

1 SB99
2 216152-2
3 By Senator Jones
4 RFD: Governmental Affairs
5 First Read: 13-JAN-22

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to the licensed practice of professional
12 counseling; to provide and adopt the Counseling Compact to
13 allow licensed professional counselors to practice among
14 compact states in a limited manner; to provide eligibility
15 requirements for licensed professional counselors to practice
16 pursuant to the compact; to provide for a coordinated
17 licensure information system, joint investigations, and
18 disciplinary actions; to establish the Counseling Compact
19 Commission, and to provide for membership, powers, and duties,
20 and provide for rulemaking functions of the commission; and to
21 provide for oversight of the compact, enforcement of the
22 compact, default procedures, dispute resolution, withdrawal of
23 compact states, and amendment of the compact.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. PURPOSE

26 (a) The purpose of this compact is to facilitate
27 interstate practice of licensed professional counselors with

1 the goal of improving public access to professional counseling
2 services. The practice of professional counseling occurs in
3 the state where the client is located at the time of the
4 counseling services. The compact preserves the regulatory
5 authority of states to protect public health and safety
6 through the current system of state licensure.

7 (b) This compact is designed to achieve the
8 following objectives:

9 (1) Increase public access to professional
10 counseling services by providing for the mutual recognition of
11 other member state licenses.

12 (2) Enhance the states' ability to protect the
13 public's health and safety.

14 (3) Encourage the cooperation of member states in
15 regulating multistate practice for licensed professional
16 counselors.

17 (4) Support spouses of relocating active duty
18 military personnel.

19 (5) Enhance the exchange of licensure,
20 investigative, and disciplinary information among member
21 states.

22 (6) Allow the use of telehealth technology to
23 facilitate increased access to professional counseling
24 services.

25 (7) Support the uniformity of professional
26 counseling licensure requirements throughout the states to
27 promote public safety and public health benefits.

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

6 (9) Eliminate the necessity for licenses in multiple
7 states.

8 (10) Provide opportunities for interstate practice
9 by licensed professional counselors who meet uniform licensure
10 requirements.

11 Section 2. DEFINITIONS

12 As used in this section, the following terms have
13 the following meanings:

14 (1) ACTIVE DUTY MILITARY. Full-time duty status in
15 the active uniformed service of the United States, including
16 members of the National Guard and Reserve on active duty
17 orders pursuant to 10 U.S.C. Chapters 1209 and 1211.

18 (2) ADVERSE ACTION. Any administrative, civil,
19 equitable, or criminal action permitted by a state's laws
20 which is imposed by a licensing board or other authority
21 against a licensed professional counselor, including actions
22 against an individual's license or privilege to practice, such
23 as revocation, suspension, probation, monitoring of the
24 licensee, limitation on the licensee's practice, or any other
25 encumbrance on licensure affecting a licensed professional
26 counselor's authorization to practice, including issuance of a
27 cease and desist action.

1 (3) ALTERNATIVE PROGRAM. A non-disciplinary
2 monitoring or practice remediation process approved by a
3 professional counseling licensing board to address impaired
4 practitioners.

5 (4) CONTINUING COMPETENCE/EDUCATION. A requirement,
6 as a condition of license renewal, to provide evidence of
7 participation in, and/or completion of, educational and
8 professional activities relevant to practice or area of work.

9 (5) COUNSELING COMPACT COMMISSION OR COMMISSION. The
10 national administrative body whose membership consists of all
11 states that have enacted the compact.

12 (6) CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION:

13 a. Investigative information that a licensing board,
14 after a preliminary inquiry that includes notification and an
15 opportunity for the licensed professional counselor to
16 respond, if required by state law, has reason to believe is
17 not groundless and, if proved true, would indicate more than a
18 minor infraction; or

19 b. Investigative information that indicates that the
20 licensed professional counselor represents an immediate threat
21 to public health and safety regardless of whether the licensed
22 professional counselor has been notified and had an
23 opportunity to respond.

24 (7) DATA SYSTEM. A repository of information about
25 licensees, including, but not limited to, continuing
26 education, examination, licensure, investigative, privilege to
27 practice, and adverse action information.

1 (8) ENCUMBERED LICENSE. A license in which an
2 adverse action restricts the practice of licensed professional
3 counseling by the licensee and the adverse action has been
4 reported to the National Practitioners Data Bank (NPDB).

