

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

1 SB99

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4 ENROLLED, An Act,

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

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. PURPOSE

20 (a) The purpose of this compact is to facilitate
21 interstate practice of licensed professional counselors with
22 the goal of improving public access to professional counseling
23 services. The practice of professional counseling occurs in
24 the state where the client is located at the time of the
25 counseling services. The compact preserves the regulatory

1 authority of states to protect public health and safety
2 through the current system of state licensure.

3 (b) This compact is designed to achieve the
4 following objectives:

5 (1) Increase public access to professional
6 counseling services by providing for the mutual recognition of
7 other member state licenses.

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

10 (3) Encourage the cooperation of member states in
11 regulating multistate practice for licensed professional
12 counselors.

13 (4) Support spouses of relocating active duty
14 military personnel.

15 (5) Enhance the exchange of licensure,
16 investigative, and disciplinary information among member
17 states.

18 (6) Allow the use of telehealth technology to
19 facilitate increased access to professional counseling
20 services.

21 (7) Support the uniformity of professional
22 counseling licensure requirements throughout the states to
23 promote public safety and public health benefits.

24 (8) Invest all member states with the authority to
25 hold a licensed professional counselor accountable for meeting

1 all state practice laws in the state in which the client is
2 located at the time care is rendered through the mutual
3 recognition of member state licenses.

4 (9) Eliminate the necessity for licenses in multiple
5 states.

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

9 Section 2. DEFINITIONS

10 As used in this section, the following terms have
11 the following meanings:

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

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

1 education, examination, licensure, investigative, privilege to
2 practice, and adverse action information.

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

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

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

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

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

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

24 (14) JURISPRUDENCE REQUIREMENT. If required by a
25 member state, the assessment of an individual's knowledge of

1 the laws and rules governing the practice of professional
2 counseling in a state.

3 (15) LICENSED PROFESSIONAL COUNSELOR. A counselor
4 licensed by a member state, regardless of the title used by
5 that state, to independently assess, diagnose, and treat
6 behavioral health conditions.

7 (16) LICENSEE. An individual who currently holds an
8 authorization from the state to practice as a licensed
9 professional counselor.

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

13 (18) MEMBER STATE. A state that has enacted the
14 compact.

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

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

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

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

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

5 (24) STATE. Any state, commonwealth, district, or
6 territory of the United States that regulates the practice of
7 professional counseling.

8 (25) TELEHEALTH. The application of
9 telecommunication technology to deliver professional
10 counseling services remotely to assess, diagnose, and treat
11 behavioral health conditions.

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

15 Section 3. STATE PARTICIPATION IN THE COMPACT

16 (a) To participate in the compact, a state must
17 currently:

18 (1) License and regulate licensed professional
19 counselors;

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

22 (3) Require licensees to have a 60 semester-hour (or
23 90 quarter-hour) master's degree in counseling or 60
24 semester-hours (or 90 quarter-hours) of graduate course work,
25 including the following topic areas:

1 a. Professional counseling orientation and ethical
2 practice.

3 b. Social and cultural diversity.

4 c. Human growth and development.

5 d. Career development.

6 e. Counseling and helping relationships.

7 f. Group counseling and group work.

8 g. Diagnosis and treatment; assessment and testing.

9 h. Research and program evaluation.

10 i. Other areas as determined by the commission.

11 (4) Require licensees to complete a supervised
12 postgraduate professional experience as defined by the
13 commission; and

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

16 (b) A Member State shall:

17 (1) Participate fully in the commission's data
18 system, including using the commission's unique identifier as
19 defined in rules;

20 (2) Notify the commission, in compliance with the
21 terms of the compact and rules, of any adverse action or the
22 availability of investigative information regarding a
23 licensee;

24 (3) Implement or utilize procedures for considering
25 the criminal history records of applicants for an initial

1 privilege to practice. These procedures shall include the
2 submission of fingerprints or other biometric-based
3 information by applicants for the purpose of obtaining an
4 applicant's criminal history record information from the FBI
5 and the agency responsible for retaining that state's criminal
6 records;

7 a. A member state must fully implement a criminal
8 background check requirement, within a time frame established
9 by rule, by receiving the results of the FBI record search and
10 shall use the results in making licensure decisions.

11 b. Communication between a member state, the
12 commission and among member states regarding the verification
13 of eligibility for licensure through the compact shall not
14 include any information received from the FBI relating to a
15 federal criminal records check performed by a member state
16 under Public Law 92-544.

