

1 ENGROSSED HOUSE  
2 BILL NO. 2723

By: Hefner and Waldron of the  
House

3 and

4 Kirt of the Senate  
5  
6

7 An Act relating to mental health; creating the  
8 Interstate Licensed Professional Counselors Compact;  
9 stating purpose; providing definitions; providing  
10 requirements for state participation in the compact;  
11 providing requirements for licensee to participate in  
12 the compact; providing requirements for licensee to  
13 obtain a new home state license based on  
14 participation in compact; providing for active duty  
15 military and their spouse; providing for compact  
16 privilege to practice telehealth; establishing  
17 Counseling Compact Commission; providing for adverse  
18 actions; prescribing procedures; providing  
19 requirements for Commission; authorizing actions by  
20 Commission; prescribing procedures; providing for  
21 data system; providing for rulemaking authority  
22 prescribing procedures for rulemaking; providing for  
23 oversight, dispute resolution, and enforcement;  
24 providing for implementation date and associated  
rules; providing for withdrawal; providing for  
amendments; providing for construction and  
severability; providing for binding effect of compact  
and effect of other laws; providing for codification;  
and providing an effective date.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 6-220 of Title 43A, unless there  
24 is created a duplication in numbering, reads as follows:

1 Interstate Licensed Professional Counselors Compact

2 ARTICLE I

3 Purpose

4 The purpose of this compact is to facilitate interstate practice  
5 of licensed professional counselors with the goal of improving  
6 public access to professional counseling services. The practice of  
7 professional counseling occurs in the state where the client is  
8 located at the time of the counseling services. The compact  
9 preserves the regulatory authority of states to protect public  
10 health and safety through the current system of state licensure.

11 This compact is designed to achieve the following objectives:

12 1. Increase public access to professional counseling services  
13 by providing for the mutual recognition of other member state  
14 licenses;

15 2. Enhance the states' ability to protect the public's health  
16 and safety;

17 3. Encourage the cooperation of member states in regulating  
18 multistate practice for licensed professional counselors;

19 4. Support spouses of relocating active duty military  
20 personnel;

21 5. Enhance the exchange of licensure, investigative, and  
22 disciplinary information among member states;

23 6. Allow for the use of telehealth technology to facilitate  
24 increased access to professional counseling services;

1 7. Support the uniformity of professional counseling licensure  
2 requirements throughout the states to promote public safety and  
3 public health benefits;

4 8. Invest all member states with the authority to hold a  
5 licensed professional counselor accountable for meeting all state  
6 practice laws in the state in which the client is located at the  
7 time care is rendered through the mutual recognition of member state  
8 licenses;

9 9. Eliminate the necessity for licenses in multiple states; and

10 10. Provide opportunities for interstate practice by licensed  
11 professional counselors who meet uniform licensure requirements.

12 SECTION 2. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 6-221 of Title 43A, unless there  
14 is created a duplication in numbering, reads as follows:

15 ARTICLE II

16 Definitions

17 As used in this compact, and except as otherwise provided, the  
18 following definitions shall apply:

19 1. "Active duty military" means full-time duty status in the  
20 active uniformed service of the United States, including members of  
21 the National Guard and Reserve on active duty orders pursuant to 10  
22 U.S.C., Chapters 1209 and 1211;

23 2. "Adverse action" means any administrative, civil, equitable,  
24 or criminal action permitted by a state's laws which is imposed by a

1 licensing board or other authority against a licensed professional  
2 counselor, including actions against an individual's license or  
3 privilege to practice such as revocation, suspension, probation,  
4 monitoring of the licensee, limitation on the licensee's practice,  
5 or any other encumbrance on licensure affecting a licensed  
6 professional counselor's authorization to practice, including  
7 issuance of a cease and desist action;

8 3. "Alternative program" means a nondisciplinary monitoring or  
9 practice remediation process approved by a professional counseling  
10 licensing board to address impaired practitioners;

11 4. "Continuing competence/education" means a requirement, as a  
12 condition of license renewal, to provide evidence of participation  
13 in, or completion of, educational and professional activities  
14 relevant to practice or area of work;

15 5. "Counseling Compact Commission" or "Commission" means the  
16 national administrative body whose membership consists of all states  
17 that have enacted the compact;

18 6. "Current significant investigative information" means:

19 a. investigative information that a licensing board,  
20 after a preliminary inquiry which includes  
21 notification and an opportunity for the licensed  
22 professional counselor to respond, if required by  
23 state law, has reason to believe is not groundless  
24

1 and, if proved true, would indicate more than a minor  
2 infraction, or

3 b. investigative information that indicates that the  
4 licensed professional counselor represents an  
5 immediate threat to public health and safety  
6 regardless of whether the licensed professional  
7 counselor has been notified and had an opportunity to  
8 respond;

9 7. "Data system" means a repository of information about  
10 licensees, including, but not limited to, continuing education,  
11 examination, licensure, investigative, privilege to practice, and  
12 adverse action information;

