

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 32

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

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:

"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

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1 duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211;

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

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

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

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

22 F. "current significant investigative information"
23 means:

24 (1) investigative information that a licensing
25 board, after a preliminary inquiry that includes notification

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1 and an opportunity for the licensed professional counselor to
2 respond, if required by state law, has reason to believe is not
3 groundless and, if proved true, would indicate more than a
4 minor infraction; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 SECTION 2 -- STATE PARTICIPATION IN THE COMPACT

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

4 (1) license and regulate licensed professional
5 counselors;

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

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

12 (a) professional counseling orientation
13 and ethical practice;

14 (b) social and cultural diversity;

15 (c) human growth and development;

16 (d) career development;

17 (e) counseling and helping
18 relationships;

19 (f) group counseling and group work;

20 (g) diagnosis and treatment; assessment
21 and testing;

22 (h) research and program evaluation; and
23 (i) other areas as determined by the

24 commission;

25 (4) require licensees to complete a supervised

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1 postgraduate professional experience as defined by the
2 commission; and

3 (5) have a mechanism in place for receiving
4 and investigating complaints about licensees.

5 B. A member state shall:

6 (1) participate fully in the commission's data
7 system, including using the commission's unique identifier as
8 defined in rules;

9 (2) notify the commission, in compliance with
10 the terms of the compact and rules, of any adverse action or
11 the availability of investigative information regarding a
12 licensee;

13 (3) implement or utilize procedures for
14 considering the criminal history records of applicants for an
15 initial privilege to practice, including the submission of
16 fingerprints or other biometric-based information by applicants
17 for the purpose of obtaining an applicant's criminal history
18 record information from the federal bureau of investigation and
19 the agency responsible for retaining that state's criminal
20 records, including:

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

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(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
some state and meet the home state's
or licensure or renewal of licensure, as well
licable 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; 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

1 professional counseling in any other member state.

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

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

10 SECTION 3 -- PRIVILEGE TO PRACTICE

11 A. To exercise the privilege to practice under the
12 terms and 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
15 number or national practitioner identifier;
16 (3) be eligible for a privilege to practice in
17 any member state in accordance with Subsections D, G and H of
18 this section;

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

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

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

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(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

1 fines are paid.

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

5 (1) the home state license is no longer
6 encumbered; and

7 (2) the licensee has not had any encumbrance
8 or restriction against any license or privilege to practice
9 within the previous two years.

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

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

18 (1) the specific period of time for which the
19 privilege to practice was removed has ended;

20 (2) all fines have been paid; and

21 (3) the licensee has not had any encumbrance
22 or restriction against any license or privilege to practice
23 within the previous two years.

24 H. Once the requirements of Subsection G of this
25 section have been met, the licensee shall meet the requirements

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1 in Subsection A of this section in order to obtain a privilege
2 to practice in a remote state.

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

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

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

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

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

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

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(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.

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

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

5 An active duty military member, or the member's spouse,
6 shall designate a home state where the member or member's
7 spouse has a current license in good standing. The member or
8 member's spouse may retain the home state designation during
9 the period the member is on active duty. Subsequent to
10 designating a home state, the member or member's spouse shall
11 only change the member's or member's spouse's home state
12 through application for licensure in the new state, or through
13 the process outlined in Section 4 of this compact.

14 SECTION 6 -- COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

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

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

25 SECTION 7 -- ADVERSE ACTIONS

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

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

7 (2) a remote state shall have the authority,
8 in accordance with existing state due process law, to issue
9 subpoenas for both hearings and investigations that require the
10 attendance and testimony of witnesses as well as the production
11 of evidence. Subpoenas issued by a licensing board in a member
12 state for the attendance and testimony of witnesses or the
13 production of evidence from another member state shall be
14 enforced in the latter state by any court of competent
15 jurisdiction, according to the practice and procedure of that
16 court applicable to subpoenas issued in proceedings pending
17 before it. The issuing authority shall pay any witness fees,
18 travel expenses, mileage and other fees required by the service
19 statutes of the state in which the witnesses or evidence is
20 located; and

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

24 B. For purposes of taking adverse action, the home
25 state shall give the same priority and effect to reported

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1 conduct received from a member state as it would if the conduct
2 had occurred within the home state. In so doing, the home
3 state shall apply its own state laws to determine appropriate
4 action.

