

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 32

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO PROFESSIONAL LICENSURE; ENACTING THE COUNSELING  
COMPACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] COUNSELING COMPACT ENTERED  
INTO.--The Counseling Compact is entered into law and entered  
into with all other jurisdictions legally joining therein in a  
form substantially as follows:

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Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

"Counseling Compact

SECTION 1 -- DEFINITIONS

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

A. "active duty military" means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211;

B. "adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws that is imposed by a licensing board or other authority against a licensed professional counselor, including actions against an individual's license or privilege to practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a licensed professional counselor's authorization to practice, including issuance of a cease and desist action;

C. "alternative program" means a non-disciplinary monitoring or practice remediation process approved by a licensing board to address impaired practitioners;

D. "continuing competence or education" means a requirement, as a condition of license renewal, to provide evidence of participation in, or completion of, educational and professional activities relevant to practice or area of work;

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E. "counseling compact commission" or "commission" means the national administrative body whose membership consists of all states that have enacted the compact;

F. "current significant investigative information" means:

(1) investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the licensed professional counselor to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(2) investigative information that indicates that the licensed professional counselor represents an immediate threat to public health and safety regardless of whether the licensed professional counselor has been notified and had an opportunity to respond;

G. "data system" means a repository of information about licensees, including continuing education, examination, licensure, investigative, privilege to practice and adverse action information;

H. "encumbered license" means a license in which an adverse action restricts the practice of licensed professional counseling by the licensee and the adverse action has been reported to the national practitioner data bank;

I. "encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of licensed professional counseling by a licensing board;

J. "executive committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission;

K. "home state" means the member state that is the licensee's primary state of residence;

L. "impaired practitioner" means an individual who has a condition that may impair the person's ability to practice as a licensed professional counselor without some type of intervention and may include alcohol or drug dependence, mental health impairment or neurological or physical impairments;

M. "investigative information" means information, records or documents received or generated by a licensing board pursuant to an investigation;

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

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

P. "licensee" means an individual who currently holds an authorization from the state to practice as a licensed professional counselor;

Q. "licensing board" means the agency of a state, or equivalent, that is responsible for the licensing and regulation of licensed professional counselors;

R. "member state" means a state that has enacted the compact;

S. "privilege to practice" means a legal authorization, which is equivalent to a license, permitting the practice of professional counseling in a remote state;

T. "professional counseling" means the assessment, diagnosis and treatment of behavioral health conditions by a licensed professional counselor;

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;

V. "rule" means a regulation promulgated by the commission that has the force of law;

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;

X. "state" means any state, commonwealth, district

or territory of the United States that regulates the practice of professional counseling;

Y. "telehealth" means the application of telecommunication technology to deliver professional counseling services remotely to assess, diagnose and treat behavioral health conditions; and

Z. "unencumbered license" means a license that authorizes a licensed professional counselor to engage in the full and unrestricted practice of professional counseling.

## SECTION 2 -- STATE PARTICIPATION IN THE COMPACT

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

(1) license and regulate licensed professional counselors;

(2) require licensees to pass a nationally recognized exam approved by the commission; and

(3) require licensees to have a sixty semester-hour or ninety quarter-hour master's degree in counseling or sixty semester-hours or ninety quarter-hours of graduate course work, including the following topic areas:

(a) professional counseling orientation and ethical practice;

(b) social and cultural diversity;

(c) human growth and development;

(d) career development;

- (e) counseling and helping relationships;
  - (f) group counseling and group work;
  - (g) diagnosis and treatment; assessment and testing;
  - (h) research and program evaluation; and
  - (i) other areas as determined by the commission;
- (4) require licensees to complete a supervised postgraduate professional experience as defined by the commission; and
- (5) have a mechanism in place for receiving and investigating complaints about licensees.

B. A member state shall:

- (1) participate fully in the commission's data system, including using the commission's unique identifier as defined in rules;
- (2) notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee;
- (3) implement or utilize procedures for considering the criminal history records of applicants for an initial privilege to practice, including the submission of

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fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records, including:

(a) a criminal background check requirement, within a time frame established by rule, by receiving the results of the federal bureau of investigation record search and shall use the results in making licensure decisions; and

(b) a requirement that communication between a member state, the commission and among member states regarding the verification of eligibility for licensure through the compact shall not include any information received from the federal bureau of investigation relating to a federal criminal records check performed by a member state under Public Law 92-544;

(4) comply with the rules of the commission;

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

(6) grant the privilege to practice to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules;

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and

(7) provide for the attendance of the state's commissioner to the counseling compact commission meetings.

