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H.62

Introduced by Representatives Houghton of Essex Junction and Durfee of  
Shaftsbury

Referred to Committee on

Date:

Subject: Health; mental health; interstate Counseling Compact

Statement of purpose of bill as introduced: This bill proposes that the State  
adopt and enter into the interstate Counseling Compact.

An act relating to the interstate Counseling Compact

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 26 V.S.A. chapter 65 is amended to read:

CHAPTER 65. CLINICAL MENTAL HEALTH COUNSELORS

Subchapter 1. General Provisions

\* \* \*

Subchapter 2. Counseling Compact

§ 3275a. PURPOSE

(a) The purpose of this Compact is to facilitate interstate practice of  
licensed professional counselors with the goal of improving public access to

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

5 (b) This Compact is designed to achieve the following objectives:

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

8 (2) enhance the states' ability to protect the public's health and safety;

9 (3) encourage the cooperation of member states in regulating multistate  
10 practice for licensed professional counselors;

11 (4) support spouses of relocating active duty military personnel;

12 (5) enhance the exchange of licensure, investigative, and disciplinary  
13 information among member states;

14 (6) allow for the use of telehealth technology to facilitate increased  
15 access to professional counseling services;

16 (7) support the uniformity of professional counseling licensure  
17 requirements throughout the states to promote public safety and public health  
18 benefits;

19 (8) invest all member states with the authority to hold a licensed  
20 professional counselor accountable for meeting all state practice laws in the

1 state in which the client is located at the time care is rendered through the  
2 mutual recognition of member state licenses;

3 (9) eliminate the necessity for licenses in multiple states; and

4 (10) provide opportunities for interstate practice by licensed  
5 professional counselors who meet uniform licensure requirements.

6 § 3275b. DEFINITIONS

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

9 (1) “Active duty military” means full-time duty status in the active  
10 uniformed service of the United States, including members of the National  
11 Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209  
12 and 1211.

13 (2) “Adverse action” means any administrative, civil, equitable or  
14 criminal action permitted by a state’s laws which is imposed by a licensing  
15 board or other authority against a licensed professional counselor, including  
16 actions against an individual’s license or privilege to practice such as  
17 revocation, suspension, probation, monitoring of the licensee, limitation on the  
18 licensee’s practice, or any other encumbrance on licensure affecting a licensed  
19 professional counselor’s authorization to practice, including issuance of a  
20 cease and desist action.

1           (3) “Alternative program” means a non-disciplinary monitoring or  
2 practice remediation process approved by a professional counseling licensing  
3 board to address impaired practitioners.

4           (4) “Continuing competence or continuing education” means a  
5 requirement, as a condition of license renewal, to provide evidence of  
6 participation in and completion of educational and professional activities  
7 relevant to practice or area of work.

8           (5) “Counseling Compact Commission” or “Commission” means the  
9 national administrative body whose membership consists of all states that have  
10 enacted the Compact.

11           (6) “Current significant investigative information” means:

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

17                   (B) investigative information that indicates that the licensed  
18 professional counselor represents an immediate threat to public health and  
19 safety regardless of whether the licensed professional counselor has been  
20 notified and had an opportunity to respond.

1           (7) “Data system” means a repository of information about licensees,  
2           including, but not limited to, continuing education, examination, licensure,  
3           investigative, privilege to practice and adverse action information.

4           (8) “Encumbered license” means a license in which an adverse action  
5           restricts the practice of licensed professional counseling by the licensee and  
6           said adverse action has been reported to the National Practitioners Data Bank  
7           (NPDB).

8           (9) “Encumbrance” means a revocation or suspension of, or any  
9           limitation on, the full and unrestricted practice of licensed professional  
10           counseling by a licensing board.

11           (10) “Executive committee” means a group of directors elected or  
12           appointed to act on behalf of, and within the powers granted to them by, the  
13           Commission.

14           (11) “Home state” means the member state that is the licensee’s primary  
15           state of residence.

