms of this Compact.</u>	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 enforcement purposes;</u>	567 568
<u>i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or</u>	569 570 571 572 573
<u>j. Matters specifically exempted from disclosure by federal or Member State statute.</u>	574 575
<u>3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.</u>	576 577 578 579
<u>4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.</u>	580 581 582 583 584 585 586 587 588
<u>F. Financing of the Commission</u>	589
<u>1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.</u>	590 591 592
<u>2. The Commission may accept any and all appropriate</u>	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
Action, and Investigative Information on all licensed 659
individuals in Member States. 660

B. Notwithstanding any other provision of State law to the 661
contrary, a Member State shall submit a uniform data set to the 662
Data System on all individuals to whom this Compact is 663
applicable as required by the Rules of the Commission, 664
including: 665

1. Identifying information; 666

2. Licensure data; 667

3. Adverse Actions against a license or Privilege to 668
Practice; 669

4. Non-confidential information related to Alternative 670
Program participation; 671

5. Any denial of application for licensure, and the 672
reason(s) for such denial; 673

6. Current Significant Investigative Information; and 674

7. Other information that may facilitate the 675
administration of this Compact, as determined by the Rules of 676
the Commission. 677

C. Investigative Information pertaining to a Licensee in 678
any Member State will only be available to other Member States. 679

D. The Commission shall promptly notify all Member States 680

of any Adverse Action taken against a Licensee or an individual 681
applying for a license. Adverse Action information pertaining to 682
a Licensee in any Member State will be available to any other 683
Member State. 684

E. Member States contributing information to the Data 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

<u>regular or special meeting of the Commission.</u>	710
<u>E. Prior to promulgation and adoption of a final Rule or</u>	711
<u>Rules by the Commission, and at least thirty (30) days in</u>	712
<u>advance of the meeting at which the Rule will be considered and</u>	713
<u>voted upon, the Commission shall file a Notice of Proposed</u>	714
<u>Rulemaking:</u>	715
<u>1. On the website of the Commission or other publicly</u>	716
<u>accessible platform; and</u>	717
<u>2. On the website of each Member State Professional</u>	718
<u>Counseling Licensing Board or other publicly accessible platform</u>	719
<u>or the publication in which each State would otherwise publish</u>	720
<u>proposed Rules.</u>	721
<u>F. The Notice of Proposed Rulemaking shall include:</u>	722
<u>1. The proposed time, date, and location of the meeting in</u>	723
<u>which the Rule will be considered and voted upon;</u>	724
<u>2. The text of the proposed Rule or amendment and the</u>	725
<u>reason for the proposed Rule;</u>	726
<u>3. A request for comments on the proposed Rule from any</u>	727
<u>interested person; and</u>	728
<u>4. The manner in which interested persons may submit</u>	729
<u>notice to the Commission of their intention to attend the public</u>	730
<u>hearing and any written comments.</u>	731
<u>G. Prior to adoption of a proposed Rule, the Commission</u>	732
<u>shall allow persons to submit written data, facts, opinions, and</u>	733
<u>arguments, which shall be made available to the public.</u>	734
<u>H. The Commission shall grant an opportunity for a public</u>	735
<u>hearing before it adopts a Rule or amendment if a hearing is</u>	736

<u>requested by:</u>	737
<u>1. At least twenty-five (25) persons;</u>	738
<u>2. A State or federal governmental subdivision or agency;</u>	739
<u>or</u>	740
<u>3. An association having at least twenty-five (25)</u> <u>members.</u>	741 742
<u>I. If a hearing is held on the proposed Rule or amendment,</u> <u>the Commission shall publish the place, time, and date of the</u> <u>scheduled public hearing. If the hearing is held via electronic</u> <u>means, the Commission shall publish the mechanism for access to</u> <u>the electronic hearing.</u>	743 744 745 746 747
<u>1. All persons wishing to be heard at the hearing shall</u> <u>notify the executive director of the Commission or other</u> <u>designated member in writing of their desire to appear and</u> <u>testify at the hearing not less than five (5) business days</u> <u>before the scheduled date of the hearing.</u>	748 749 750 751 752
<u>2. Hearings shall be conducted in a manner providing each</u> <u>person who wishes to comment a fair and reasonable opportunity</u> <u>to comment orally or in writing.</u>	753 754 755
<u>3. All hearings will be recorded. A copy of the recording</u> <u>will be made available on request.</u>	756 757
<u>4. Nothing in this section shall be construed as requiring</u> <u>a separate hearing on each Rule. Rules may be grouped for the</u> <u>convenience of the Commission at hearings required by this</u> <u>section.</u>	758 759 760 761
<u>J. Following the scheduled hearing date, or by the close</u> <u>of business on the scheduled hearing date if the hearing was not</u> <u>held, the Commission shall consider all written and oral</u>	762 763 764

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

<u>promulgated Rules.</u>	822
<u>B. Default, Technical Assistance, and Termination</u>	823
<u>1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall:</u>	824
<u>a. Provide written notice to the defaulting State and other Member States of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and</u>	825
<u>b. Provide remedial training and specific technical assistance regarding the default.</u>	826
<u>C. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Member States, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.</u>	827
<u>D. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting States legislature, and each of the Member States.</u>	828
<u>E. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.</u>	829
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F. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State. 851
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G. The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorneys fees. 855
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H. Dispute Resolution 861

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between member and non-Member States. 862
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2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate. 865
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I. Enforcement 868

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact. 869
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2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a Member State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs 872
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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

<u>B. Nothing herein prevents the enforcement of any other</u>	938
<u>law of a Member State that is not inconsistent with the Compact.</u>	939
<u>C. Any laws in a Member State in conflict with the Compact</u>	940
<u>are superseded to the extent of the conflict.</u>	941
<u>D. Any lawful actions of the Commission, including all</u>	942
<u>Rules and bylaws properly promulgated by the Commission, are</u>	943
<u>binding upon the Member States.</u>	944
<u>E. All permissible agreements between the Commission and</u>	945
<u>the Member States are binding in accordance with their terms.</u>	946
<u>F. In the event any provision of the Compact exceeds the</u>	947
<u>constitutional limits imposed on the legislature of any Member</u>	948
<u>State, the provision shall be ineffective to the extent of the</u>	949
<u>conflict with the constitutional provision in question in that</u>	950
<u>Member State.</u>	951
<u>Sec. 4757.511. Not later than sixty days after the</u>	952
<u>"Counseling Compact" is entered into under section 4757.51 of</u>	953
<u>the Revised Code, the counselor, social worker, and marriage and</u>	954
<u>family therapist board, in accordance with section 9 of the</u>	955
<u>compact, shall select an individual to serve as a delegate to</u>	956
<u>the counseling compact commission created under the compact. The</u>	957
<u>board shall fill a vacancy in this position not later than sixty</u>	958
<u>days after the vacancy occurs.</u>	959