

1 H.62
2 Introduced by Representatives Houghton of Essex Junction and Durfee of
3 Shaftsbury
4 Referred to Committee on
5 Date:
6 Subject: Health; mental health; interstate Counseling Compact
7 Statement of purpose of bill as introduced: This bill proposes that the State
8 adopt and enter into the interstate Counseling Compact.

9 An act relating to the interstate Counseling Compact

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

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

12 CHAPTER 65. CLINICAL MENTAL HEALTH COUNSELORS

13 Subchapter 1. General Provisions

14 * * *

15 Subchapter 2. Counseling Compact

§ 3275. COUNSELING COMPACT; ADOPTION

This subchapter is the Vermont adoption of the Counseling Compact. The form, format, and text of the Compact have been conformed to the conventions

of the Vermont Statutes Annotated. It is the intent of the General Assembly that this subchapter be interpreted as substantively the same as the Counseling Compact that is enacted by other Compact party states.

1 § 3275a. PURPOSE

2 (a) The purpose of this Compact is to facilitate interstate practice of
3 licensed professional counselors with the goal of improving public access to
4 professional counseling services. The practice of professional counseling
5 occurs in the state where the client is located at the time of the counseling
6 services. The Compact preserves the regulatory authority of states to protect
7 public health and safety through the current system of state licensure.

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

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

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

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

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

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

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

3 (7) support the uniformity of professional counseling licensure
4 requirements throughout the states to promote public safety and public health
5 benefits;

6 (8) invest all member states with the authority to hold a licensed
7 professional counselor accountable for meeting all state practice laws in the
8 state in which the client is located at the time care is rendered through the
9 mutual recognition of member state licenses;

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

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

13 § 3275b. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 § 3275c. STATE PARTICIPATION IN THE COMPACT

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

11 (1) license and regulate licensed professional counselors;

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

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

17 (A) professional counseling orientation and ethical practice;

18 (B) social and cultural diversity;

19 (C) human growth and development;

20 (D) career development;

1 (E) counseling and helping relationships;

2 (F) group counseling and group work;

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

4 (H) research and program evaluation; and

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

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

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

10 (b) A Member State shall:

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

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

16 (3) Implement or utilize procedures for considering the criminal history
17 records of applicants for an initial privilege to practice. These procedures shall
18 include the submission of fingerprints or other biometric-based information by
19 applicants for the purpose of obtaining an applicant's criminal history record

1 information from the Federal Bureau of Investigation and the agency
2 responsible for retaining that state's criminal records.

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

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

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

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

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

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

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

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

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

9 (f) A license issued to a licensed professional counselor by a home state to
10 a resident in that state shall be recognized by each member state as authorizing
11 a licensed professional counselor to practice professional counseling, under a
12 privilege to practice, in each member state.

13 § 3275d. PRIVILEGE TO PRACTICE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (g) If a licensee’s privilege to practice in any remote state is removed, the
18 individual may lose the privilege to practice in all other remote states until the
19 following occur:

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

3 (2) all fines have been paid; and

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

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

9 § 3275e. OBTAINING A NEW HOME STATE LICENSE BASED ON

10 PRIVILEGE

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

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

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

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

6 (A) a Federal Bureau of Investigation fingerprint based criminal
7 background check if not previously performed or updated pursuant to
8 applicable rules adopted by the Commission in accordance with Pub. L. No.
9 92-544;

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

12 (C) completion of any requisite jurisprudence requirements of the
13 new home state;

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

18 (4) Notwithstanding any other provision of this Compact, if the licensed
19 professional counselor cannot meet the criteria in section 3275d of this

1 chapter, the new home state may apply its requirements for issuing a new
2 single state license.

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

5 (c) If a licensed professional counselor changes primary state of residence
6 by moving from a member state to a non-member state, or from a non-member
7 state to a member 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 licensee's ability to hold
10 a single state license in multiple states; however for the purposes of this
11 Compact, a licensee shall have only one home state license.

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

14 § 3275f. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

1 § 3275g. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

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

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

10 § 3275h. ADVERSE ACTIONS

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

13 (1)(A) Take adverse action against a licensed professional counselor's
14 privilege to practice within that member state; and

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

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

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

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

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

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

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

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

6 (f) Joint investigations.

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

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

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

1 counselor's privilege to practice is deactivated in all member states during the
2 pendency of the order.

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

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

8 § 3275i. ESTABLISHMENT OF COUNSELING COMPACT

9 COMMISSION

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

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

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

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

20 (b) Membership, voting, and meetings.