5 (9) ENCUMBRANCE. A revocation or suspension of, or
6 any limitation on, the full and unrestricted practice of
7 licensed professional counseling by a licensing board.

8 (10) EXECUTIVE COMMITTEE. A group of directors
9 elected or appointed to act on behalf of, and within the
10 powers granted to them by, the commission.

11 (11) HOME STATE. The member state that is the
12 licensee's primary state of residence.

13 (12) IMPAIRED PRACTITIONER. An individual who has a
14 condition or conditions that may impair his or her ability to
15 practice as a licensed professional counselor without some
16 type of intervention and may include, but are not limited to,
17 alcohol and drug dependence, mental health impairment, and
18 neurological or physical impairments.

19 (13) INVESTIGATIVE INFORMATION. Information,
20 records, and documents received or generated by a professional
21 counseling licensing board pursuant to an investigation.

22 (14) JURISPRUDENCE REQUIREMENT. If required by a
23 member state, the assessment of an individual's knowledge of
24 the laws and rules governing the practice of professional
25 counseling in a state.

26 (15) LICENSED PROFESSIONAL COUNSELOR. A counselor
27 licensed by a member state, regardless of the title used by

1 that state, to independently assess, diagnose, and treat
2 behavioral health conditions.

3 (16) LICENSEE. An individual who currently holds an
4 authorization from the state to practice as a licensed
5 professional counselor.

6 (17) LICENSING BOARD. The agency of a state, or
7 equivalent, that is responsible for the licensing and
8 regulation of licensed professional counselors.

9 (18) MEMBER STATE. A state that has enacted the
10 compact.

11 (19) PRIVILEGE TO PRACTICE. A legal authorization,
12 which is equivalent to a license, permitting the practice of
13 professional counseling in a remote state.

14 (20) PROFESSIONAL COUNSELING. The assessment,
15 diagnosis, and treatment of behavioral health conditions by a
16 licensed professional counselor.

17 (21) REMOTE STATE. A member state other than the
18 home state, where a licensee is exercising or seeking to
19 exercise the privilege to practice.

20 (22) RULE. A regulation adopted by the commission
21 that has the force of law.

22 (23) SINGLE STATE LICENSE. A licensed professional
23 counselor license issued by a member state that authorizes
24 practice only within the issuing state and does not include a
25 privilege to practice in any other member state.

1 (24) STATE. Any state, commonwealth, district, or
2 territory of the United States that regulates the practice of
3 professional counseling.

4 (25) TELEHEALTH. The application of
5 telecommunication technology to deliver professional
6 counseling services remotely to assess, diagnose, and treat
7 behavioral health conditions.

8 (26) UNENCUMBERED LICENSE. A license that authorizes
9 a licensed professional counselor to engage in the full and
10 unrestricted practice of professional counseling.

11 Section 3. STATE PARTICIPATION IN THE COMPACT

12 (a) To participate in the compact, a state must
13 currently:

14 (1) License and regulate licensed professional
15 counselors;

16 (2) Require licensees to pass a nationally
17 recognized exam approved by the commission;

18 (3) Require licensees to have a 60 semester-hour (or
19 90 quarter-hour) master's degree in counseling or 60
20 semester-hours (or 90 quarter-hours) of graduate course work,
21 including the following topic areas:

22 a. Professional counseling orientation and ethical
23 practice.

24 b. Social and cultural diversity.

25 c. Human growth and development.

26 d. Career development.

27 e. Counseling and helping relationships.

1 f. Group counseling and group work.

2 g. Diagnosis and treatment; assessment and testing.

3 h. Research and program evaluation.

4 i. Other areas as determined by the commission.

5 (4) Require licensees to complete a supervised
6 postgraduate professional experience as defined by the
7 commission; and

8 (5) Have a mechanism in place for receiving and
9 investigating complaints about licensees.

10 (b) A Member State shall:

11 (1) Participate fully in the commission's data
12 system, including using the commission's unique identifier as
13 defined in rules;

14 (2) Notify the commission, in compliance with the
15 terms of the compact and rules, of any adverse action or the
16 availability of investigative information regarding a
17 licensee;

18 (3) Implement or utilize procedures for considering
19 the criminal history records of applicants for an initial
20 privilege to practice. These procedures shall include the
21 submission of fingerprints or other biometric-based
22 information by applicants for the purpose of obtaining an
23 applicant's criminal history record information from the FBI
24 and the agency responsible for retaining that state's criminal
25 records;

26 a. A member state must fully implement a criminal
27 background check requirement, within a time frame established

1 by rule, by receiving the results of the FBI record search and
2 shall use the results in making licensure decisions.