13 8. "Encumbered license" means a license in which an adverse  
14 action restricts the practice of licensed professional counseling by  
15 the licensee and said adverse action has been reported to the  
16 national practitioners data bank;

17 9. "Encumbrance" means a revocation or suspension of, or any  
18 limitation on, the full and unrestricted practice of licensed  
19 professional counseling by a licensing board;

20 10. "Executive committee" means a group of directors elected or  
21 appointed to act on behalf of, and within the powers granted to them  
22 by, the Commission;

23 11. "Home state" means the member state that is the licensee's  
24 primary state of residence;

1        12. "Impaired practitioner" means an individual who has a  
2 condition that may impair his or her ability to practice as a  
3 licensed professional counselor without some type of intervention  
4 and may include, but is not limited to, alcohol and drug dependence,  
5 mental health impairment, and neurological or physical impairments;

6        13. "Investigative information" means information, records, and  
7 documents received or generated by a professional counseling  
8 licensing board pursuant to an investigation;

9        14. "Jurisprudence requirement", if required by a member state,  
10 means the assessment of an individual's knowledge of the laws and  
11 rules governing the practice of professional counseling in a state;

12        15. "Licensed professional counselor" means a counselor  
13 licensed by a member state, regardless of the title used by that  
14 state, to independently assess, diagnose, and treat behavioral  
15 health conditions;

16        16. "Licensee" means an individual who currently holds an  
17 authorization from the state to practice as a licensed professional  
18 counselor;

19        17. "Licensing board" means the agency of a state, or  
20 equivalent, that is responsible for the licensing and regulation of  
21 licensed professional counselors;

22        18. "Member state" means a state that has enacted the compact;  
23  
24

1 19. "Privilege to practice" means a legal authorization, which  
2 is equivalent to a license, permitting the practice of professional  
3 counseling in a remote state;

4 20. "Professional counseling" means the assessment, diagnosis,  
5 and treatment of behavioral health conditions by a licensed  
6 professional counselor;

7 21. "Remote state" means a member state, other than the home  
8 state, where a licensee is exercising or seeking to exercise the  
9 privilege to practice;

10 22. "Rule" means a regulation promulgated by the Commission  
11 that has the force of law;

12 23. "Single state license" means a licensed professional  
13 counselor license issued by a member state that authorizes practice  
14 only within the issuing state and does not include a privilege to  
15 practice in any other member state;

16 24. "State" means any state, commonwealth, district, or  
17 territory of the United States of America that regulates the  
18 practice of professional counseling;

19 25. "Telehealth" means the application of telecommunication  
20 technology to deliver professional counseling services remotely to  
21 assess, diagnose, and treat behavioral health conditions; and

22 26. "Unencumbered license" means a license that authorizes a  
23 licensed professional counselor to engage in the full and  
24 unrestricted practice of professional counseling.

1 SECTION 3. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 6-222 of Title 43A, unless there  
3 is created a duplication in numbering, reads as follows:

4 ARTICLE III

5 State Participation in the Compact

6 A. To participate in the compact, a state must currently:

7 1. License and regulate licensed professional counselors;

8 2. Require licensees to pass a nationally recognized exam  
9 approved by the Commission;

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

14 a. professional counseling orientation and ethical  
15 practice,

16 b. social and cultural diversity,

17 c. human growth and development,

18 d. career development,

19 e. counseling and helping relationships,

20 f. group counseling and group work,

21 g. diagnosis and treatment,

22 h. assessment and testing,

23 i. research and program evaluation, and

24 j. other areas as determined by the Commission;

1       4. Require licensees to complete a supervised postgraduate  
2 professional experience as defined by the Commission; and

3       5. Have a mechanism in place for receiving and investigating  
4 complaints about licensees.

5       B. A member state shall:

6       1. Participate fully in the Commission's data system, including  
7 using the Commission's unique identifier as defined in rules;

8       2. Notify the Commission, in compliance with the terms of the  
9 compact and rules, of any adverse action or the availability of  
10 investigative information regarding a licensee;

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

18       A member state must fully implement a criminal background check  
19 requirement, within a time frame established by rule, by receiving  
20 the results of the Federal Bureau of Investigation record search and  
21 shall use the results in making licensure decisions.

22       Communication between a member state, the Commission, and among  
23 member states regarding the verification of eligibility for  
24 licensure through the compact shall not include any information

1 received from the Federal Bureau of Investigation relating to a  
2 federal criminal records check performed by a member state under  
3 Public Law 92-544;

4 4. Comply with the rules of the Commission;

5 5. Require an applicant to obtain or retain a license in the  
6 home state and meet the home state's qualifications for licensure or  
7 renewal of licensure, as well as all other applicable state laws;

8 6. Grant the privilege to practice to a licensee holding a  
9 valid unencumbered license in another member state in accordance  
10 with the terms of the compact and rules; and

11 7. Provide for the attendance of the state's Commissioner to  
12 the counseling compact Commission meetings.