5 C. The home state shall complete any pending
6 investigations of a licensed professional counselor who changes
7 the primary state of residence during the course of the
8 investigations. The home state shall also have the authority
9 to take appropriate action and shall promptly report the
10 conclusions of the investigations to the administrator of the
11 data system. The administrator of the coordinated licensure
12 information system shall promptly notify the new home state of
13 any adverse actions.

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

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

23 F. Joint investigations shall be conducted as
24 follows:

25 (1) in addition to the authority granted to a

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1 member state by its respective professional counseling practice
2 act or other applicable state law, any member state may
3 participate with other member states in joint investigations of
4 licensees; and

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

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

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

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

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1 SECTION 8 -- ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

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

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

7 (2) venue is proper and judicial proceedings
8 by or against the commission shall be brought in a court of
9 competent jurisdiction where the principal office of the
10 commission is located or, at the discretion of the commission,
11 a federal court of New Mexico. The counseling compact
12 commission may waive venue and jurisdictional defenses to the
13 extent it adopts or consents to participate in alternative
14 dispute resolution proceedings; and

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

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

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

21 (2) a delegate shall be:

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

25 (b) an administrator of the licensing

1 board;

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

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

8 (5) a delegate shall be entitled to one vote
9 with regard to the promulgation of rules and creation of bylaws
10 and have an opportunity to participate in the business and
11 affairs of the commission;

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

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

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

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

23 (1) establish the fiscal year of the
24 commission;

25 (2) establish bylaws;

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(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

1 or donations of, or otherwise own, hold, improve or use, any
2 property, real, personal or mixed; provided that at all times
3 the commission shall avoid any appearance of impropriety;

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

7 (13) establish a budget and make expenditures;

8 (14) borrow money;

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

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

16 (17) establish and elect an executive
17 committee; and

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

22 D. The executive committee shall:

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

25 (2) be composed of up to eleven members,

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1 including:

2 (a) an even number of voting members who
3 are elected by the commission from the current membership of
4 the commission;

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

8 (c) ex-officio members shall be selected
9 by their respective organizations;

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

12 (4) meet at least annually; and

13 (5) have the following duties and
14 responsibilities:

15 (a) recommend changes to the commission
16 regarding the rules or bylaws, changes to this compact
17 legislation, fees paid by compact member states such as annual
18 dues and any commission compact fee charged to licensees for
19 the privilege to practice;

20 (b) ensure compact administration
21 services are appropriately provided, contractual or otherwise;

22 (c) prepare and recommend the budget;

23 (d) maintain financial records on behalf
24 of the commission;

25 (e) monitor compact compliance of member

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1 states and provide compliance reports to the commission;

2 (f) establish additional committees as
3 necessary; and

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

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

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

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

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

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

20 (c) current, threatened or reasonably
21 anticipated litigation;

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

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

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(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

1 of a closed meeting shall remain under seal, subject to release
2 by a majority vote of the commission or order of a court of
3 competent jurisdiction.

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

6 (1) the commission shall pay, or provide for
7 the payment of, the reasonable expenses of its establishment,
8 organization and ongoing activities;

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

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

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

25 (5) the commission shall keep accurate

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1 accounts of all receipts and disbursements. The receipts and
2 disbursements of the commission shall be subject to the audit
3 and accounting procedures established under its bylaws.
4 However, all receipts and disbursements of funds handled by the
5 commission shall be audited yearly by a certified or licensed
6 public accountant, and the report of the audit shall be
7 included in and become part of the annual report of the
8 commission.