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

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

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

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

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

5 (d) Individuals not residing in a member state shall
6 continue to be able to apply for a member state's single state
7 license as provided under the laws of each member state.
8 However, the single state license granted to these individuals
9 shall not be recognized as granting a privilege to practice
10 professional counseling in any other member state.

11 (e) Nothing in this compact shall affect the
12 requirements established by a member state for the issuance of
13 a single state license.

14 (f) A license issued to a licensed professional
15 counselor by a home state to a resident in that state shall be
16 recognized by each member state as authorizing a licensed
17 professional counselor to practice professional counseling,
18 under a privilege to practice, in each member state.

19 Section 4. PRIVILEGE TO PRACTICE

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

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

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

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

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

6 (5) Notify the commission that the licensee is
7 seeking the privilege to practice within a remote state or
8 states;

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

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

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

16 (9) Report to the commission any adverse action,
17 encumbrance, or restriction on the license taken by any
18 non-member state within 30 days from the date the action is
19 taken.

20 (b) The privilege to practice is valid until the
21 expiration date of the home state license. The licensee must
22 comply with the requirements of subsection (a) to maintain the
23 privilege to practice in the remote state.

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

4 (d) A licensee providing professional counseling
5 services in a remote state is subject to that state's
6 regulatory authority. A remote state, in accordance with due
7 process and that state's laws, may remove a licensee's
8 privilege to practice in the remote state for a specific
9 period of time, impose fines, and/or take any other necessary
10 actions to protect the health and safety of its residents. The
11 licensee may be ineligible for a privilege to practice in any
12 member state until the specific time for removal has passed
13 and all fines are paid.

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

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

19 (2) The licensee has not had any encumbrance or
20 restriction against any license or privilege to practice
21 within the previous two years.

22 (f) Once an encumbered license in the home state is
23 restored to good standing, the licensee must meet the
24 requirements of subsection (a) to obtain a privilege to
25 practice in any remote state.

1 (g) If a licensee's privilege to practice in any
2 remote state is removed, the individual may lose the privilege
3 to practice in all other remote states until the following
4 occur:

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

7 (2) All fines have been paid; and

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

11 (h) Once the requirements of subsection (g) have
12 been met, the licensee must meet the requirements in
13 subsection (a) to obtain a privilege to practice in a remote
14 state.

15 Section 5. OBTAINING A NEW HOME STATE LICENSE BASED
16 ON A PRIVILEGE TO PRACTICE

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

20 (b) If a licensed professional counselor changes
21 primary state of residence by moving between two member
22 states:

23 (1) The licensed professional counselor shall file
24 an application for obtaining a new home state license based on
25 a privilege to practice, pay all applicable fees, and notify

1 the current and new home state in accordance with applicable
2 rules adopted by the commission.

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

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

13 b. Other criminal background check as required by
14 the new home state; and

15 c. Completion of any requisite jurisprudence
16 requirements of the new home state.

17 (3) The former home state shall convert the former
18 home state license into a privilege to practice once the new
19 home state has activated the new home state license in
20 accordance with applicable rules adopted by the commission.

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

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

4 (c) If a licensed professional counselor changes
5 primary state of residence by moving from a member state to a
6 non-member state, or from a non-member state to a member
7 state, the state criteria shall apply for issuance of a single
8 state license in the new state.

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

13 (e) Nothing in this compact shall affect the
14 requirements established by a member state for the issuance of
15 a single state license.

16 Section 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR
17 SPOUSES

18 Active duty military personnel, or their spouses,
19 shall designate a home state where the individual has a
20 current license in good standing. The individual may retain
21 the home state designation during the period the service
22 member is on active duty. Subsequent to designating a home
23 state, the individual shall only change his or her home state
24 through application for licensure in the new state, or through
25 the process outlined in Section 5.

1 Section 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

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

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

11 Section 8. ADVERSE ACTIONS

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

15 (1) Take adverse action against a licensed
16 professional counselor's privilege to practice within that
17 member state;

18 (2) Issue subpoenas for both hearings and
19 investigations that require the attendance and testimony of
20 witnesses, as well as the production of evidence. Subpoenas
21 issued by a licensing board in a member state for the
22 attendance and testimony of witnesses or the production of
23 evidence from another member state shall be enforced in the
24 latter state by any court of competent jurisdiction, according
25 to the practice and procedure of that court applicable to

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

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

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

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

23 (d) A member state, if otherwise permitted by state
24 law, may recover from the affected licensed professional
25 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.

1 (h) If a member state takes adverse action, it shall
2 promptly notify the administrator of the data system. The
3 administrator of the data system shall promptly notify the
4 home state of any adverse actions by remote states.