13 C. Member states may charge a fee for granting the privilege to  
14 practice.

15 D. Individuals not residing in a member state shall continue to  
16 be able to apply for a member state's single state license as  
17 provided under the laws of each member state. However, the single  
18 state license granted to these individuals shall not be recognized  
19 as granting a privilege to practice professional counseling in any  
20 other member state.

21 E. Nothing in this compact shall affect the requirements  
22 established by a member state for the issuance of a single state  
23 license.

24

1 F. A license issued to a licensed professional counselor by a  
2 home state to a resident in that state shall be recognized by each  
3 member state as authorizing a licensed professional counselor to  
4 practice professional counseling, under a privilege to practice in  
5 each member state.

6 SECTION 4. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 6-223 of Title 43A, unless there  
8 is created a duplication in numbering, reads as follows:

9 ARTICLE IV

10 Privilege to Practice

11 A. To exercise the privilege to practice under the terms and  
12 provisions of the compact, the licensee shall:

- 13 1. Hold a license in the home state;
- 14 2. Have a valid United States Social Security number or  
15 national practitioner identifier;
- 16 3. Be eligible for a privilege to practice in any member state  
17 in accordance with Section 4(d), (g), and (h) of this compact;
- 18 4. Have not had any encumbrance or restriction against any  
19 license or privilege to practice within the previous two (2) years;
- 20 5. Notify the Commission that the licensee is seeking the  
21 privilege to practice within a remote state(s);
- 22 6. Pay any applicable fees, including any state fee, for the  
23 privilege to practice;

24

1       7. Meet any continuing competence/education requirements  
2 established by the home state;

3       8. Meet any jurisprudence requirements established by the  
4 remote state(s) in which the licensee is seeking a privilege to  
5 practice; and

6       9. Report to the Commission any adverse action, encumbrance, or  
7 restriction on license taken by any non-member state within thirty  
8 (30) days from the date the action is taken.

9       B. The privilege to practice is valid until the expiration date  
10 of the home state license. The licensee must comply with the  
11 requirements of Section 4(a) of this compact to maintain the  
12 privilege to practice in the remote state.

13       C. A licensee providing professional counseling in a remote  
14 state under the privilege to practice shall adhere to the laws and  
15 regulations of the remote state.

16       D. A licensee providing professional counseling services in a  
17 remote state is subject to that state's regulatory authority. A  
18 remote state may, in accordance with due process and that state's  
19 laws, remove a licensee's privilege to practice in the remote state  
20 for a specific period of time, impose fines, or take any other  
21 necessary actions to protect the health and safety of its citizens.  
22 The licensee may be ineligible for a privilege to practice in any  
23 member state until the specific time for removal has passed and all  
24 fines are paid.

1 E. If a home state license is encumbered, the licensee shall  
2 lose the privilege to practice in any remote state until the  
3 following occur:

- 4 1. The home state license is no longer encumbered; and
- 5 2. The licensee has not had any encumbrance or restriction  
6 against any license or privilege to practice within the previous two  
7 (2) years.

8 F. Once an encumbered license in the home state is restored to  
9 good standing, the licensee must meet the requirements of Section  
10 4(a) of this compact to obtain a privilege to practice in any remote  
11 state.

12 G. If a licensee's privilege to practice in any remote state is  
13 removed, the individual may lose the privilege to practice in all  
14 other remote states until the following occur:

- 15 1. The specific period of time for which the privilege to  
16 practice was removed has ended;
- 17 2. All fines have been paid; and
- 18 3. The licensee has not had any encumbrance or restriction  
19 against any license or privilege to practice within the previous two  
20 (2) years.

21 H. Once the requirements of Section 4(g) of this compact have  
22 been met, the licensee must meet the requirements in Section 4(a) of  
23 this compact to obtain a privilege to practice in a remote state.

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1 SECTION 5. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 6-224 of Title 43A, unless there  
3 is created a duplication in numbering, reads as follows:

4 ARTICLE V

5 Obtaining a New Home State License Based on a Privilege to Practice

6 A. A licensed professional counselor may hold a home state  
7 license, which allows for a privilege to practice in other member  
8 states, in only one member state at a time.

9 B. If a licensed professional counselor changes primary state  
10 of residence by moving between two member states:

11 1. The licensed professional counselor shall file an  
12 application for obtaining a new home state license based on a  
13 privilege to practice, pay all applicable fees, and notify the  
14 current and new home state in accordance with applicable rules  
15 adopted by the Commission;

16 2. Upon receipt of an application for obtaining a new home  
17 state license by virtue of a privilege to practice, the new home  
18 state shall verify that the licensed professional counselor meets  
19 the pertinent criteria outlined in Section 4 of this compact via the  
20 data system, without need for primary source verification except  
21 for:

22 a. a Federal Bureau of Investigation fingerprint-based  
23 criminal background check if not previously performed

24

1 or updated pursuant to applicable rules adopted by the  
2 Commission in accordance with Public Law 92-544,

3 b. other criminal background check as required by the new  
4 home state, and

5 c. completion of any requisite jurisprudence requirements  
6 of the new home state;

7 3. The former home state shall convert the former home state  
8 license into a privilege to practice once the new home state has  
9 activated the new home state license in accordance with applicable  
10 rules adopted by the Commission;

11 4. Notwithstanding any other provision of this compact, if the  
12 licensed professional counselor cannot meet the criteria in Section  
13 4 of this compact, the new home state may apply its requirements for  
14 issuing a new single state license;

15 5. The licensed professional counselor shall pay all applicable  
16 fees to the new home state in order to be issued a new home state  
17 license.