3 b. Communication between a member state, the
4 commission and among member states regarding the verification
5 of eligibility for licensure through the compact shall not
6 include any information received from the FBI relating to a
7 federal criminal records check performed by a member state
8 under Public Law 92-544.

9 (4) Comply with the rules of the commission;

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

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

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

19 (c) Member states may charge a fee for granting the
20 privilege to practice.

21 (d) Individuals not residing in a member state shall
22 continue to be able to apply for a member state's single state
23 license as provided under the laws of each member state.

24 However, the single state license granted to these individuals
25 shall not be recognized as granting a privilege to practice
26 professional counseling in any other member state.

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

9 Section 4. PRIVILEGE TO PRACTICE

10 (a) To exercise the privilege to practice under the
11 terms and provisions of the compact, the licensee shall:

12 (1) Hold a license in the home state;

13 (2) Have a valid United States Social Security
14 number or national practitioner identifier;

15 (3) Be eligible for a privilege to practice in any
16 member state in accordance with subsections (d), (g), and (h);

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

20 (5) Notify the commission that the licensee is
21 seeking the privilege to practice within a remote state or
22 states;

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

25 (7) Meet any continuing competence/education
26 requirements established by the home state;

1 (8) Meet any jurisprudence requirements established
2 by the remote state or states in which the licensee is seeking
3 a privilege to practice; and

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

8 (b) The privilege to practice is valid until the
9 expiration date of the home state license. The licensee must
10 comply with the requirements of subsection (a) to maintain the
11 privilege to practice in the remote state.

12 (c) A licensee providing professional counseling in
13 a remote state under the privilege to practice shall adhere to
14 the laws and regulations of the remote state.

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

25 (e) If a home state license is encumbered, the
26 licensee shall lose the privilege to practice in any remote
27 state until the following occur:

1 (1) The home state license is no longer encumbered;
2 and

3 (2) The licensee has not had any encumbrance or
4 restriction against any license or privilege to practice
5 within the previous two years.

6 (f) Once an encumbered license in the home state is
7 restored to good standing, the licensee must meet the
8 requirements of subsection (a) to obtain a privilege to
9 practice in any remote state.

10 (g) If a licensee's privilege to practice in any
11 remote state is removed, the individual may lose the privilege
12 to practice in all other remote states until the following
13 occur:

14 (1) The specific period of time for which the
15 privilege to practice was removed has ended;

16 (2) All fines have been paid; and

17 (3) The licensee has not had any encumbrance or
18 restriction against any license or privilege to practice
19 within the previous two years.

20 (h) Once the requirements of subsection (g) have
21 been met, the licensee must meet the requirements in
22 subsection (a) to obtain a privilege to practice in a remote
23 state.

24 Section 5. OBTAINING A NEW HOME STATE LICENSE BASED
25 ON A PRIVILEGE TO PRACTICE

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

4 (b) If a licensed professional counselor changes
5 primary state of residence by moving between two member
6 states:

7 (1) The licensed professional counselor shall file
8 an application for obtaining a new home state license based on
9 a privilege to practice, pay all applicable fees, and notify
10 the current and new home state in accordance with applicable
11 rules adopted by the commission.

12 (2) Upon receipt of an application for obtaining a
13 new home state license by virtue of a privilege to practice,
14 the new home state shall verify that the licensed professional
15 counselor meets the pertinent criteria outlined in Section 4
16 via the data system, without need for primary source
17 verification except for:

18 a. An FBI fingerprint based criminal background
19 check if not previously performed or updated pursuant to
20 applicable rules adopted by the commission in accordance with
21 Public Law 92-544;

22 b. Other criminal background check as required by
23 the new home state; and

24 c. Completion of any requisite jurisprudence
25 requirements of the new home state.

26 (3) The former home state shall convert the former
27 home state license into a privilege to practice once the new

1 home state has activated the new home state license in
2 accordance with applicable rules adopted by the commission.

3 (4) Notwithstanding any other provision of this
4 compact, if the licensed professional counselor cannot meet
5 the criteria in Section 4, the new home state may apply its
6 requirements for issuing a new single state license.

7 (5) The licensed professional counselor shall pay
8 all applicable fees to the new home state in order to be
9 issued a new home state license.