16           (12) “Impaired practitioner” means an individual who has a condition or  
17           conditions that may impair their ability to practice as a licensed professional  
18           counselor without some type of intervention and may include, but are not  
19           limited to, alcohol and drug dependence, mental health impairment, and  
20           neurological or physical impairments.

1           (13) “Investigative information” means information, records, and  
2           documents received or generated by a professional counseling licensing board  
3           pursuant to an investigation.

4           (14) “Jurisprudence requirement” if required by a member state, means  
5           the assessment of an individual’s knowledge of the laws and rules governing  
6           the practice of professional counseling in a state.

7           (15) “Licensed professional counselor” means a counselor licensed by a  
8           member state, regardless of the title used by that state, to independently assess,  
9           diagnose, and treat behavioral health conditions.

10           (16) “Licensee” means an individual who currently holds an  
11           authorization from the state to practice as a licensed professional counselor.

12           (17) “Licensing board” means the agency of a state, or equivalent, that  
13           is responsible for the licensing and regulation of licensed professional  
14           counselors.

15           (18) “Member state” means a state that has enacted the Compact.

16           (19) “Privilege to practice” means a legal authorization, which is  
17           equivalent to a license, permitting the practice of professional counseling in a  
18           remote state.

19           (20) “Professional counseling” means the assessment, diagnosis, and  
20           treatment of behavioral health conditions by a licensed professional counselor.

1           (21) “Remote state” means a member state other than the home state,  
2           where a licensee is exercising or seeking to exercise the privilege to practice.

3           (22) “Rule” means a regulation promulgated by the Commission that  
4           has the force of law.

5           (23) “Single state license” means a licensed professional counselor  
6           license issued by a member state that authorizes practice only within the  
7           issuing state and does not include a privilege to practice in any other member  
8           state.

9           (24) “State” means any state, commonwealth, district, or territory of the  
10           United States of America that regulates the practice of professional counseling.

11           (25) “Telehealth” means the application of telecommunication  
12           technology to deliver professional counseling services remotely to assess,  
13           diagnose, and treat behavioral health conditions.

14           (26) “Unencumbered License” means a license that authorizes a licensed  
15           professional counselor to engage in the full and unrestricted practice of  
16           professional counseling.

17           § 3275c. STATE PARTICIPATION IN THE COMPACT

18           (a) To participate in the Compact, a state must currently:

19           (1) license and regulate licensed professional counselors;

1           (2) require licensees to pass a nationally recognized exam approved by  
2 the Commission;

3           (3) require licensees to have a 60 semester-hour (or 90 quarter-hour)  
4 master's degree in counseling or 60 semester-hours (or 90 quarter-hours) of  
5 graduate course work including the following topic areas:

6           (A) professional counseling orientation and ethical practice;

7           (B) social and cultural diversity;

8           (C) human growth and development;

9           (D) career development;

10          (E) counseling and helping relationships;

11          (F) group counseling and group work;

12          (G) diagnosis and treatment; assessment and testing;

13          (H) research and program evaluation; and

14          (I) other areas as determined by the Commission;

15          (4) require licensees to complete a supervised postgraduate professional  
16 experience as defined by the Commission; and

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

19          (b) A Member State shall:



1           (1) Participate fully in the Commission’s data system, including using  
2 the Commission’s unique identifier as defined in rules.

3           (2) Notify the Commission, in compliance with the terms of the  
4 Compact and rules, of any adverse action or the availability of investigative  
5 information regarding a licensee.

6           (3) Implement or utilize procedures for considering the criminal history  
7 records of applicants for an initial privilege to practice. These procedures shall  
8 include the submission of fingerprints or other biometric-based information by  
9 applicants for the purpose of obtaining an applicant’s criminal history record  
10 information from the Federal Bureau of Investigation and the agency  
11 responsible for retaining that state’s criminal records.

12           (A) A member state must fully implement a criminal background  
13 check requirement, within a time frame established by rule, by receiving the  
14 results of the Federal Bureau of Investigation record search and shall use the  
15 results in making licensure decisions.