18 C. If a licensed professional counselor changes primary state  
19 of residence by moving from a member state to a non-member state, or  
20 from a non-member state to a member state, the state criteria shall  
21 apply for issuance of a single state license in the new state.

22 D. Nothing in this compact shall interfere with a licensee's  
23 ability to hold a single state license in multiple states; however  
24

1 for the purposes of this compact, a licensee shall have only one  
2 home state license.

3 E. Nothing in this compact shall affect the requirements  
4 established by a member state for the issuance of a single state  
5 license.

6 SECTION 6. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 6-225 of Title 43A, unless there  
8 is created a duplication in numbering, reads as follows:

9 ARTICLE VI

10 Active Duty Military Personnel or Their Spouse

11 Active duty military personnel, or their spouse, shall designate  
12 a home state where the individual has a current license in good  
13 standing. The individual may retain the home state designation  
14 during the period the service member is on active duty. Subsequent  
15 to designating a home state, the individual shall only change his or  
16 her home state through application for licensure in the new state,  
17 or through the process outlined in Section 5 of this act.

18 SECTION 7. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 6-226 of Title 43A, unless there  
20 is created a duplication in numbering, reads as follows:

21 ARTICLE VII

22 Compact Privilege to Practice Telehealth

23 A. Member states shall recognize the right of a licensed  
24 professional counselor, licensed by a home state in accordance with

1 Section 3 of this compact and under rules promulgated by the  
2 Commission, to practice professional counseling in any member state  
3 via telehealth under a privilege to practice as provided in the  
4 compact and rules promulgated by the Commission.

5 B. A licensee providing professional counseling services in a  
6 remote state under the privilege to practice shall adhere to the  
7 laws and regulations of the remote state.

8 SECTION 8. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 6-227 of Title 43A, unless there  
10 is created a duplication in numbering, reads as follows:

11 ARTICLE VIII

12 Adverse Actions

13 A. In addition to the other powers conferred by state law, a  
14 remote state shall have the authority, in accordance with existing  
15 state due process law, to:

- 16 1. Take adverse action against a licensed professional  
17 counselor's privilege to practice within that member state; and
- 18 2. Issue subpoenas for both hearings and investigations that  
19 require the attendance and testimony of witnesses as well as the  
20 production of evidence. Subpoenas issued by a licensing board in a  
21 member state for the attendance and testimony of witnesses or the  
22 production of evidence from another member state shall be enforced  
23 in the latter state by any court of competent jurisdiction,  
24 according to the practice and procedure of that court applicable to

1 subpoenas issued in proceedings pending before it. The issuing  
2 authority shall pay any witness fees, travel expenses, mileage, and  
3 other fees required by the service statutes of the state in which  
4 the witnesses or evidence is located.

5 Only the home state shall have the power to take adverse action  
6 against a licensed professional counselor's license issued by the  
7 home state.

8 B. For purposes of taking adverse action, the home state shall  
9 give the same priority and effect to reported conduct received from  
10 a member state as it would if the conduct had occurred within the  
11 home state. In so doing, the home state shall apply its own state  
12 laws to determine appropriate action.

13 C. The home state shall complete any pending investigations of  
14 a licensed professional counselor who changes primary state of  
15 residence during the course of the investigations. The home state  
16 shall also have the authority to take appropriate action(s) and  
17 shall promptly report the conclusions of the investigations to the  
18 administrator of the data system. The administrator of the  
19 coordinated licensure information system shall promptly notify the  
20 new home state of any adverse actions.

21 D. A member state, if otherwise permitted by state law, may  
22 recover from the affected licensed professional counselor the costs  
23 of investigations and dispositions of cases resulting from any  
24 adverse action taken against that licensed professional counselor.

1 E. A member state may take adverse action based on the factual  
2 findings of the remote state, provided that the member state follows  
3 its own procedures for taking the adverse action.

4 F. Joint Investigations

5 1. In addition to the authority granted to a member state by  
6 its respective professional counseling practice act or other  
7 applicable state law, any member state may participate with other  
8 member states in joint investigations of licensees.

9 2. Member states shall share any investigative, litigation, or  
10 compliance materials in furtherance of any joint or individual  
11 investigation initiated under the compact.