10 (c) If a licensed professional counselor changes
11 primary state of residence by moving from a member state to a
12 non-member state, or from a non-member state to a member
13 state, the state criteria shall apply for issuance of a single
14 state license in the new state.

15 (d) Nothing in this compact shall interfere with a
16 licensee's ability to hold a single state license in multiple
17 states, however for the purposes of this compact, a licensee
18 shall have only one home state license.

19 (e) Nothing in this compact shall affect the
20 requirements established by a member state for the issuance of
21 a single state license.

22 Section 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR
23 SPOUSES

24 Active duty military personnel, or their spouses,
25 shall designate a home state where the individual has a
26 current license in good standing. The individual may retain
27 the home state designation during the period the service

1 member is on active duty. Subsequent to designating a home
2 state, the individual shall only change his or her home state
3 through application for licensure in the new state, or through
4 the process outlined in Section 5.

5 Section 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

6 (a) Member states shall recognize the right of a
7 licensed professional counselor, licensed by a home state in
8 accordance with Section 3 and under rules adopted by the
9 commission, to practice professional counseling in any member
10 state via telehealth under a privilege to practice as provided
11 in the compact and rules adopted by the commission.

12 (b) A licensee providing professional counseling
13 services in a remote state under the privilege to practice
14 shall adhere to the laws and regulations of the remote state.

15 Section 8. ADVERSE ACTIONS

16 (a) In addition to the other powers conferred by
17 state law, a remote state shall have the authority, in
18 accordance with existing state due process law, to:

19 (1) Take adverse action against a licensed
20 professional counselor's privilege to practice within that
21 member state;

22 (2) Issue subpoenas for both hearings and
23 investigations that require the attendance and testimony of
24 witnesses, as well as the production of evidence. Subpoenas
25 issued by a licensing board in a member state for the
26 attendance and testimony of witnesses or the production of
27 evidence from another member state shall be enforced in the

1 latter state by any court of competent jurisdiction, according
2 to the practice and procedure of that court applicable to
3 subpoenas issued in proceedings pending before it. The issuing
4 authority shall pay any witness fees, travel expenses,
5 mileage, and other fees required by the service statutes of
6 the state in which the witnesses or evidence are located; and

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

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

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

25 (d) A member state, if otherwise permitted by state
26 law, may recover from the affected licensed professional
27 counselor the costs of investigations and dispositions of

1 cases resulting from any adverse action taken against that
2 licensed professional counselor.

3 (e) A member state may take adverse action based on
4 the factual findings of the remote state, provided that the
5 member state follows its own procedures for taking the adverse
6 action.

7 (f) Joint Investigations:

8 (1) In addition to the authority granted to a member
9 state by its respective professional counseling practice act
10 or other applicable state law, any member state may
11 participate with other member states in joint investigations
12 of licensees.

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

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

26 (h) If a member state takes adverse action, it shall
27 promptly notify the administrator of the data system. The

1 administrator of the data system shall promptly notify the
2 home state of any adverse actions by remote states.

3 (i) Nothing in this compact shall override a member
4 state's decision that participation in an alternative program
5 may be used in lieu of adverse action.

6 Section 9. ESTABLISHMENT OF COUNSELING COMPACT
7 COMMISSION

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

11 (1) The commission is an instrumentality of the
12 compact states.

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

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

22 (b) Membership, Voting, and Meetings.

23 (1) Each member state shall have and be limited to
24 one delegate selected by that member state's licensing board.

25 (2) The delegate shall be either:

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

4 b. An administrator of the licensing board.

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

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

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

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

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

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

23 (c) The commission shall have the following powers
24 and duties:

25 (1) Establish the fiscal year of the commission;

26 (2) Establish bylaws;

1 (3) Maintain its financial records in accordance
2 with the bylaws;

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

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

7 (6) Bring and prosecute legal proceedings or actions
8 in the name of the commission, provided that the standing of
9 any state licensing board to sue or be sued under applicable
10 law shall not be affected;

11 (7) Purchase and maintain insurance and bonds;

12 (8) Borrow, accept, or contract for services of
13 personnel, including, but not limited to, employees of a
14 member state;

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

21 (10) Accept any and all appropriate donations and
22 grants of money, equipment, supplies, materials, and services,
23 and to receive, utilize, and dispose of the same; provided
24 that at all times the commission shall avoid any appearance of
25 impropriety and/or conflict of interest;

26 (11) Lease, purchase, accept appropriate gifts or
27 donations of, or otherwise to own, hold, improve, or use, any

1 property, real, personal, or mixed; provided that at all times
2 the commission shall avoid any appearance of impropriety;

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

6 (13) Establish a budget and make expenditures;

7 (14) Borrow money;

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

13 (16) Provide and receive information from, and
14 cooperate with, law enforcement agencies;

15 (17) Establish and elect an executive committee; and

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

20 (d) The Executive Committee.