16           (B) Communication between a member state, the Commission and  
17 among member states regarding the verification of eligibility for licensure  
18 through the Compact shall not include any information received from the  
19 Federal Bureau of Investigation relating to a federal criminal records check  
20 performed by a member state under Pub. L. No. 92-544.

1           (4) Comply with the rules of the Commission.

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

5           (6) Grant the privilege to practice to a licensee holding a valid  
6 unencumbered license in another member state in accordance with the terms of  
7 the Compact and rules.

8           (7) Provide for the attendance of the state's Commissioner to the  
9 Counseling Compact Commission meetings.

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

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

16          (e) Nothing in this Compact shall affect the requirements established by a  
17 member state for the issuance of a single state license.

18          (f) A license issued to a licensed professional counselor by a home state to  
19 a resident in that state shall be recognized by each member state as authorizing

1 a licensed professional counselor to practice professional counseling, under a  
2 privilege to practice, in each member state.

3 § 3275d. PRIVILEGE TO PRACTICE

4 (a) To exercise the privilege to practice under the terms and provisions of  
5 the Compact, the licensee shall:

6 (1) hold a license in the home state;

7 (2) have a valid United States Social Security number or national  
8 practitioner identifier;

9 (3) be eligible for a privilege to practice in any member state in  
10 accordance with subsections (d), (g), and (h) of this section;

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

13 (5) notify the Commission that the licensee is seeking the privilege to  
14 practice within a remote state or states;

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

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

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

1           (9) report to the Commission any adverse action, encumbrance, or  
2           restriction on license taken by any non-member State within 30 days from the  
3           date the action is taken.

4           (b) The privilege to practice is valid until the expiration date of the home  
5           state license. The licensee must comply with the requirements of subsection  
6           (a) of this section to maintain the privilege to practice in the remote state.

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

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

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

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

1           (2) have not had any encumbrance or restriction against any license or  
2 privilege to practice within the previous two years.

3           (f) Once an encumbered license in the home state is restored to good  
4 standing, the licensee must meet the requirements of subsection (a) of this  
5 section to obtain a privilege to practice in any remote state.

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

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

11           (2) all fines have been paid; and

12           (3) have not had any encumbrance or restriction against any license or  
13 privilege to practice within the previous two years.

14           (h) Once the requirements of subsection (g) of this section have been met,  
15 the licensee must meet the requirements in subsection (a) of this section to  
16 obtain a privilege to practice in a remote state.

17           § 3275e. OBTAINING A NEW HOME STATE LICENSE BASED ON

18                   PRIVILEGE

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

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

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

10          (2) Upon receipt of an application for obtaining a new home state  
11          license by virtue of a privilege to practice, the new home state shall verify that  
12          the licensed professional counselor meets the pertinent criteria outlined in  
13          section 3275d of this chapter via the data system, without need for primary  
14          source verification except for:

15            (A) a Federal Bureau of Investigation fingerprint based criminal  
16            background check if not previously performed or updated pursuant to  
17            applicable rules adopted by the Commission in accordance with Pub. L. No.  
18            92-544;

19            (B) other criminal background check as required by the new home  
20            state; and

1           (C) completion of any requisite jurisprudence requirements of the  
2 new home state;

3           (3) The former home state shall convert the former home state license  
4 into a privilege to practice once the new home state has activated the new  
5 home state license in accordance with applicable rules adopted by the  
6 Commission.

7           (4) Notwithstanding any other provision of this Compact, if the licensed  
8 professional counselor cannot meet the criteria in section 3275d of this  
9 chapter, the new home state may apply its requirements for issuing a new  
10 single state license.

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

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

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

1       (e) Nothing in this Compact shall affect the requirements established by a  
2       member state for the issuance of a single state license.

3       § 3275f. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

4       Active duty military personnel, or their spouse, shall designate a home state  
5       where the individual has a current license in good standing. The individual  
6       may retain the home state designation during the period the service member is  
7       on active duty. Subsequent to designating a home state, the individual shall  
8       only change their home state through application for licensure in the new state,  
9       or through the process outlined in section 3275e of this title.