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

8 Section 9. ESTABLISHMENT OF COUNSELING COMPACT
9 COMMISSION

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

13 (1) The commission is an instrumentality of the
14 compact states.

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

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

24 (b) Membership, Voting, and Meetings.

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

3 (2) The delegate shall be either:

4 a. A current member of the licensing board at the
5 time of appointment, who is a licensed professional counselor
6 or public member; or

7 b. An administrator of the licensing board.

8 (3) Any delegate may be removed or suspended from
9 office as provided by the law of the state from which the
10 delegate is appointed.

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

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

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

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

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

1 (c) The commission shall have the following powers
2 and duties:

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

4 (2) Establish bylaws;

5 (3) Maintain its financial records in accordance
6 with the bylaws;

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

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

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

15 (7) Purchase and maintain insurance and bonds;

16 (8) Borrow, accept, or contract for services of
17 personnel, including, but not limited to, employees of a
18 member state;

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

1 (10) Accept any and all appropriate donations and
2 grants of money, equipment, supplies, materials, and services,
3 and to receive, utilize, and dispose of the same; provided
4 that at all times the commission shall avoid any appearance of
5 impropriety and/or conflict of interest;

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

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

13 (13) Establish a budget and make expenditures;

14 (14) Borrow money;

15 (15) Appoint committees, including standing
16 committees composed of members, state regulators, state
17 legislators or their representatives, and consumer
18 representatives, and such other interested persons as may be
19 designated in this compact and the bylaws;

20 (16) Provide and receive information from, and
21 cooperate with, law enforcement agencies;

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

23 (18) Perform such other functions as may be
24 necessary or appropriate to achieve the purposes of this

1 compact consistent with the state regulation of professional
2 counseling licensure and practice.

3 (d) The Executive Committee.

4 (1) The executive committee shall have the power to
5 act on behalf of the commission according to the terms of this
6 compact.

7 (2) The executive committee shall be composed of up
8 to 11 members:

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

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

13 c. The ex-officio members will be selected by their
14 respective organizations.

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

17 (4) The executive committee shall meet at least
18 annually.

19 (5) The executive committee shall have the following
20 duties and responsibilities:

21 a. Recommend to the entire commission changes to the
22 rules or bylaws, changes to this compact legislation, fees
23 paid by compact member states such as annual dues, and any
24 commission compact fees charged to licensees for the privilege
25 to practice;

1 b. Ensure compact administration services are
2 appropriately provided, contractual or otherwise;

3 c. Prepare and recommend the budget;

4 d. Maintain financial records on behalf of the
5 commission;

6 e. Monitor compact compliance of member states and
7 provide compliance reports to the commission;

8 f. Establish additional committees as necessary; and

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

10 (e) Meetings of the commission.

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

14 (2) The commission or the executive committee or
15 other committees of the commission may convene in a closed,
16 non-public meeting if the commission or executive committee or
17 other committees of the commission must discuss:

18 a. Non-compliance of a member state with its
19 obligations under the compact;

20 b. The employment, compensation, discipline or other
21 matters, practices, or procedures related to specific
22 employees, or other matters related to the commission's
23 internal personnel practices and procedures;

24 c. Current, threatened, or reasonably anticipated
25 litigation;

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

3 e. Accusing any person of a crime or formally
4 censuring any person;

5 f. Disclosure of trade secrets or commercial or
6 financial information that is privileged or confidential;

7 g. Disclosure of information of a personal nature
8 where disclosure would constitute a clearly unwarranted
9 invasion of personal privacy;

10 h. Disclosure of investigative records compiled for
11 law enforcement purposes;

12 i. Disclosure of information related to any
13 investigative reports prepared by or on behalf of or for use
14 of the commission or other committee charged with
15 responsibility of investigation or determination of compliance
16 issues pursuant to the compact; or

17 j. Matters specifically exempted from disclosure by
18 federal or member state statute.

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

23 (4) The commission shall keep minutes that fully and
24 clearly describe all matters discussed in a meeting and shall
25 provide a full and accurate summary of actions taken, and the

1 reasons therefore, including a description of the views
2 expressed. All documents considered in connection with an
3 action shall be identified in the minutes. All minutes and
4 documents of a closed meeting shall remain under seal, subject
5 to release by a majority vote of the commission or order of a
6 court of competent jurisdiction.

7 (f) Financing of the Commission.

8 (1) The commission shall pay, or provide for the
9 payment of, the reasonable expense of its establishment,
10 organization, and ongoing activities.

11 (2) The commission may accept any and all
12 appropriate revenue sources, donations, and grants of money,
13 equipment, supplies, materials, and services.