21 (1) The executive committee shall have the power to
22 act on behalf of the commission according to the terms of this
23 compact.

24 (2) The executive committee shall be composed of up
25 to 11 members:

26 a. Seven voting members who are elected by the
27 commission from the current membership of the commission; and

1 b. Up to four ex-officio, nonvoting members from
2 four recognized national professional counselor organizations.

3 c. The ex-officio members will be selected by their
4 respective organizations.

5 (3) The commission may remove any member of the
6 executive committee as provided in bylaws.

7 (4) The executive committee shall meet at least
8 annually.

9 (5) The executive committee shall have the following
10 duties and responsibilities:

11 a. Recommend to the entire commission changes to the
12 rules or bylaws, changes to this compact legislation, fees
13 paid by compact member states such as annual dues, and any
14 commission compact fees charged to licensees for the privilege
15 to practice;

16 b. Ensure compact administration services are
17 appropriately provided, contractual or otherwise;

18 c. Prepare and recommend the budget;

19 d. Maintain financial records on behalf of the
20 commission;

21 e. Monitor compact compliance of member states and
22 provide compliance reports to the commission;

23 f. Establish additional committees as necessary; and

24 g. Other duties as provided in rules or bylaws.

25 (e) Meetings of the commission.

1 (1) All meetings shall be open to the public, and
2 public notice of meetings shall be given in the same manner as
3 required under the rulemaking provisions in Section 11.

4 (2) The commission or the executive committee or
5 other committees of the commission may convene in a closed,
6 non-public meeting if the commission or executive committee or
7 other committees of the commission must discuss:

8 a. Non-compliance of a member state with its
9 obligations under the compact;

10 b. The employment, compensation, discipline or other
11 matters, practices, or procedures related to specific
12 employees, or other matters related to the commission's
13 internal personnel practices and procedures;

14 c. Current, threatened, or reasonably anticipated
15 litigation;

16 d. Negotiation of contracts for the purchase, lease,
17 or sale of goods, services, or real estate;

18 e. Accusing any person of a crime or formally
19 censuring any person;

20 f. Disclosure of trade secrets or commercial or
21 financial information that is privileged or confidential;

22 g. Disclosure of information of a personal nature
23 where disclosure would constitute a clearly unwarranted
24 invasion of personal privacy;

25 h. Disclosure of investigative records compiled for
26 law enforcement purposes;

1 i. Disclosure of information related to any
2 investigative reports prepared by or on behalf of or for use
3 of the commission or other committee charged with
4 responsibility of investigation or determination of compliance
5 issues pursuant to the compact; or

6 j. Matters specifically exempted from disclosure by
7 federal or member state statute.

8 (3) If a meeting, or portion of a meeting, is closed
9 pursuant to this provision, the commission's legal counsel or
10 designee shall certify that the meeting may be closed and
11 shall reference each relevant exempting provision.

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

21 (f) Financing of the Commission.

22 (1) The commission shall pay, or provide for the
23 payment of, the reasonable expense of its establishment,
24 organization, and ongoing activities.

25 (2) The commission may accept any and all
26 appropriate revenue sources, donations, and grants of money,
27 equipment, supplies, materials, and services.

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

10 (4) The commission shall not incur obligations of
11 any kind prior to securing the funds adequate to meet the
12 same; nor shall the commission pledge the credit of any of the
13 member states, except by and with the authority of the member
14 state.

15 (5) The commission shall keep accurate accounts of
16 all receipts and disbursements. The receipts and disbursements
17 of the commission shall be subject to the audit and accounting
18 procedures established under its bylaws. However, all receipts
19 and disbursements of funds handled by the commission shall be
20 audited yearly by a certified or licensed public accountant,
21 and the report of the audit shall be included in and become
22 part of the annual report of the commission.

23 (g) Qualified Immunity, Defense, and
24 Indemnification.