12 G. If adverse action is taken by the home state against the  
13 license of a licensed professional counselor, the licensed  
14 professional counselor's privilege to practice in all other member  
15 states shall be deactivated until all encumbrances have been removed  
16 from the state license. All home state disciplinary orders that  
17 impose adverse action against the license of a licensed professional  
18 counselor shall include a statement that the licensed professional  
19 counselor's privilege to practice is deactivated in all member  
20 states during the pendency of the order.

21 H. If a member state takes adverse action, it shall promptly  
22 notify the administrator of the data system. The administrator of  
23 the data system shall promptly notify the home state of any adverse  
24 actions by remote states.

1 I. Nothing in this compact shall override a member state's  
2 decision that participation in an alternative program may be used in  
3 lieu of adverse action.

4 SECTION 9. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 6-228 of Title 43A, unless there  
6 is created a duplication in numbering, reads as follows:

7 ARTICLE IX

8 Establishment of Counseling Compact Commission

9 A. The compact member states hereby create and establish a  
10 joint public agency known as the Counseling Compact Commission:

11 1. The Commission is an instrumentality of the compact states;

12 2. Venue is proper and judicial proceedings by or against the  
13 Commission shall be brought solely and exclusively in a court of  
14 competent jurisdiction where the principal office of the Commission  
15 is located. The Commission may waive venue and jurisdictional  
16 defenses to the extent it adopts or consents to participate in  
17 alternative dispute resolution proceedings;

18 3. Nothing in this compact shall be construed to be a waiver of  
19 sovereign immunity.

20 B. Membership, voting, and meetings

21 1. Each member state shall have and be limited to one delegate  
22 selected by that member state's licensing board.

23 2. The delegate shall be either:  
24

1 a. a current member of the licensing board at the time of  
2 appointment, who is a licensed professional counselor  
3 or public member, or

4 b. an administrator of the licensing board.

5 3. Any delegate may be removed or suspended from office as  
6 provided by the law of the state from which the delegate is  
7 appointed.

8 4. The member state's licensing board shall fill any vacancy  
9 occurring on the Commission within sixty (60) days.

10 5. Each delegate shall be entitled to one vote with regard to  
11 the promulgation of rules and creation of bylaws and shall otherwise  
12 have an opportunity to participate in the business and affairs of  
13 the Commission.

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

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

20 8. The Commission shall by rule establish a term of office for  
21 delegates and may by rule establish term limits.

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

23 1. Establish the fiscal year of the Commission;

24 2. Establish bylaws;

- 1        3. Maintain its financial records in accordance with the  
2 bylaws;
- 3        4. Meet and take such actions as are consistent with the  
4 provisions of this compact and the bylaws;
- 5        5. Promulgate rules which shall be binding to the extent and in  
6 the manner provided for in the compact;
- 7        6. Bring and prosecute legal proceedings or actions in the name  
8 of the Commission, provided that the standing of any state licensing  
9 board to sue or be sued under applicable law shall not be affected;
- 10       7. Purchase and maintain insurance and bonds;
- 11       8. Borrow, accept, or contract for services of personnel,  
12 including, but not limited to, employees of a member state;
- 13       9. Hire employees, elect or appoint officers, fix compensation,  
14 define duties, grant such individuals appropriate authority to carry  
15 out the purposes of the compact, and establish the Commission's  
16 personnel policies and programs relating to conflicts of interest,  
17 qualifications of personnel, and other related personnel matters;
- 18       10. Accept any and all appropriate donations and grants of  
19 money, equipment, supplies, materials, and services, and to receive,  
20 utilize, and dispose of the same; provided that at all times the  
21 Commission shall avoid any appearance of impropriety or conflict of  
22 interest;
- 23       11. Lease, purchase, accept appropriate gifts or donations of,  
24 or otherwise to own, hold, improve or use, any property, real,

1 personal or mixed; provided that at all times the Commission shall  
2 avoid any appearance of impropriety;

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

5 13. Establish a budget and make expenditures;

6 14. Borrow money;

7 15. Appoint committees, including standing committees composed  
8 of members, state regulators, state legislators or their  
9 representatives, and consumer representatives, and such other  
10 interested persons as may be designated in this compact and the  
11 bylaws;

12 16. Provide and receive information from, and cooperate with,  
13 law enforcement agencies;

14 17. Establish and elect an executive committee; and

15 18. Perform such other functions as may be necessary or  
16 appropriate to achieve the purposes of this compact consistent with  
17 the state regulation of professional counseling licensure and  
18 practice.

19 D. The executive committee

20 1. The executive committee shall have the power to act on  
21 behalf of the Commission according to the terms of this compact.

22 2. The executive committee shall be composed of up to eleven  
23 (11) members:

24

- a. seven voting members who are elected by the Commission from the current membership of the Commission, and
- b. up to four ex-officio, nonvoting members from four recognized national professional counselor organizations, selected by their respective organizations.