10       § 3275g. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

11       (a) Member states shall recognize the right of a licensed professional  
12       counselor, licensed by a home state in accordance with section 3275c of this  
13       title and under rules promulgated by the Commission, to practice professional  
14       counseling in any member state via telehealth under a privilege to practice as  
15       provided in the Compact and rules promulgated by the Commission.

16       (b) A Licensee providing professional counseling services in a remote state  
17       under the privilege to practice shall adhere to the laws and regulations of the  
18       remote state.

19       § 3275h. ADVERSE ACTIONS



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

3               (1)(A) Take adverse action against a licensed professional counselor’s  
4       privilege to practice within that member state; and

5               (B) Issue subpoenas for both hearings and investigations that require  
6       the attendance and testimony of witnesses as well as the production of  
7       evidence. Subpoenas issued by a licensing board in a member state for the  
8       attendance and testimony of witnesses or the production of evidence from  
9       another member state shall be enforced in the latter state by any court of  
10       competent jurisdiction, according to the practice and procedure of that court  
11       applicable to subpoenas issued in proceedings pending before it. The issuing  
12       authority shall pay any witness fees, travel expenses, mileage, and other fees  
13       required by the service statutes of the state in which the witnesses or evidence  
14       are located.

15               (2) Only the home state shall have the power to take adverse action  
16       against a licensed professional counselor’s license issued by the home state.

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

1       (c) The home state shall complete any pending investigations of a licensed  
2       professional counselor who changes primary state of residence during the  
3       course of the investigations. The home state shall also have the authority to  
4       take appropriate action or actions and shall promptly report the conclusions of  
5       the investigations to the administrator of the data system. The administrator of  
6       the coordinated licensure information system shall promptly notify the new  
7       home state of any adverse actions.

8       (d) A member state, if otherwise permitted by state law, may recover from  
9       the affected licensed professional counselor the costs of investigations and  
10       dispositions of cases resulting from any adverse action taken against that  
11       licensed professional counselor.

12       (e) A member state may take adverse action based on the factual findings  
13       of the remote state, provided that the member state follows its own procedures  
14       for taking the adverse action.

15       (f) Joint investigations.

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

1           (2) Member states shall share any investigative, litigation, or  
2           compliance materials in furtherance of any joint or individual investigation  
3           initiated under the Compact.

4           (g) If adverse action is taken by the home state against the license of a  
5           licensed professional counselor, the licensed professional counselor's privilege  
6           to practice in all other member states shall be deactivated until all  
7           encumbrances have been removed from the state license. All home state  
8           disciplinary orders that impose adverse action against the license of a licensed  
9           professional counselor shall include a statement that the licensed professional  
10           counselor's privilege to practice is deactivated in all member states during the  
11           pendency of the order.

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

15           (i) Nothing in this Compact shall override a member state's decision that  
16           participation in an alternative program may be used in lieu of adverse action.

17           § 3275i. ESTABLISHMENT OF COUNSELING COMPACT

18                   COMMISSION

19           (a) The Compact member states hereby create and establish a joint public  
20           agency known as the Counseling Compact Commission.

1           (1) The Commission is an instrumentality of the Compact states.

2           (2) Venue is proper and judicial proceedings by or against the  
3           Commission shall be brought solely and exclusively in a court of competent  
4           jurisdiction where the principal office of the Commission is located. The  
5           Commission may waive venue and jurisdictional defenses to the extent it  
6           adopts or consents to participate in alternative dispute resolution proceedings.

7           (3) Nothing in this Compact shall be construed to be a waiver of  
8           sovereign immunity.

9           (b) Membership, voting, and meetings.

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

12           (2) The delegate shall be either:

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

15           (B) an administrator of the licensing board.

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

18           (4) The member state licensing board shall fill any vacancy occurring  
19           on the Commission within 60 days.

1           (5) Each delegate shall be entitled to one vote with regard to the  
2           promulgation of rules and creation of bylaws and shall otherwise have an  
3           opportunity to participate in the business and affairs of the Commission.