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

23 (4) The commission shall not incur obligations of
24 any kind prior to securing the funds adequate to meet the
25 same; nor shall the commission pledge the credit of any of the

1 member states, except by and with the authority of the member
2 state.

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

11 (g) Qualified Immunity, Defense, and
12 Indemnification.

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

1 the intentional or willful or wanton misconduct of that
2 person.

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

16 (3) The commission shall indemnify and hold harmless
17 any member, officer, executive director, employee, or
18 representative of the commission for the amount of any
19 settlement or judgment obtained against that person arising
20 out of any actual or alleged act, error, or omission that
21 occurred within the scope of commission employment, duties, or
22 responsibilities, or that the person had a reasonable basis
23 for believing occurred within the scope of commission
24 employment, duties, or responsibilities, provided that the
25 actual or alleged act, error, or omission did not result from

1 the intentional or willful or wanton misconduct of that
2 person.

3 Section 10. DATA SYSTEM

4 (a) The commission shall provide for the
5 development, maintenance, operation, and utilization of a
6 coordinated database and reporting system containing
7 licensure, adverse action, and investigative information on
8 all licensed individuals in member states.

9 (b) Notwithstanding any other provision of state law
10 to the contrary, a member state shall submit a uniform data
11 set to the data system on all individuals to whom this compact
12 is applicable as required by the rules of the commission,
13 including:

14 (1) Identifying information;

15 (2) Licensure data;

16 (3) Adverse actions against a license or privilege
17 to practice;

18 (4) Non-confidential information related to
19 alternative program participation;

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

22 (6) Current Significant investigative information;

23 and

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

4 (c) Investigative information pertaining to a
5 licensee in any member state will only be available to other
6 member states.

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

12 (e) Member states contributing information to the
13 data system may designate information that may not be shared
14 with the public without the express permission of the
15 contributing state.

16 (f) Any information submitted to the data system
17 that is subsequently required to be expunged by the laws of
18 the member state contributing the information shall be removed
19 from the data system.

20 Section 11. RULEMAKING

21 (a) The commission shall adopt reasonable rules in
22 order to effectively and efficiently achieve the purpose of
23 the compact. Notwithstanding the foregoing, in the event the
24 commission exercises its rulemaking authority in a manner that
25 is beyond the scope of the purposes of the compact, or the

1 powers granted hereunder, then such an action by the
2 commission shall be invalid and have no force or effect.

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

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

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

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

20 (1) On the website of the commission or other
21 publicly accessible platform; and

22 (2) On the website of each member state professional
23 counseling licensing board or other publicly accessible
24 platform or the publication in which each state would
25 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

1 via electronic means, the commission shall publish the
2 mechanism for access to the electronic hearing.

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

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

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

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

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

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

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

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

14 (1) Meet an imminent threat to public health,
15 safety, or welfare;

16 (2) Prevent a loss of commission or member state
17 funds;

18 (3) Meet a deadline for the adoption of an
19 administrative rule that is established by federal law or
20 rule; or

21 (4) Protect public health and safety.

22 (n) The commission or an authorized committee of the
23 commission may direct revisions to a previously adopted rule
24 or amendment for purposes of correcting typographical errors,
25 errors in format, errors in consistency, or grammatical

1 errors. Public notice of any revision shall be posted on the
2 website of the commission. The revision shall be subject to
3 challenge by any person for a period of 30 days after posting.
4 The revision may be challenged only on grounds that the
5 revision results in a material change to a rule. A challenge
6 shall be made in writing and delivered to the chair of the
7 commission prior to the end of the notice period. If no
8 challenge is made, the revision will take effect without
9 further action. If the revision is challenged, the revision
10 may not take effect without the approval of the commission.

11 Section 12. OVERSIGHT, DISPUTE RESOLUTION, AND
12 ENFORCEMENT

13 (a) Oversight.

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

20 (2) All courts shall take judicial notice of the
21 compact and the rules in any judicial or administrative
22 proceeding in a member state pertaining to the subject matter
23 of this compact which may affect the powers, responsibilities,
24 or actions of the commission.

1 (3) The commission shall be entitled to receive
2 service of process in any proceeding and shall have standing
3 to intervene in such a proceeding for all purposes. Failure to
4 provide service of process to the commission shall render a
5 judgment or order void as to the commission, this compact, or
6 adopted rules.

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

8 If the commission determines that a member state has
9 defaulted in the performance of its obligations or
10 responsibilities under this compact or the adopted rules, the
11 commission shall:

12 a. Provide written notice to the defaulting state
13 and other member states of the nature of the default, the
14 proposed means of curing the default, or any other action to
15 be taken by the commission; and

16 b. Provide remedial training and specific technical
17 assistance regarding the default.