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

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

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

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

### SECTION 3 -- PRIVILEGE TO PRACTICE

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

- (1) hold a license in the home state;
- (2) have a valid United States social security

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number or national practitioner identifier;

(3) be eligible for a privilege to practice in any member state in accordance with Subsections D, G and H of this section;

(4) have not had any encumbrance or restriction against any license or privilege to practice within the previous two years;

(5) notify the commission that the licensee is seeking the privilege to practice within a remote state;

(6) pay any applicable fees, including any state fee, for the privilege to practice;

(7) meet any continuing competence or education requirements established by the home state;

(8) meet any jurisprudence requirements established by the remote state in which the licensee is seeking a privilege to practice; and

(9) report to the commission any adverse action, encumbrance or restriction on license taken by any nonmember state within thirty days from the date the action is taken.

B. The privilege to practice is valid until the expiration date of the home state license. The licensee must comply with the requirements of Subsection A of this section to maintain the privilege to practice in the remote state.

C. A licensee providing professional counseling in



a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state.

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

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

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

F. Once an encumbered license in the home state is restored to good standing, the licensee shall meet the requirements of Subsection A of this section in order to obtain a privilege to practice in any remote state.

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

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

H. Once the requirements of Subsection G of this section have been met, the licensee shall meet the requirements in Subsection A of this section in order to obtain a privilege to practice in a remote state.

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

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

B. If a licensed professional counselor's primary state of residence changes due to moving between two member states:

- (1) the licensed professional counselor shall file an application for obtaining a new home state license based on a privilege to practice; pay all applicable fees; and

notify the current and new home state in accordance with applicable rules adopted by the commission;

(2) upon receipt of an application for obtaining a new home state license by virtue of a privilege to practice, the new home state shall verify that the licensed professional counselor meets the pertinent criteria outlined in Section 3 of this compact via the data system, without need for primary source verification except for:

(a) a federal bureau of investigation fingerprint-based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the commission in accordance with Public Law 92-544;

(b) other criminal background checks as required by the new home state; and

(c) completion of any requisite jurisprudence requirements of the new home state;

(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;

(4) notwithstanding any other provision of this compact, if the licensed professional counselor cannot meet the criteria established in Section 3 of this compact, the new home state may apply its requirements for issuing a new

single state license; and

(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.

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

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.

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

#### SECTION 5 -- ACTIVE DUTY MILITARY MEMBERS OR THEIR SPOUSES

An active duty military member, or the member's spouse, shall designate a home state where the member or member's spouse has a current license in good standing. The member or member's spouse may retain the home state designation during the period the member is on active duty. Subsequent to designating a home state, the member or member's spouse shall only change the member's or member's spouse's home state through application for licensure in the new state, or through

the process outlined in Section 4 of this compact.

#### SECTION 6 -- COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

A. Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with Section 2 of this compact and under rules promulgated by the commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.

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

#### SECTION 7 -- ADVERSE ACTIONS

A. In addition to the other powers conferred by state law:

(1) a remote state shall have the authority, in accordance with existing state due process law, to take adverse action against a licensed professional counselor's privilege to practice within that member state;

(2) a remote state shall have the authority, in accordance with existing state due process law, to issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member

state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence is located; and

(3) the home state shall have the sole power to take adverse action against a licensed professional counselor's license issued by the home state.

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

C. The home state shall complete any pending investigations of a licensed professional counselor who changes the primary state of residence during the course of the investigations. The home state shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the coordinated licensure

information system shall promptly notify the new home state of any adverse actions.

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

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

F. Joint investigations shall be conducted as follows:

(1) in addition to the authority granted to a member state by its respective professional counseling practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees; and

(2) member states shall share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

G. If adverse action is taken by the home state against the license of a licensed professional counselor, the

licensed professional counselor's privilege to practice in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against the license of a licensed professional counselor shall include a statement that the licensed professional counselor's privilege to practice is deactivated in all member states during the pendency of the order.