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

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

9           (8) The Commission shall by rule establish a term of office for delegates  
10          and may by rule establish term limits.

11          (c) The Commission shall have the following powers and duties:

12           (1) establish the fiscal year of the Commission;

13           (2) establish bylaws;

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

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

17           (5) promulgate rules which shall be binding to the extent and in the  
18          manner provided for in the Compact;

1           (6) bring and prosecute legal proceedings or actions in the name of the  
2           Commission, provided that the standing of any state licensing board to sue or  
3           be sued under applicable law shall not be affected;

4           (7) purchase and maintain insurance and bonds;

5           (8) borrow, accept, or contract for services of personnel, including, but  
6           not limited to, employees of a member state;

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

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

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

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

3           (13) establish a budget and make expenditures;

4           (14) borrow money;

5           (15) appoint committees, including standing committees composed of  
6 members, state regulators, state legislators or their representatives, and  
7 consumer representatives, and such other interested persons as may be  
8 designated in this Compact and the bylaws;

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

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

12           (18) perform such other functions as may be necessary or appropriate to  
13 achieve the purposes of this Compact consistent with the state regulation of  
14 professional counseling licensure and practice.

15           (d) The executive committee.

16           (1) The executive committee shall have the power to act on behalf of the  
17 Commission according to the terms of this Compact.

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

19           (A) seven voting members who are elected by the Commission from  
20 the current membership of the Commission; and

1           (B) up to four ex-officio, nonvoting members from four recognized  
2           national professional counselor organizations.

3           (C) The ex-officio members will be selected by their respective  
4           organizations.

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

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

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

10           (A) recommend to the entire Commission changes to the rules or  
11           bylaws, changes to this Compact legislation, fees paid by Compact member  
12           states such as annual dues, and any Commission Compact fee charged to  
13           licensees for the privilege to practice;

14           (B) ensure Compact administration services are appropriately  
15           provided, contractual or otherwise;

16           (C) prepare and recommend the budget;

17           (D) maintain financial records on behalf of the Commission;

18           (E) monitor Compact compliance of member states and provide  
19           compliance reports to the Commission;



1           (F) establish additional committees as necessary; and

2           (G) other duties as provided in rules or bylaws.

3           (e) Meetings of the Commission.

4           (1) All meetings shall be open to the public, and public notice of  
5 meetings shall be given in the same manner as required under the rulemaking  
6 provisions in section 3275k of this title.

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

11           (A) non-compliance of a member state with its obligations under the  
12 Compact;

13           (B) the employment, compensation, discipline, or other matters,  
14 practices or procedures related to specific employees or other matters related  
15 to the Commission's internal personnel practices and procedures;

16           (C) current, threatened, or reasonably anticipated litigation;

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

19           (E) accusing any person of a crime or formally censuring any person;

1           (F) disclosure of trade secrets or commercial or financial  
2 information that is privileged or confidential;

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

5           (H) disclosure of investigative records compiled for law enforcement  
6 purposes;

7           (I) disclosure of information related to any investigative reports  
8 prepared by or on behalf of or for use of the Commission or other committee  
9 charged with responsibility of investigation or determination of compliance  
10 issues pursuant to the Compact; or

11           (J) matters specifically exempted from disclosure by federal or  
12 member state statute.

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

16           (4) The Commission shall keep minutes that fully and clearly describe  
17 all matters discussed in a meeting and shall provide a full and accurate  
18 summary of actions taken, and the reasons therefore, including a description of  
19 the views expressed. All documents considered in connection with an action

1 shall be identified in such minutes. All minutes and documents of a closed  
2 meeting shall remain under seal, subject to release by a majority vote of the  
3 Commission or order of a court of competent jurisdiction.

4 (f) Financing the Commission.

5 (1) The Commission shall pay, or provide for the payment of, the  
6 reasonable expenses of its establishment, organization, and ongoing activities.

7 (2) The Commission may accept any and all appropriate revenue  
8 sources, donations, and grants of money, equipment, supplies, materials, and  
9 services.