3. The Commission may remove any member of the executive committee as provided in the bylaws.

4. The executive committee shall meet at least annually.

5. The executive committee shall have the following duties and responsibilities:

- a. recommend to the entire Commission changes to the rules or bylaws, changes to this compact, fees paid by compact member states such as annual dues, and any Commission compact fee charged to licensees for the privilege to practice,
- b. ensure compact administration services are appropriately provided, contractual or otherwise,
- c. prepare and recommend the budget,
- d. maintain financial records on behalf of the Commission,
- e. monitor compact compliance of member states and provide compliance reports to the Commission,
- f. establish additional committees as necessary, and

1           g. other duties as provided in rules or bylaws.

2           E. Meetings of the Commission

3           1. All meetings shall be open to the public, and public notice  
4 of meetings shall be given in the same manner as required under the  
5 rulemaking provisions in Section 11 of this compact.

6           2. The Commission or the executive committee or other  
7 committees of the Commission may convene in a closed, non-public  
8 meeting if the Commission or executive committee or other committees  
9 of the Commission must discuss:

10           a. non-compliance of a member state with its obligations  
11             under the compact,

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

16           c. current, threatened, or reasonably anticipated  
17             litigation,

18           d. negotiation of contracts for the purchase, lease, or  
19             sale of goods, services, or real estate,

20           e. accusing any person of a crime or formally censuring  
21             any person,

22           f. disclosure of trade secrets or commercial or financial  
23             information that is privileged or confidential,  
24

- 1           g. disclosure of information of a personal nature where
- 2           disclosure would constitute a clearly unwarranted
- 3           invasion of personal privacy,
- 4           h. disclosure of investigative records compiled for law
- 5           enforcement purposes,
- 6           i. disclosure of information related to any investigative
- 7           reports prepared by or on behalf of or for use of the
- 8           Commission or other committee charged with
- 9           responsibility of investigation or determination of
- 10          compliance issues pursuant to the compact, or
- 11          j. matters specifically exempted from disclosure by
- 12          federal or member state statute.

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

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

1 F. Financing of the Commission

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

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

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

17 4. The Commission shall not incur obligations of any kind prior  
18 to securing the funds adequate to meet the same; nor shall the  
19 Commission pledge the credit of any of the member states, except by  
20 and with the authority of the member state.

21 5. The Commission shall keep accurate accounts of all receipts  
22 and disbursements. The receipts and disbursements of the Commission  
23 shall be subject to the audit and accounting procedures established  
24 under its bylaws. However, all receipts and disbursements of funds

1 handled by the Commission shall be audited yearly by a certified or  
2 licensed public accountant, and the report of the audit shall be  
3 included in and become part of the annual report of the Commission.

4 G. Qualified immunity, defense, and indemnification

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

17 2. The Commission shall defend any member, officer, executive  
18 director, employee, or representative of the Commission in any civil  
19 action seeking to impose liability arising out of any actual or  
20 alleged act, error, or omission that occurred within the scope of  
21 Commission employment, duties, or responsibilities, or that the  
22 person against whom the claim is made had a reasonable basis for  
23 believing occurred within the scope of Commission employment,  
24 duties, or responsibilities; provided that nothing herein shall be

1 construed to prohibit that person from retaining his or her own  
2 counsel; and provided further, that the actual or alleged act,  
3 error, or omission did not result from that person's intentional or  
4 willful or wanton misconduct.

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

15 SECTION 10. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 6-229 of Title 43A, unless there  
17 is created a duplication in numbering, reads as follows:

18 ARTICLE X

19 Data System

20 A. The Commission shall provide for the development,  
21 maintenance, operation, and utilization of a coordinated database  
22 and reporting system containing licensure, adverse action, and  
23 investigative information on all licensed individuals in member  
24 states.

1 B. Notwithstanding any other provision of state law to the  
2 contrary, a member state shall submit a uniform data set to the data  
3 system on all individuals to whom this compact is applicable as  
4 required by the rules of the Commission, including:

5 1. Identifying information;

6 2. Licensure data;

7 3. Adverse actions against a license or privilege to practice;

8 4. Non-confidential information related to alternative program  
9 participation;

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

12 6. Current significant investigative information; and

13 7. Other information that may facilitate the administration of  
14 this compact, as determined by the rules of the Commission.

15 C. Investigative information pertaining to a licensee in any  
16 member state shall only be available to other member states.

17 D. The Commission shall promptly notify all member states of  
18 any adverse action taken against a licensee or an individual  
19 applying for a license. Adverse action information pertaining to a  
20 licensee in any member state will be available to any other member  
21 state.

22 E. Member states contributing information to the data system  
23 may designate information that may not be shared with the public  
24 without the express permission of the contributing state.

1 F. Any information submitted to the data system that is  
2 subsequently required to be expunged by the laws of the member state  
3 contributing the information shall be removed from the data system.

4 SECTION 11. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 6-230 of Title 43A, unless there  
6 is created a duplication in numbering, reads as follows:

7 ARTICLE XI

8 Rulemaking

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

16 B. The Commission shall exercise its rulemaking powers pursuant  
17 to the criteria set forth in this section and the rules adopted  
18 thereunder. Rules and amendments shall become binding as of the  
19 date specified in each rule or amendment.