18 (c) If a state in default fails to cure the default,
19 the defaulting state may be terminated from the compact upon
20 an affirmative vote of a majority of the member states, and
21 all rights, privileges, and benefits conferred by this compact
22 may be terminated on the effective date of termination. A cure
23 of the default does not relieve the offending state of
24 obligations or liabilities incurred during the period of
25 default.

1 (d) Termination of membership in the compact shall
2 be imposed only after all other means of securing compliance
3 have been exhausted. Notice of intent to suspend or terminate
4 shall be given by the commission to the Governor, the majority
5 and minority leaders of the defaulting state's Legislature,
6 and each of the member states.

7 (e) A state that has been terminated is responsible
8 for all assessments, obligations, and liabilities incurred
9 through the effective date of termination, including
10 obligations that extend beyond the effective date of
11 termination.

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

16 (g) The defaulting state may appeal the action of
17 the commission by petitioning the U.S. District Court for the
18 District of Columbia or the federal district where the
19 commission has its principal offices. The prevailing member
20 shall be awarded all costs of such litigation, including
21 reasonable attorney fees.

22 (h) Dispute Resolution.

23 (1) Upon request by a member state, the commission
24 shall attempt to resolve disputes related to the compact that

1 arise among member states and between member and non-member
2 states.

3 (2) The commission shall adopt a rule providing for
4 both mediation and binding dispute resolution for disputes as
5 appropriate.

6 (i) Enforcement.

7 (1) The commission, in the reasonable exercise of
8 its discretion, shall enforce the provisions and rules of this
9 compact.

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

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

23 Section 13. DATE OF IMPLEMENTATION OF THE COUNSELING
24 COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND
25 AMENDMENT

1 (a) The compact shall come into effect on the date
2 on which the compact statute is enacted into law in the tenth
3 member state. The provisions which become effective at that
4 time shall be limited to the powers granted to the commission
5 relating to assembly and the adoption of rules. Thereafter,
6 the commission shall meet and exercise rulemaking powers
7 necessary to the implementation and administration of the
8 compact.

9 (b) Any state that joins the compact subsequent to
10 the commission's initial adoption of the rules shall be
11 subject to the rules as they exist on the date on which the
12 compact becomes law in that state. Any rule that has been
13 previously adopted by the commission shall have the full force
14 and effect of law on the day the compact becomes law in that
15 state.

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

18 (1) A member state's withdrawal shall not take
19 effect until six months after enactment of the repealing
20 statute.

21 (2) Withdrawal shall not affect the continuing
22 requirement of the withdrawing state's professional counseling
23 licensing board to comply with the investigative and adverse
24 action reporting requirements of this act prior to the
25 effective date of withdrawal.

1 (d) Nothing contained in this compact shall be
2 construed to invalidate or prevent any professional counseling
3 licensure agreement or other cooperative arrangement between a
4 member state and a non-member state that does not conflict
5 with this compact.

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

10 Section 14. CONSTRUCTION AND SEVERABILITY

11 This compact shall be liberally construed so as to
12 effectuate the purposes thereof. The provisions of this
13 compact shall be severable, and if any phrase, clause,
14 sentence, or provision of this compact is declared to be
15 contrary to the constitution of any member state or of the
16 United States or the applicability thereof to any government,
17 agency, person, or circumstance is held invalid, the validity
18 of the remainder of this compact and the applicability thereof
19 to any government, agency, person, or circumstance shall not
20 be affected thereby. If this compact shall be held contrary to
21 the constitution of any member state, the compact shall remain
22 in full force and effect as to the remaining member states and
23 in full force and effect as to the member state affected as to
24 all severable matters.

25 Section 15. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

5 (b) Nothing herein prevents the enforcement of any
6 other law of a member state that is not inconsistent with the
7 compact.

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

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

13 (e) All permissible agreements between the
14 commission and the member states are binding in accordance
15 with their terms.

16 (f) In the event any provision of the compact
17 exceeds the constitutional limits imposed on the Legislature
18 of any member state, the provision shall be ineffective to the
19 extent of the conflict with the constitutional provision in
20 question in that member state.

21 Section 16. Except as to judicial proceedings for
22 the enforcement of this compact among member states,
23 individuals may pursue judicial proceedings related to this
24 compact in any Alabama state or federal court that would
25 otherwise have competent jurisdiction.

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB99
Senate 15-FEB-22
I hereby certify that the within Act originated in and passed
the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Passed: 24-FEB-22

By: Senator Jones