25 (1) The members, officers, executive director,
26 employees, and representatives of the commission shall be
27 immune from suit and liability, either personally or in their

1 official capacity, for any claim for damage to or loss of
2 property or personal injury or other civil liability caused by
3 or arising out of any actual or alleged act, error, or
4 omission that occurred, or that the person against whom the
5 claim is made had a reasonable basis for believing occurred,
6 within the scope of commission employment, duties, or
7 responsibilities; provided that nothing in this paragraph
8 shall be construed to protect any person from suit, liability,
9 or both, for any damage, loss, injury, or liability caused by
10 the intentional or willful or wanton misconduct of that
11 person.

12 (2) The commission shall defend any member, officer,
13 executive director, employee, or representative of the
14 commission in any civil action seeking to impose liability
15 arising out of any actual or alleged act, error, or omission
16 that occurred within the scope of commission employment,
17 duties, or responsibilities, or that the person against whom
18 the claim is made had a reasonable basis for believing
19 occurred within the scope of commission employment, duties, or
20 responsibilities; provided that nothing herein shall be
21 construed to prohibit that person from retaining his or her
22 own counsel; and provided further, that the actual or alleged
23 act, error, or omission did not result from that person's
24 intentional or willful or wanton misconduct.

25 (3) The commission shall indemnify and hold harmless
26 any member, officer, executive director, employee, or
27 representative of the commission for the amount of any

1 settlement or judgment obtained against that person arising
2 out of any actual or alleged act, error, or omission that
3 occurred within the scope of commission employment, duties, or
4 responsibilities, or that the person had a reasonable basis
5 for believing occurred within the scope of commission
6 employment, duties, or responsibilities, provided that the
7 actual or alleged act, error, or omission did not result from
8 the intentional or willful or wanton misconduct of that
9 person.

10 Section 10. DATA SYSTEM

11 (a) The commission shall provide for the
12 development, maintenance, operation, and utilization of a
13 coordinated database and reporting system containing
14 licensure, adverse action, and investigative information on
15 all licensed individuals in member states.

16 (b) Notwithstanding any other provision of state law
17 to the contrary, a member state shall submit a uniform data
18 set to the data system on all individuals to whom this compact
19 is applicable as required by the rules of the commission,
20 including:

- 21 (1) Identifying information;
- 22 (2) Licensure data;
- 23 (3) Adverse actions against a license or privilege
24 to practice;
- 25 (4) Non-confidential information related to
26 alternative program participation;

1 (5) Any denial of application for licensure, and the
2 reason or reasons for the denial;

3 (6) Current Significant investigative information;
4 and

5 (7) Other information that may facilitate the
6 administration of this compact, as determined by the rules of
7 the commission.

8 (c) Investigative information pertaining to a
9 licensee in any member state will only be available to other
10 member states.

11 (d) The commission shall promptly notify all member
12 states of any adverse action taken against a licensee or an
13 individual applying for a license. Adverse action information
14 pertaining to a licensee in any member state will be available
15 to any other member state.

16 (e) Member states contributing information to the
17 data system may designate information that may not be shared
18 with the public without the express permission of the
19 contributing state.

20 (f) Any information submitted to the data system
21 that is subsequently required to be expunged by the laws of
22 the member state contributing the information shall be removed
23 from the data system.

24 Section 11. RULEMAKING

25 (a) The commission shall adopt reasonable rules in
26 order to effectively and efficiently achieve the purpose of
27 the compact. Notwithstanding the foregoing, in the event the

1 commission exercises its rulemaking authority in a manner that
2 is beyond the scope of the purposes of the compact, or the
3 powers granted hereunder, then such an action by the
4 commission shall be invalid and have no force or effect.

5 (b) The commission shall exercise its rulemaking
6 powers pursuant to the criteria set forth in this section and
7 the rules adopted thereunder. Rules and amendments shall
8 become binding as of the date specified in each rule or
9 amendment.

10 (c) If a majority of the Legislatures of the member
11 states rejects a rule, by enactment of a statute or resolution
12 in the same manner used to adopt the compact within four years
13 of the date of adoption of the rule, then the rule shall have
14 no further force and effect in any member state.

15 (d) Rules or amendments to the rules shall be
16 adopted at a regular or special meeting of the commission.

17 (e) Prior to promulgation and adoption of a final
18 rule or rules by the commission, and at least 30 days in
19 advance of the meeting at which the rule will be considered
20 and voted upon, the commission shall file a notice of proposed
21 rulemaking:

22 (1) On the website of the commission or other
23 publicly accessible platform; and

24 (2) On the website of each member state professional
25 counseling licensing board or other publicly accessible
26 platform or the publication in which each state would
27 otherwise publish proposed rules.