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

18 (4) The Commission shall not incur obligations of any kind prior to  
19 securing the funds adequate to meet the same; nor shall the Commission

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

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

10 (g) Qualified immunity, defense, and indemnification.

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

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

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

13 (3) The Commission shall indemnify and hold harmless any member,  
14 officer, executive director, employee, or representative of the Commission for  
15 the amount of any settlement or judgment obtained against that person arising  
16 out of any actual or alleged act, error, or omission that occurred within the  
17 scope of Commission employment, duties, or responsibilities, or that such  
18 person had a reasonable basis for believing occurred within the scope of  
19 Commission employment, duties, or responsibilities, provided that the actual

1 or alleged act, error, or omission did not result from the intentional or willful  
2 or wanton misconduct of that person

3 § 3275j. DATA SYSTEM

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

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

12 (1) identifying information;

13 (2) licensure data;

14 (3) adverse actions against a license or privilege to practice;

15 (4) non-confidential information related to alternative program  
16 participation;

17 (5) any denial of application for licensure and the reason or reasons for  
18 such denial;

19 (6) current significant investigative information; and

1           (7) other information that may facilitate the administration of this  
2           Compact, as determined by the rules of the Commission.

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

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

9           (e) Member states contributing information to the data system may  
10          designate information that may not be shared with the public without the  
11          express permission of the contributing state.

12          (f) Any information submitted to the data system that is subsequently  
13          required to be expunged by the laws of the member state contributing the  
14          information shall be removed from the data system.

15          § 3275k. RULEMAKING

16          (a) The Commission shall promulgate reasonable rules in order to  
17          effectively and efficiently achieve the purpose of the Compact.  
18          Notwithstanding the foregoing, in the event the Commission exercises its  
19          rulemaking authority in a manner that is beyond the scope of the purposes of

1 the Compact, or the 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 powers pursuant to the  
4 criteria set forth in this section and the rules adopted thereunder. Rules and  
5 amendments shall become binding as of the date specified in each rule or  
6 amendment.

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

11 (d) Rules or amendments to the rules shall be adopted at a regular or  
12 special meeting of the Commission.

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

17 (1) on the website of the Commission or other publicly accessible  
18 platform; and



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

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

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

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

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

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

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

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

19               (1) at least 25 persons;

20               (2) a state or federal governmental subdivision or agency; or

1           (3) an association having at least 25 members.

2           (i) If a hearing is held on the proposed rule or amendment, the Commission  
3           shall publish the place, time, and date of the scheduled public hearing. If the  
4           hearing is held via electronic means, the Commission shall publish the  
5           mechanism for access to the electronic hearing.

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

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

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

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

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

1       (k) If no written notice of intent to attend the public hearing by interested  
2 parties is received, the Commission may proceed with promulgation of the  
3 proposed rule without a public hearing.

4       (l) The Commission shall, by majority vote of all members, take final  
5 action on the proposed rule and shall determine the effective date of the rule, if  
6 any, based on the rulemaking record and the full text of the rule.

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

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

15           (2) prevent a loss of Commission or member state funds;

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

18           (4) protect public health and safety.

19       (n) The Commission or an authorized committee of the Commission may  
20 direct revisions to a previously adopted rule or amendment for purposes of

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

10 § 32751. OVERSIGHT, DISPUTE, RESOLUTION, AND ENFORCEMENT

11 (a) Oversight.

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

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

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

6           (b) Default, technical assistance, and termination. If the Commission  
7           determines that a member state has defaulted in the performance of its  
8           obligations or responsibilities under this Compact or the promulgated rules, the  
9           Commission shall:

10           (1) provide written notice to the defaulting state and other member  
11           states of the nature of the default, the proposed means of curing the default or  
12           any other action to be taken by the Commission; and

13           (2) provide remedial training and specific technical assistance regarding  
14           the default.

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

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

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

9        (f) The Commission shall not bear any costs related to a state that is found  
10       to be in default or that has been terminated from the Compact, unless agreed  
11       upon in writing between the Commission and the defaulting state.