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

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

24 (2) the commission shall defend any member,
25 officer, executive director, employee or representative of the

1 commission in any civil action seeking to impose liability
2 arising out of any actual or alleged act, error or omission
3 that occurred within the scope of commission employment, duties
4 or responsibilities, or that the person against whom the claim
5 is made had a reasonable basis for believing occurred within
6 the scope of commission employment, duties or responsibilities;
7 provided that nothing in this paragraph shall be construed to
8 prohibit that person from retaining his or her own counsel; and
9 provided further that the actual or alleged act, error or
10 omission did not result from that person's intentional or
11 willful or wanton misconduct; and

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

23 SECTION 9 -- DATA SYSTEM

24 A. The commission shall provide for the
25 development, maintenance, operation and utilization of a

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1 coordinated database and reporting system containing licensure,
2 adverse action and investigative information on all licensees
3 in member states.

4 B. Notwithstanding any other provision of state
5 law, a member state shall submit a uniform data set to the data
6 system on all individuals to whom this compact is applicable as
7 required by the rules of the commission, including:

8 (1) identifying information;
9 (2) licensure data;
10 (3) adverse actions against a license or
11 privilege to practice;

12 (4) non-confidential information related to
13 alternative program participation;

14 (5) any denial of application for licensure
15 and the reasons for such denial;

16 (6) current significant investigative
17 information; or

18 (7) other information that may facilitate the
19 administration of this compact, as determined by the rules of
20 the commission.

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

24 D. The commission shall promptly notify all member
25 states of an adverse action taken against a licensee or an

1 individual applying for a license. Adverse action information
2 pertaining to a licensee in a member state is available to any
3 other member state.

4 E. Member states contributing information to the
5 data system may designate information that may not be shared
6 with the public without the express permission of the
7 contributing state.

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

12 SECTION 10 -- RULEMAKING

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

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

25 C. If a majority of the legislatures of the member

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

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

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

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

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

18 F. The notice of proposed rulemaking shall include:

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

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

24 (3) a request for comments on the proposed
25 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.

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

1 before the scheduled date of the hearing;

2 (2) hearings shall be conducted in a manner
3 providing each person who wishes to comment a fair and
4 reasonable opportunity to comment orally or in writing;

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

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

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

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

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

23 M. Upon determination that an emergency exists, the
24 commission may consider and adopt an emergency rule without
25 prior notice, opportunity for comment or hearing; provided that

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1 the usual rulemaking procedures provided in the compact and in
2 this section shall be retroactively applied to the rule as soon
3 as reasonably possible and later than ninety days after the
4 effective date of the rule. For the purposes of this
5 provision, an emergency rule is one that must be adopted
6 immediately in order to:

7 (1) meet an imminent threat to public health,
8 safety or welfare;

9 (2) prevent a loss of commission or member
10 state funds;

11 (3) meet a deadline for the promulgation of an
12 administrative rule that is established by federal law or rule;
13 or

14 (4) protect public health and safety.

15 N. The commission or an authorized committee of the
16 commission may direct revisions to a previously adopted rule or
17 amendment for purposes of correcting typographical errors,
18 errors in format, errors in consistency or grammatical errors.
19 Public notice of any revisions shall be posted on the website
20 of the commission. The revision shall be subject to challenge
21 by any person for a period of thirty days after posting. The
22 revision may be challenged only on grounds that the revision
23 results in a material change to a rule. A challenge shall be
24 made in writing and delivered to the chair of the commission
25 prior to the end of the notice period. If no challenge is

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1 made, the revision shall take effect without further action.
2 If the revision is challenged, the revision may not take effect
3 without the approval of the commission.

4 SECTION 11 -- COMPACT OVERSIGHT, DISPUTE RESOLUTION AND
5 ENFORCEMENT

6 A. Compact oversight shall be carried out as
7 follows:

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

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

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

25 B. Default, technical assistance and member state

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1 termination shall be managed as follows:

2 (1) if the commission determines that a member
3 state has defaulted in the performance of its obligations or
4 responsibilities under this compact or the promulgated rules,
5 the commission shall provide:

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

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

12 C. If a member state is in default of the compact
13 and fails to cure the default, the defaulting member state may
14 be terminated from the compact upon an affirmative vote of a
15 majority of the member states, and all rights, privileges and
16 benefits conferred by this compact may be terminated on the
17 effective date of termination. A cure of the default does not
18 relieve the defaulting member state of obligations or
19 liabilities incurred during the period of default.