1 (f) The notice of proposed rulemaking shall include:

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

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

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

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

11 (g) Prior to adoption of a proposed rule, the
12 commission shall allow persons to submit written data, facts,
13 opinions, and arguments, which shall be made available to the
14 public.

15 (h) The commission shall grant an opportunity for a
16 public hearing before it adopts a rule or amendment if a
17 hearing is requested by:

18 (1) At least 25 persons;

19 (2) A state or federal governmental subdivision or
20 agency; or

21 (3) An association having at least 25 members.

22 (i) If a hearing is held on the proposed rule or
23 amendment, the commission shall publish the place, time, and
24 date of the scheduled public hearing. If the hearing is held
25 via electronic means, the commission shall publish the
26 mechanism for access to the electronic hearing.

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

6 (2) Hearings shall be conducted in a manner
7 providing each person who wishes to comment a fair and
8 reasonable opportunity to comment orally or in writing.

9 (3) All hearings will be recorded. A copy of the
10 recording will be made available on request.

11 (4) Nothing in this section shall be construed as
12 requiring a separate hearing on each rule. Rules may be
13 grouped for the convenience of the commission at hearings
14 required by this section.

15 (j) Following the scheduled hearing date, or by the
16 close of business on the scheduled hearing date if the hearing
17 was not held, the commission shall consider all written and
18 oral comments received.

19 (k) If no written notice of intent to attend the
20 public hearing by interested parties is received, the
21 commission may proceed with adoption of the proposed rule
22 without a public hearing.

23 (l) The commission shall, by majority vote of all
24 members, take final action on the proposed rule and shall
25 determine the effective date of the rule, if any, based on the
26 rulemaking record and the full text of the rule.

1 (m) Upon determination that an emergency exists, the
2 commission may consider and adopt an emergency rule without
3 prior notice, opportunity for comment, or hearing, provided
4 that the usual rulemaking procedures provided in the compact
5 and in this section shall be retroactively applied to the rule
6 as soon as reasonably possible, in no event later than 90 days
7 after the effective date of the rule. For the purposes of this
8 provision, an emergency rule is one that must be adopted
9 immediately in order to:

10 (1) Meet an imminent threat to public health,
11 safety, or welfare;

12 (2) Prevent a loss of commission or member state
13 funds;

14 (3) Meet a deadline for the adoption of an
15 administrative rule that is established by federal law or
16 rule; or

17 (4) Protect public health and safety.

18 (n) The commission or an authorized committee of the
19 commission may direct revisions to a previously adopted rule
20 or amendment for purposes of correcting typographical errors,
21 errors in format, errors in consistency, or grammatical
22 errors. Public notice of any revision shall be posted on the
23 website of the commission. The revision shall be subject to
24 challenge by any person for a period of 30 days after posting.
25 The revision may be challenged only on grounds that the
26 revision results in a material change to a rule. A challenge
27 shall be made in writing and delivered to the chair of the

1 commission prior to the end of the notice period. If no
2 challenge is made, the revision will take effect without
3 further action. If the revision is challenged, the revision
4 may not take effect without the approval of the commission.

5 Section 12. OVERSIGHT, DISPUTE RESOLUTION, AND
6 ENFORCEMENT

7 (a) Oversight.

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

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

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

25 (b) Default, Technical Assistance, and Termination.

26 If the commission determines that a member state has
27 defaulted in the performance of its obligations or

1 responsibilities under this compact or the adopted rules, the
2 commission shall:

3 a. Provide written notice to the defaulting state
4 and other member states of the nature of the default, the
5 proposed means of curing the default, or any other action to
6 be taken by the commission; and

7 b. Provide remedial training and specific technical
8 assistance regarding the default.

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

17 (d) Termination of membership in the compact shall
18 be imposed only after all other means of securing compliance
19 have been exhausted. Notice of intent to suspend or terminate
20 shall be given by the commission to the Governor, the majority
21 and minority leaders of the defaulting state's Legislature,
22 and each of the member states.

23 (e) A state that has been terminated is responsible
24 for all assessments, obligations, and liabilities incurred
25 through the effective date of termination, including
26 obligations that extend beyond the effective date of
27 termination.