1 (1) Each member state shall have and be limited to one delegate selected
2 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 time of
5 appointment, who is a licensed professional counselor or public member; or

6 (B) an administrator of the licensing board.

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

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

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

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

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

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

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

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

3 (2) establish bylaws;

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

5 (4) meet and take such actions as are consistent with the provisions of

6 this Compact and the bylaws;

7 (5) promulgate rules which shall be binding to the extent and in the

8 manner provided for in the Compact;

9 (6) bring and prosecute legal proceedings or actions in the name of the

10 Commission, provided that the standing of any state licensing board to sue or

11 be sued under applicable law shall not be affected;

12 (7) purchase and maintain insurance and bonds;

13 (8) borrow, accept, or contract for services of personnel, including, but

14 not limited to, employees of a member state;

15 (9) hire employees, elect or appoint officers, fix compensation, define

16 duties, grant such individuals appropriate authority to carry out the purposes of

17 the Compact, and establish the Commission's personnel policies and programs

18 relating to conflicts of interest, qualifications of personnel, and other related

19 personnel matters;

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

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

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

11 (13) establish a budget and make expenditures;

12 (14) borrow money;

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

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

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

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

4 (d) The executive committee.

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

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

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

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

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

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

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

17 (5) The executive committee shall have the following duties and
18 responsibilities:

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

5 (B) ensure Compact administration services are appropriately
6 provided, contractual or otherwise;

7 (C) prepare and recommend the budget;

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

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

11 (F) establish additional committees as necessary; and

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

13 (e) Meetings of the Commission.

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

17 (2) The Commission or the executive committee or other committees of
18 the Commission may convene in a closed, non-public meeting if the

1 Commission or executive committee or other committees of the Commission
2 must discuss:

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

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

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

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

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

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

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

16 (H) disclosure of investigative records compiled for law enforcement
17 purposes;

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

5 (J) matters specifically exempted from disclosure by federal or
6 member state statute.

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

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

17 (f) Financing the Commission.

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

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

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

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

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

1 report of the audit shall be included in and become part of the annual report of
2 the Commission.

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

4 (1) The members, officers, executive director, employees and
5 representatives of the Commission shall be immune from suit and liability,
6 either personally or in their official capacity, for any claim for damage to or
7 loss of property or personal injury or other civil liability caused by or arising
8 out of any actual or alleged act, error or omission that occurred, or that the
9 person against whom 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 in this subdivision shall be construed to
12 protect any such person from suit or liability for any damage, loss, injury, or
13 liability caused by the intentional or willful or wanton misconduct of that
14 person.

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

1 employment, duties, or responsibilities; provided that nothing herein shall be
2 construed to prohibit that person from retaining his or her own counsel; and
3 provided further, that the actual or alleged act, error, or omission did not result
4 from that person's intentional or willful or wanton misconduct.

5 (3) The Commission shall indemnify and hold harmless any member,
6 officer, executive director, employee, or representative of the Commission for
7 the amount of any settlement or judgment obtained against that person arising
8 out of any actual or alleged act, error, or omission that occurred within the
9 scope of Commission employment, duties, or responsibilities, or that such
10 person had a reasonable basis for believing occurred within the scope of
11 Commission employment, duties, or responsibilities, provided that the actual
12 or alleged act, error, or omission did not result from the intentional or willful
13 or wanton misconduct of that person

14 § 3275j. DATA SYSTEM

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

19 (b) Notwithstanding any other provision of state law to the contrary, a
20 member state shall submit a uniform data set to the data system on all

1 individuals to whom this Compact is applicable as required by the rules of the

2 Commission, including:

3 (1) identifying information;

4 (2) licensure data;

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

6 (4) non-confidential information related to alternative program

7 participation;

8 (5) any denial of application for licensure and the reason or reasons for

9 such denial;

10 (6) current significant investigative information; and

11 (7) other information that may facilitate the administration of this

12 Compact, as determined by the rules of the Commission.

13 (c) Investigative information pertaining to a licensee in any member state

14 will only be available to other member states.

15 (d) The Commission shall promptly notify all member states of any

16 adverse action taken against a licensee or an individual applying for a license.

17 Adverse action information pertaining to a licensee in any member state will

18 be available to any other member state.

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

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

7 § 3275k. RULEMAKING

8 (a) The Commission shall promulgate reasonable rules in order to
9 effectively and efficiently achieve the purpose of the Compact.
10 Notwithstanding the foregoing, in the event the Commission exercises its
11 rulemaking authority in a manner that is beyond the scope of the purposes of
12 the Compact, or the powers granted hereunder, then such an action by the
13 Commission shall be invalid and have no force or effect.