20 C. If a majority of the legislatures of the member states  
21 rejects a rule, by enactment of a statute or resolution in the same  
22 manner used to adopt the compact within four (4) years of the date  
23 of adoption of the rule, then such rule shall have no further force  
24 and effect in any member state.

1 D. Rules or amendments to the rules shall be adopted at a  
2 regular or special meeting of the Commission.

3 E. Prior to promulgation and adoption of a final rule or rules  
4 by the Commission, and at least thirty (30) days in advance of the  
5 meeting at which the rule will be considered and voted upon, the  
6 Commission shall file a notice of proposed rulemaking:

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

9 2. On the website of each member state's professional  
10 counseling licensing board or other publicly accessible platform or  
11 the publication in which each state would otherwise publish proposed  
12 rules.

13 F. The notice of proposed rulemaking shall include:

14 1. The proposed time, date, and location of the meeting in  
15 which the rule will be considered and voted upon;

16 2. The text of the proposed rule or amendment and the reason  
17 for the proposed rule;

18 3. A request for comments on the proposed rule from any  
19 interested person; and

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

23

24

1 G. Prior to adoption of a proposed rule, the Commission shall  
2 allow persons to submit written data, facts, opinions, and  
3 arguments, which shall be made available to the public.

4 H. The Commission shall grant an opportunity for a public  
5 hearing before it adopts a rule or amendment if a hearing is  
6 requested by:

- 7 1. At least twenty-five persons;
- 8 2. A state or federal governmental subdivision or agency; or
- 9 3. An association having at least twenty-five members.

10 I. If a hearing is held on the proposed rule or amendment, the  
11 Commission shall publish the place, time, and date of the scheduled  
12 public hearing. If the hearing is held via electronic means, the  
13 Commission shall publish the mechanism for access to the electronic  
14 hearing.

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

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

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

1 4. Nothing in this section shall be construed as requiring a  
2 separate hearing on each rule. Rules may be grouped for the  
3 convenience of the Commission at hearings required by this section.

4 J. Following the scheduled hearing date, or by the close of  
5 business on the scheduled hearing date if the hearing was not held,  
6 the Commission shall consider all written and oral comments  
7 received.

8 K. If no written notice of intent to attend the public hearing  
9 by interested parties is received, the Commission may proceed with  
10 promulgation of the proposed rule without a public hearing.

11 L. The Commission shall, by majority vote of all members, take  
12 final action on the proposed rule and shall determine the effective  
13 date of the rule, if any, based on the rulemaking record and the  
14 full text of the rule.

15 M. Upon determination that an emergency exists, the Commission  
16 may consider and adopt an emergency rule without prior notice,  
17 opportunity for comment, or hearing, provided that the usual  
18 rulemaking procedures provided in the compact and in this section  
19 shall be retroactively applied to the rule as soon as reasonably  
20 possible, in no event later than ninety (90) days after the  
21 effective date of the rule. For the purposes of this provision, an  
22 emergency rule is one that must be adopted immediately in order to:

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



1        1. The executive, legislative, and judicial branches of state  
2 government in each member state shall enforce this compact and take  
3 all actions necessary and appropriate to effectuate the compact's  
4 purposes and intent. The provisions of this compact and the rules  
5 promulgated hereunder shall have standing as statutory law.

6        2. All courts shall take judicial notice of the compact and the  
7 rules in any judicial or administrative proceeding in a member state  
8 pertaining to the subject matter of this compact which may affect  
9 the powers, responsibilities, or actions of the Commission.

10       3. The Commission shall be entitled to receive service of  
11 process in any such proceeding and shall have standing to intervene  
12 in such a proceeding for all purposes. Failure to provide service  
13 of process to the Commission shall render a judgment or order void  
14 as to the Commission, this compact, or promulgated rules.

15       B. Default, technical assistance, and termination

16       1. If the Commission determines that a member state has  
17 defaulted in the performance of its obligations or responsibilities  
18 under this compact or the promulgated rules, the Commission shall:

- 19       a. provide written notice to the defaulting state and  
20             other member states of the nature of the default, the  
21             proposed means of curing the default, and any other  
22             action to be taken by the Commission, and
- 23       b. provide remedial training and specific technical  
24             assistance regarding the default.

1 C. If a state in default fails to cure the default, the  
2 defaulting state may be terminated from the compact upon an  
3 affirmative vote of a majority of the member states, and all rights,  
4 privileges and benefits conferred by this compact may be terminated  
5 on the effective date of termination. A cure of the default does  
6 not relieve the offending state of obligations or liabilities  
7 incurred during the period of default.

8 D. Termination of membership in the compact shall be imposed  
9 only after all other means of securing compliance have been  
10 exhausted. Notice of intent to suspend or terminate shall be given  
11 by the Commission to the governor, the majority and minority leaders  
12 of the defaulting state's legislature, and each of the member  
13 states.