1 (f) The commission shall not bear any costs related
2 to a state that is found to be in default or that has been
3 terminated from the compact, unless agreed upon in writing
4 between the commission and the defaulting state.

5 (g) The defaulting state may appeal the action of
6 the commission by petitioning the U.S. District Court for the
7 District of Columbia or the federal district where the
8 commission has its principal offices. The prevailing member
9 shall be awarded all costs of such litigation, including
10 reasonable attorney fees.

11 (h) Dispute Resolution.

12 (1) Upon request by a member state, the commission
13 shall attempt to resolve disputes related to the compact that
14 arise among member states and between member and non-member
15 states.

16 (2) The commission shall adopt a rule providing for
17 both mediation and binding dispute resolution for disputes as
18 appropriate.

19 (i) Enforcement.

20 (1) The commission, in the reasonable exercise of
21 its discretion, shall enforce the provisions and rules of this
22 compact.

23 (2) By majority vote, the commission may initiate
24 legal action in the U.S. District Court for the District of
25 Columbia or the federal district where the commission has its
26 principal offices against a member state in default to enforce
27 compliance with the provisions of the compact and its adopted

1 rules and bylaws. The relief sought may include both
2 injunctive relief and damages. In the event judicial
3 enforcement is necessary, the prevailing member shall be
4 awarded all costs of litigation, including reasonable attorney
5 fees.

6 (3) The remedies herein shall not be the exclusive
7 remedies of the commission. The commission may pursue any
8 other remedies available under federal or state law.

9 Section 13. DATE OF IMPLEMENTATION OF THE COUNSELING
10 COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND
11 AMENDMENT

12 (a) The compact shall come into effect on the date
13 on which the compact statute is enacted into law in the tenth
14 member state. The provisions which become effective at that
15 time shall be limited to the powers granted to the commission
16 relating to assembly and the adoption of rules. Thereafter,
17 the commission shall meet and exercise rulemaking powers
18 necessary to the implementation and administration of the
19 compact.

20 (b) Any state that joins the compact subsequent to
21 the commission's initial adoption of the rules shall be
22 subject to the rules as they exist on the date on which the
23 compact becomes law in that state. Any rule that has been
24 previously adopted by the commission shall have the full force
25 and effect of law on the day the compact becomes law in that
26 state.

1 (c) Any member state may withdraw from this compact
2 by enacting a statute repealing the same.

3 (1) A member state's withdrawal shall not take
4 effect until six months after enactment of the repealing
5 statute.

6 (2) Withdrawal shall not affect the continuing
7 requirement of the withdrawing state's professional counseling
8 licensing board to comply with the investigative and adverse
9 action reporting requirements of this act prior to the
10 effective date of withdrawal.

11 (d) Nothing contained in this compact shall be
12 construed to invalidate or prevent any professional counseling
13 licensure agreement or other cooperative arrangement between a
14 member state and a non-member state that does not conflict
15 with this compact.

16 (e) This compact may be amended by the member
17 states. No amendment to this compact shall become effective
18 and binding upon any member state until it is enacted into the
19 laws of all member states.

20 Section 14. CONSTRUCTION AND SEVERABILITY

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

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

8 Section 15. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

13 (b) Nothing herein prevents the enforcement of any
14 other law of a member state that is not inconsistent with the
15 compact.

16 (c) Any laws in a member state in conflict with the
17 compact are superseded to the extent of the conflict.

18 (d) Any lawful actions of the commission, including
19 all rules and bylaws properly adopted by the commission, are
20 binding upon the member states.

21 (e) All permissible agreements between the
22 commission and the member states are binding in accordance
23 with their terms.

24 (f) In the event any provision of the compact
25 exceeds the constitutional limits imposed on the Legislature
26 of any member state, the provision shall be ineffective to the

1 extent of the conflict with the constitutional provision in
2 question in that member state.

3 Section 16. Except as to judicial proceedings for
4 the enforcement of this compact among member states,
5 individuals may pursue judicial proceedings related to this
6 compact in any Alabama state or federal court that would
7 otherwise have competent jurisdiction.

8 Section 17. This act shall become effective on the
9 first day of the third month following its passage and
10 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Governmental Affairs..... 13-JAN-22

Read for the second time and placed on the calen-
dar 1 amendment..... 08-FEB-22

Read for the third time and passed as amended 15-FEB-22

Yeas 26
Nays 0

Patrick Harris,
Secretary.