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

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

#### SECTION 8 -- ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

A. The compact member states shall create and establish a joint public agency known as the "counseling compact commission" as follows:

(1) the counseling compact commission shall be an instrumentality of the compact states;

(2) venue in proper and judicial proceedings by or against the commission shall be brought in a court of competent jurisdiction where the principal office of the commission is located or, at the discretion of the commission,



a federal court of New Mexico. The counseling compact commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings; and

(3) nothing in this compact shall be construed to be a waiver of sovereign immunity.

B. Membership, voting and meetings shall be conducted as follows:

(1) each member state shall have one delegate selected by that member state's licensing board;

(2) a delegate shall be:

(a) a current member of the licensing board at the time of appointment, who is a licensed professional counselor or public member; or

(b) an administrator of the licensing board;

(3) a delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed;

(4) a vacancy occurring on the commission shall be filled by the member state licensing board within sixty days;

(5) a delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws

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and have an opportunity to participate in the business and affairs of the commission;

(6) a delegate shall vote in person or by other means as provided in the bylaws, including participation in meetings by telephone or other means of communication;

(7) the commission shall meet at least once during each calendar year, with additional meetings to be held as set forth in the bylaws; and

(8) the commission shall by rule establish a term of office for delegates and may by rule establish term limits.

C. The commission shall have the following powers and duties:

(1) establish the fiscal year of the commission;

(2) establish bylaws;

(3) maintain its financial records in accordance with the bylaws;

(4) meet and take such actions as are consistent with the provisions of this compact and the bylaws;

(5) promulgate rules, which shall be binding to the extent and in the manner provided for in the compact;

(6) bring and prosecute legal proceedings or actions in the name of the commission; provided that the standing of any licensing board to sue or be sued under

applicable law shall not be affected;

(7) purchase and maintain insurance and bonds;

(8) borrow, accept or contract for services of personnel, including employees of a member state;

(9) hire employees; elect or appoint officers; fix compensation; define duties; grant such individuals appropriate authority to carry out the purposes of the compact; and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

(10) accept any and all appropriate donations and grants of money, equipment, supplies, materials and services and receive, utilize and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;

(11) lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed; provided that at all times the commission shall avoid any appearance of impropriety;

(12) sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

(13) establish a budget and make expenditures;

(14) borrow money;

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(15) appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, consumer representatives and other interested persons as designated in this compact and the bylaws;

(16) provide and receive information from, and cooperate with, law enforcement agencies;

(17) establish and elect an executive committee; and

(18) perform such other functions as necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of professional counseling licensure and practice.

D. The executive committee shall:

(1) have the power to act on behalf of the commission according to the terms of this compact;

(2) be composed of up to eleven members, including:

(a) Hf11→~~an even number of~~←Hf11  
Hf11→**seven**←Hf11 voting members who are elected by the commission from the current membership of the commission;

(b) up to four ex-officio, nonvoting members from four recognized national professional counselor organizations; and

(c) ex-officio members shall be selected

by their respective organizations;

(3) the commission may remove a member of the executive committee as provided in the bylaws;

(4) meet at least annually; and

(5) have the following duties and responsibilities:

(a) recommend changes to the commission regarding the rules or bylaws, changes to this compact legislation, 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

(g) perform additional duties as provided in rules or bylaws.

E. Meetings of the commission, the executive committee or other committees:

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(1) shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 10 of this compact; and

(2) may convene in a closed, nonpublic meeting if any of the following matters will be discussed:

(a) the noncompliance of a member state with its obligations under the compact;

(b) the employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(c) current, threatened or reasonably anticipated litigation;

(d) negotiation of contracts for the purchase, lease or sale of goods, services or real estate;

(e) accusations of a crime or formal censure of a person;

(f) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(g) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(h) disclosure of investigative records

compiled for law enforcement purposes;

(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

(j) matters specifically exempted from disclosure by federal or member state statute;

(3) if fully or partially closed pursuant to Paragraph (2) of this subsection, the commission's legal counsel or designee shall reference each relevant exempting provision and certify that the meeting may be closed; and

(4) shall be memorialized with minutes that fully and clearly describe all matters discussed in a meeting and provide a full and accurate summary of action taken and reasons for taking action, including a description of the views expressed; and identify all documents considered in connection with an action taken; provided that 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.