14 E. A state that has been terminated is responsible for all  
15 assessments, obligations, and liabilities incurred through the  
16 effective date of termination, including obligations that extend  
17 beyond the effective date of termination.

18 F. The Commission shall not bear any costs related to a state  
19 that is found to be in default or that has been terminated from the  
20 compact, unless agreed upon in writing between the Commission and  
21 the defaulting state.

22 G. The defaulting state may appeal the action of the Commission  
23 by petitioning the United States District Court for the District of  
24 Columbia or the federal district where the Commission has its

1 principal offices. The prevailing member shall be awarded all costs  
2 of such litigation, including reasonable attorney fees.

3 H. Dispute resolution

4 1. Upon request by a member state, the Commission shall attempt  
5 to resolve disputes related to the compact that arise among member  
6 states and between member and non-member states.

7 2. The Commission shall promulgate a rule providing for both  
8 mediation and binding dispute resolution for disputes as  
9 appropriate.

10 I. Enforcement

11 1. The Commission, in the reasonable exercise of its  
12 discretion, shall enforce the provisions and rules of this compact.

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

22 3. The remedies herein shall not be the exclusive remedies of  
23 the Commission. The Commission may pursue any other remedies  
24 available under federal or state law.

1 SECTION 13. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 6-232 of Title 43A, unless there  
3 is created a duplication in numbering, reads as follows:

4 ARTICLE XIII

5 Date of Implementation of Counseling Compact Commission and  
6 Associated Rules, Withdrawal, and Amendment

7 A. The compact shall come into effect on the date on which the  
8 compact statute is enacted into law. The provisions, which become  
9 effective at that time, shall be limited to the powers granted to  
10 the Commission relating to assembly and the promulgation of rules.  
11 Thereafter, the Commission shall meet and exercise rulemaking powers  
12 necessary to the implementation and administration of the compact.

13 B. Any state that joins the compact subsequent to the  
14 Commission's initial adoption of the rules shall be subject to the  
15 rules as they exist on the date on which the compact becomes law in  
16 that state. Any rule that has been previously adopted by the  
17 Commission shall have the full force and effect of law on the day  
18 the compact becomes law in that state.

19 C. Any member state may withdraw from this compact by enacting  
20 a statute repealing the same.

21 1. A member state's withdrawal shall not take effect until six  
22 (6) months after enactment of the repealing statute.

23 2. Withdrawal shall not affect the continuing requirement of  
24 the withdrawing state's professional counseling licensing board to

1 comply with the investigative and adverse action reporting  
2 requirements of this compact prior to the effective date of  
3 withdrawal.

4 D. Nothing contained in this compact shall be construed to  
5 invalidate or prevent any professional counseling licensure  
6 agreement or other cooperative arrangement between a member state  
7 and a non-member state that does not conflict with the provisions of  
8 this compact.

9 E. This compact may be amended by the member states. No  
10 amendment to this compact shall become effective and binding upon  
11 any member state until it is enacted into the laws of all member  
12 states.

13 SECTION 14. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 6-233 of Title 43A, unless there  
15 is created a duplication in numbering, reads as follows:

16 ARTICLE XIV

17 Construction and Severability

18 This compact shall be liberally construed so as to effectuate  
19 the purposes thereof. The provisions of this compact shall be  
20 severable and if any phrase, clause, sentence, or provision of this  
21 compact is declared to be contrary to the constitution of any member  
22 state or of the United States or the applicability thereof to any  
23 government, agency, person, or circumstance is held invalid, the  
24 validity of the remainder of this compact and the applicability

1 thereof to any government, agency, person, or circumstance shall not  
2 be affected thereby. If this compact shall be held contrary to the  
3 constitution of any member state, the compact shall remain in full  
4 force and effect as to the remaining member states and in full force  
5 and effect as to the member state affected as to all severable  
6 matters.

7 SECTION 15. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 6-234 of Title 43A, unless there  
9 is created a duplication in numbering, reads as follows:

10 ARTICLE XV

11 Binding Effect of Compact and Other Laws

12 A. A licensee providing professional counseling services in a  
13 remote state under the privilege to practice shall adhere to the  
14 laws and regulations, including scope of practice, of the remote  
15 state.

16 B. Nothing herein prevents the enforcement of any other law of  
17 a member state that is not inconsistent with the compact.

18 C. Any laws in a member state in conflict with the compact are  
19 superseded to the extent of the conflict.

20 D. Any lawful actions of the Commission, including all rules  
21 and bylaws properly promulgated by the Commission, are binding upon  
22 the member states.

23 E. All permissible agreements between the Commission and the  
24 member states are binding in accordance with their terms.

1 F. In the event any provision of the compact exceeds the  
2 constitutional limits imposed on the legislature of any member  
3 state, the provision shall be ineffective to the extent of the  
4 conflict with the constitutional provision in question in that  
5 member state.

6 SECTION 16. This act shall become effective November 1, 2023.

7 Passed the House of Representatives the 22nd day of March, 2023.

8

9

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

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12 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2023.

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Presiding Officer of the Senate

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