14 (b) The Commission shall exercise its rulemaking powers pursuant to the
15 criteria set forth in this section and the rules adopted thereunder. Rules and
16 amendments shall become binding as of the date specified in each rule or
17 amendment.

18 (c) If a majority of the legislatures of the member states rejects a rule, by
19 enactment of a statute or resolution in the same manner used to adopt the

1 Compact within four years of the date of adoption of the rule, then such rule
2 shall have no further force and effect in any member state.

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

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

9 (1) on the website of the Commission or other publicly accessible
10 platform; and

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

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

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

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

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

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

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

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

9 (1) at least 25 persons;

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

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

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

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

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

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

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

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

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

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

18 (m) Upon determination that an emergency exists, the Commission may
19 consider and adopt an emergency rule without prior notice, opportunity for
20 comment, or hearing, provided that the usual rulemaking procedures provided

1 in the Compact and in this section shall be retroactively applied to the rule as
2 soon as reasonably possible, in no event later than 90 days after the effective
3 date of the rule. For the purposes of this provision, an emergency rule is one
4 that must be adopted immediately in order to:

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

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

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

9 (4) protect public health and safety.

10 (n) The Commission or an authorized committee of the Commission may
11 direct revisions to a previously adopted rule or amendment for purposes of
12 correcting typographical errors, errors in format, errors in consistency, or
13 grammatical errors. Public notice of any revisions shall be posted on the
14 website of the Commission. The revision shall be subject to challenge by any
15 person for a period of 30 days after posting. The revision may be challenged
16 only on grounds that the revision results in a material change to a rule. A
17 challenge shall be made in writing and delivered to the Chair of the
18 Commission prior to the end of the notice period. If no challenge is made, the
19 revision will take effect without further action. If the revision is challenged,
20 the revision may not take effect without the approval of the Commission.

1 § 32751. OVERSIGHT, DISPUTE, RESOLUTION, AND ENFORCEMENT

2 (a) Oversight.

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

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

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

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

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

4 (2) provide remedial training and specific technical assistance regarding
5 the default.

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

12 (d) Termination of membership in the Compact shall be imposed only after
13 all other means of securing compliance have been exhausted. Notice of intent
14 to suspend or terminate shall be given by the Commission to the governor, the
15 majority and minority leaders of the defaulting state's legislature, and each of
16 the member states.

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

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

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

9 (h) Dispute resolution.

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

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

15 (i) Enforcement.

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

18 (2) By majority vote, the Commission may initiate legal action in the
19 United States District Court for the District of Columbia or the federal district
20 where the Commission has its principal offices against a member state in

1 default to enforce compliance with the provisions of the Compact and its
2 promulgated rules and bylaws. The relief sought may include both injunctive
3 relief and damages. In the event judicial enforcement is necessary, the
4 prevailing member shall be awarded all costs of such litigation, including
5 reasonable attorney's fees.

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

9 § 3275m. DATE OF IMPLEMENTATION OF THE COUNSELING
10 COMPACT COMMISSION AND ASSOCIATED RULES,
11 WITHDRAWAL, AND AMENDMENT

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

18 (b) Any state that joins the Compact subsequent to the Commission's
19 initial adoption of the rules shall be subject to the rules as they exist on the
20 date on which the Compact becomes law in that state. Any rule that has been

1 previously adopted by the Commission shall have the full force and effect of
2 law on the day the Compact becomes law in that state.

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

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

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

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

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

18 § 3275n. CONSTRUCTION AND SEVERABILITY

19 This Compact shall be liberally construed so as to effectuate the purposes
20 thereof. The provisions of this Compact shall be severable and if any phrase,

1 clause, sentence or provision of this Compact is declared to be contrary to the
2 constitution of any member state or of the United States or the applicability
3 thereof to any government, agency, person, or circumstance is held invalid, the
4 validity of the remainder of this Compact and the applicability thereof to any
5 government, agency, person, or circumstance shall not be affected thereby. If
6 this Compact shall be held contrary to the constitution of any member state,
7 the Compact shall remain in full force and effect as to the remaining member
8 states and in full force and effect as to the member state affected as to all
9 severable matters.

10 § 3275o. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

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

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

3 (f) In the event any provision of the Compact exceeds the constitutional
4 limits imposed on the legislature of any member state, the provision shall be
5 ineffective to the extent of the conflict with the constitutional provision in
6 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.

~~§ 3270a. Sec. 3. EFFECTIVE DATE~~

1

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

~~§ 3270a. 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.