12       (g) The defaulting state may appeal the action of the Commission by  
13       petitioning the U.S. District Court for the District of Columbia or the federal  
14       district where the Commission has its principal offices. The prevailing  
15       member shall be awarded all costs of such litigation, including reasonable  
16       attorney’s fees.

17       (h) Dispute resolution.

18       (1) Upon request by a member state, the Commission shall attempt to  
19       resolve disputes related to the Compact that arise among member states and  
20       between member and non-member states.

1           (2) The Commission shall promulgate a rule providing for both  
2           mediation and binding dispute resolution for disputes as appropriate.

3           (i) Enforcement.

4           (1) The Commission, in the reasonable exercise of its discretion, shall  
5           enforce the provisions and rules of this Compact.

6           (2) By majority vote, the Commission may initiate legal action in the  
7           United States District Court for the District of Columbia or the federal district  
8           where the Commission has its principal offices against a member state in  
9           default to enforce compliance with the provisions of the Compact and its  
10           promulgated rules and bylaws. The relief sought may include both injunctive  
11           relief and damages. In the event judicial enforcement is necessary, the  
12           prevailing member shall be awarded all costs of such litigation, including  
13           reasonable attorney's fees.

14           (3) The remedies herein shall not be the exclusive remedies of the  
15           Commission. The Commission may pursue any other remedies available  
16           under federal or State law.

1     § 3275m. DATE OF IMPLEMENTATION OF THE COUNSELING  
2                     COMPACT COMMISSION AND ASSOCIATED RULES,  
3                     WITHDRAWAL, AND AMENDMENT

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

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

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

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

19            (2) Withdrawal shall not affect the continuing requirement of the  
20     withdrawing state's professional counseling licensing board to comply with the



1 investigative and adverse action reporting requirements of this act prior to the  
2 effective date of withdrawal.

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

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

10 § 3275n. CONSTRUCTION AND SEVERABILITY

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

1 states and in full force and effect as to the member state affected as to all  
2 severable matters.

3 § 3275o. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

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

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

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

*Sec. 2. 3 V.S.A. § 123(j)(1) is amended to read:*

*(j)(1) The Office may inquire into the criminal background histories of applicants for initial licensure and for license renewal of any Office-issued credential, including a license, certification, registration, or specialty designation for the following professions:*

*(A) licensed nursing assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses licensed under 26 V.S.A. chapter 28;*

*(B) private investigators, security guards, and other persons licensed under 26 V.S.A. chapter 59;*

*(C) real estate appraisers and other persons or business entities licensed under 26 V.S.A. chapter 69; and*

*(D) osteopathic physicians licensed under 26 V.S.A. chapter 33;*

*(E) licensed clinical mental health counselors licensed under 26 V.S.A. chapter 65;*

*(F) licensed marriage and family therapists licensed under 26 V.S.A. chapter 76; and*

*(G) individuals registered on the roster of psychotherapists who are nonlicensed and noncertified.*

*Sec. 3. 26 V.S.A. § 3270a is amended to read:*

*§ 3270a. FEES*

*(a) Applicants and persons regulated under this chapter shall pay the following fees:*

*(1) Application for licensure \$150.00*

*(2) Biennial renewal \$200.00*

*(b) A licensee of a remote state under the Counseling Compact established in subchapter 2 of this chapter shall pay a biennial \$50.00 privilege to practice fee.*

~~Sec. 3. EFFECTIVE DATE~~

1 ~~This act shall take effect on July 1, 2023.~~

~~Sec. 3. Sec. 4. EFFECTIVE DATES~~

~~*This section and Sec. 2 (3 V.S.A. § 123(j)(1)) shall take effect on July 1, 2023. Sec. 1 (clinical mental health counselors) shall take effect on July 1, 2024.*~~

*Sec. 4. EFFECTIVE DATES*

*This section and Sec. 2 (3 V.S.A. § 123(j)(1)) shall take effect on July 1, 2023. Sec. 1 (clinical mental health counselors) and Sec. 3 (fees) shall take effect on July 1, 2024.*