20 D. Termination of compact membership shall be
21 imposed only after all other means of securing compliance have
22 been exhausted. Notice of intent to suspend or terminate shall
23 be given by the commission to the governor, the majority and
24 minority leaders of the defaulting member state's legislature
25 and each of the member states.

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1 E. A state that has been terminated from the
2 compact is responsible for all assessments, obligations and
3 liabilities incurred through the effective date of termination,
4 including obligations that extend beyond the effective date of
5 termination.

6 F. The commission shall not bear any costs related
7 to a state that is found to be in default or that has been
8 terminated from the compact, unless agreed upon in writing
9 between the commission and the defaulting state.

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

17 H. Dispute resolution shall be conducted as
18 follows:

19 (1) upon request by a member state, the
20 commission shall attempt to resolve disputes related to the
21 compact that arise among member states and between member and
22 nonmember states; and

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

1 I. Enforcement shall be carried out as follows:

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

5 (2) by majority vote, the commission may
6 initiate legal action in the United States district court for
7 the District of Columbia, the federal district where the
8 commission has its principal offices or, at the discretion of
9 the commission, federal or state courts of New Mexico against a
10 member state in default to enforce compliance with the
11 provisions of the compact and its promulgated rules and bylaws.
12 The relief sought may include both injunctive relief and
13 damages. In the event judicial enforcement is necessary, the
14 prevailing party shall be awarded all costs of such litigation,
15 including reasonable attorney fees; and

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

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

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

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1 relating to assembly and the promulgation of rules.

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

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

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

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

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

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

25 E. This compact may be amended by the member

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1 states. The amendment shall become effective and binding upon
2 a member state when it is enacted into the laws of all member
3 states.

4 SECTION 13 -- CONSTRUCTION AND SEVERABILITY

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

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

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

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

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

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

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

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

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

16 **"61-9A-10. PROFESSIONAL MENTAL HEALTH COUNSELOR--**
17 REQUIREMENTS FOR LICENSURE.--Effective July 1, 2007, the board
18 will no longer license professional mental health counselors.
19 Prior to the effective date, the board shall issue a license as
20 a professional mental health counselor to any person who files
21 a completed application accompanied by the required fees and
22 who submits satisfactory evidence that the applicant:

23 A. has reached the age of twenty-one;
24 B. holds a master's or doctoral degree in
25 counseling or a counseling-related field from an accredited

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1 institution and has a total of no less than forty-eight
2 graduate semester hours or seventy-two quarter hours in the
3 mental health clinical core curriculum; provided that an
4 applicant who satisfies the educational requirements for
5 licensure under this subsection shall not be qualified to
6 exercise the privilege to practice under the Counseling Compact
7 unless the master's or doctoral level educational program
8 consists of at least sixty graduate semester hours or ninety
9 quarter hours in the mental health clinical core curriculum;

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

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

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

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

20 "61-9A-11. PROFESSIONAL CLINICAL MENTAL HEALTH
21 COUNSELOR--REQUIREMENTS FOR LICENSURE.--The board shall issue a
22 license as a professional clinical mental health counselor to a
23 person who files a completed application and, except as
24 provided in Section 61-1-34 NMSA 1978, pays any required fees
25 and who submits satisfactory evidence that the applicant:

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1 A. has reached the age of twenty-one;
2 B. holds a master's or doctoral degree in a
3 counseling or counseling-related field, as defined by rule,
4 from an accredited institution. The applicant shall have a
5 master's degree and a total of no less than forty-eight
6 graduate semester hours or seventy-two quarter hours in the
7 mental health clinical core curriculum; provided that an
8 applicant who satisfies the educational requirements for
9 licensure under this subsection shall not be qualified to
10 exercise the privilege to practice under the Counseling Compact

11 unless the master's or doctoral level educational program
12 consists of at least sixty graduate semester hours or ninety
13 quarter hours in the mental health clinical core curriculum;

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

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

22 E. observes the code of ethics."

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