F. Financing of the commission shall be carried out as follows:

(1) the commission shall pay, or provide for

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the payment of, the reasonable expenses of its establishment, organization and ongoing activities;

(2) the commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services;

(3) the commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, in an amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission by rule, which shall be binding upon all member states;

(4) the commission shall not incur obligations prior to securing the funds adequate to meet the obligations or pledge the credit of any of the member states, absent the authority of the member state; and

(5) the commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be



included in and become part of the annual report of the commission.

G. Qualified immunity, defense and indemnification shall apply as follows:

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

(2) the commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within

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the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct; and

(3) the commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission, employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

#### SECTION 9 -- DATA SYSTEM

A. The commission shall provide for the development, maintenance, operation and utilization of a coordinated database and reporting system containing licensure, adverse action and investigative information on all licensees in member states.

B. Notwithstanding any other provision of state law, a member state shall submit a uniform data set to the data

system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

- (1) identifying information;
- (2) licensure data;
- (3) adverse actions against a license or privilege to practice;
- (4) non-confidential information related to alternative program participation;
- (5) any denial of application for licensure and the reasons for such denial;
- (6) current significant investigative information; or
- (7) other information that may facilitate the administration of this compact, as determined by the rules of the commission.

C. Investigative information pertaining to a licensee in a member state is only available to other member states.

D. The commission shall promptly notify all member states of an adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in a member state is available to any other member state.

E. Member states contributing information to the

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data system may designate information that may not be shared with the public without the express permission of the contributing state.

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

#### SECTION 10 -- RULEMAKING

A. The commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purpose of the compact. If the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact or the powers granted pursuant to the compact, then such an action by the commission shall be invalid and have no force or effect.

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

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

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

E. Prior to promulgation and adoption of a final rule by the commission, and at least thirty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) on the website of the commission or other publicly accessible platform; and

(2) on the website of each member state licensing board, other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

F. The notice of proposed rulemaking shall include:

(1) the proposed time, date and location of the meeting in which the rule will be considered and voted upon;

(2) the text of the proposed rule or amendment and the reason for the proposed rule;

(3) a request for comments on the proposed rule from any interested person; and

(4) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

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

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

- (1) at least twenty-five persons;
- (2) a state or federal governmental subdivision or agency; or
- (3) an association having at least twenty-five members.

I. If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing to ensure the following:

(1) all persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing;

(2) hearings shall be conducted in a manner providing each person who wishes to comment a fair and

reasonable opportunity to comment orally or in writing;

(3) all hearings will be recorded, and a copy of the recording will be made available on request; and

(4) nothing in this section shall be construed as requiring a separate hearing on each rule, and rules may be grouped for the convenience of the commission at hearings required by this section.

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

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

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

M. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing; provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon

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as reasonably possible and later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

- (1) meet an imminent threat to public health, safety or welfare;
- (2) prevent a loss of commission or member state funds;
- (3) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
- (4) protect public health and safety.

N. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect



without the approval of the commission.

SECTION 11 -- COMPACT OVERSIGHT, DISPUTE RESOLUTION AND  
ENFORCEMENT

A. Compact oversight shall be carried out as follows:

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

(2) all courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding that may affect the powers, responsibilities or actions of the commission in a member state pertaining to the subject matter of this compact; and

(3) the commission shall be entitled to receive service of process in such proceedings and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact or promulgated rules.

B. Default, technical assistance and member state termination shall be managed as follows:

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(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 provide:

(a) written notice to the defaulting member state and other member states of the nature of the default, the proposed means of curing the default or any other action to be taken by the commission; and

(b) remedial training and specific technical assistance regarding the default.

C. If a member state is in default of the compact and fails to cure the default, the defaulting member 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 defaulting member state of obligations or liabilities incurred during the period of default.

D. Termination of compact membership 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 member state's legislature and each of the member states.

E. A state that has been terminated from the

compact 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.

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.

G. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia, the federal district where the commission has its principal offices or, at the discretion of the commission, federal or state courts of New Mexico. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

H. Dispute resolution shall be conducted as follows:

(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 nonmember states; and

(2) the commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

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I. Enforcement shall be carried out as follows:

(1) the commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact;

(2) by majority vote, the commission may initiate legal action in the United States district court for the District of Columbia, the federal district where the commission has its principal offices or, at the discretion of the commission, federal or state courts of New Mexico 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 party shall be awarded all costs of such litigation, including reasonable attorney fees; and

(3) the remedies in this subsection shall not be the exclusive remedies of the commission, and the commission may pursue any other remedies available under federal or state law.

SECTION 12 -- DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL AND AMENDMENT

A. The compact shall come into effect on the date on which the compact statute is enacted into law by the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission

relating to assembly and the promulgation of rules.

Thereafter, the commission shall meet and exercise rulemaking powers necessary for the implementation and administration of the compact.

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

C. To withdraw from this compact, a member state shall enact a statute repealing this statute, and withdrawal:

(1) shall take effect six months after the enactment of the repealing statute; and

(2) shall not affect the continuing requirement of the withdrawing state's licensing board to comply with the investigative and adverse action reporting requirements of the compact prior to the effective date of withdrawal.

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

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E. This compact may be amended by the member states. The amendment shall become effective and binding upon a member state when it is enacted into the laws of all member states.

#### SECTION 13 -- CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed to effectuate its purposes. The provisions of this compact shall be severable, and if any part of this compact is declared to be contrary to the constitution of any member state or of the United States or its applicability to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and its applicability to any government, agency, person or circumstance shall not be affected. If this compact is held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

#### SECTION 14 -- BINDING EFFECT OF COMPACT AND OTHER LAWS

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

B. Nothing in this compact prevents the enforcement of any other law of a member state that is consistent with the

compact.

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

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

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

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

**SECTION 2.** Section 61-9A-10 NMSA 1978 (being Laws 1993, Chapter 49, Section 10, as amended) is amended to read:

"61-9A-10. PROFESSIONAL MENTAL HEALTH COUNSELOR-- REQUIREMENTS FOR LICENSURE.--Effective July 1, 2007, the board will no longer license professional mental health counselors. Prior to the effective date, the board shall issue a license as a professional mental health counselor to any person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

A. has reached the age of twenty-one;

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B. holds a master's or doctoral degree in counseling or a counseling-related field from an accredited institution and has a total of no less than forty-eight graduate semester hours or seventy-two quarter hours in the mental health clinical core curriculum; provided that an applicant who satisfies the educational requirements for licensure under this subsection shall not be qualified to exercise the privilege to practice under the Counseling Compact unless the master's or doctoral level educational program consists of at least sixty graduate semester hours or ninety quarter hours in the mental health clinical core curriculum;

C. demonstrates professional competency by passing the required examinations prescribed by the board;

D. has completed one thousand client contact hours of postgraduate professional counseling experience under appropriate clinical supervision consisting of at least one hundred supervision hours; and

E. is of good moral character with conduct consistent with the code of ethics."

SECTION 3. Section 61-9A-11 NMSA 1978 (being Laws 1993, Chapter 49, Section 11, as amended) is amended to read:

"61-9A-11. PROFESSIONAL CLINICAL MENTAL HEALTH COUNSELOR--REQUIREMENTS FOR LICENSURE.--The board shall issue a license as a professional clinical mental health counselor to a person who files a completed application and, except as



provided in Section 61-1-34 NMSA 1978, pays any required fees and who submits satisfactory evidence that the applicant:

A. has reached the age of twenty-one;

B. holds a master's or doctoral degree in a counseling or counseling-related field, as defined by rule, from an accredited institution. The applicant shall have a master's degree and a total of no less than forty-eight graduate semester hours or seventy-two quarter hours in the mental health clinical core curriculum; provided that an applicant who satisfies the educational requirements for licensure under this subsection shall not be qualified to exercise the privilege to practice under the Counseling Compact unless the master's or doctoral level educational program consists of at least sixty graduate semester hours or ninety quarter hours in the mental health clinical core curriculum;

C. demonstrates professional competency by passing the required examination as prescribed by the board;

D. has a minimum of two years of professional clinical counseling experience, including at least three thousand clinical contact hours and at least one hundred hours of appropriate supervision. One thousand client clinical contact hours may be submitted from the applicant's internship or practicum; and

E. observes the code of ethics."

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