

1 H.62

2 An act relating to the interstate Counseling Compact

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

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

5 CHAPTER 65. CLINICAL MENTAL HEALTH COUNSELORS

6 Subchapter 1. General Provisions

7 * * *

8 Subchapter 2. Counseling Compact

9 § 3275. COUNSELING COMPACT; ADOPTION

10 This subchapter is the Vermont adoption of the Counseling Compact. The
11 form, format, and text of the Compact have been conformed to the conventions
12 of the Vermont Statutes Annotated. It is the intent of the General Assembly
13 that this subchapter be interpreted as substantively the same as the Counseling
14 Compact that is enacted by other Compact party states.

15 § 3275a. PURPOSE

16 (a) The purpose of this Compact is to facilitate interstate practice of
17 licensed professional counselors with the goal of improving public access to
18 professional counseling services. The practice of professional counseling
19 occurs in the state where the client is located at the time of the counseling
20 services. The Compact preserves the regulatory authority of states to protect
21 public health and safety through the current system of state licensure.

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

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

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

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

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

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

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

12 (7) support the uniformity of professional counseling licensure
13 requirements throughout the states to promote public safety and public health
14 benefits;

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

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

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

1 § 3275b. DEFINITIONS

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

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

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

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

19 (4) “Continuing competence or continuing education” means a
20 requirement, as a condition of license renewal, to provide evidence of

1 participation in and completion of educational and professional activities
2 relevant to practice or area of work.

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

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

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

12 (B) investigative information that indicates that the licensed
13 professional counselor represents an immediate threat to public health and
14 safety regardless of whether the licensed professional counselor has been
15 notified and had an opportunity to respond.

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

19 (8) “Encumbered license” means a license in which an adverse action
20 restricts the practice of licensed professional counseling by the licensee and

1 said adverse action has been reported to the National Practitioners Data Bank
2 (NPDB).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (23) “Single state license” means a licensed professional counselor
20 license issued by a member state that authorizes practice only within the

1 issuing state and does not include a privilege to practice in any other member
2 state.

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

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

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

11 § 3275c. STATE PARTICIPATION IN THE COMPACT

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

13 (1) license and regulate licensed professional counselors;

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

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

19 (A) professional counseling orientation and ethical practice;

20 (B) social and cultural diversity;

21 (C) human growth and development;

1 (D) career development;

2 (E) counseling and helping relationships;

3 (F) group counseling and group work;

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

5 (H) research and program evaluation; and

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

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

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

11 (b) A Member State shall:

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

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

17 (3) Implement or utilize procedures for considering the criminal history
18 records of applicants for an initial privilege to practice. These procedures shall
19 include the submission of fingerprints or other biometric-based information by
20 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.

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

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

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

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

12 § 3275d. PRIVILEGE TO PRACTICE

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

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

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

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

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

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

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

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

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

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

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

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

18 (d) A licensee providing professional counseling services in a remote state
19 is subject to that state's regulatory authority. A remote state may, in
20 accordance with due process and that state's laws, remove a licensee's
21 privilege to practice in the remote state for a specific period of time, impose

1 fines, or take any other necessary actions to protect the health and safety of its
2 citizens. The licensee may be ineligible for a privilege to practice in any
3 member state until the specific time for removal has passed and all fines are
4 paid.

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

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

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

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

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

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

18 (2) all fines have been paid; and

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

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

4 § 3275e. OBTAINING A NEW HOME STATE LICENSE BASED ON
5 PRIVILEGE

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

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

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

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

20 (A) a Federal Bureau of Investigation fingerprint based criminal
21 background check if not previously performed or updated pursuant to

1 applicable rules adopted by the Commission in accordance with Pub. L. No.
2 92-544;

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

5 (C) completion of any requisite jurisprudence requirements of the
6 new home state;

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

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

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

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

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

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

6 § 3275f. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

13 § 3275g. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

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

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

1 § 3275h. ADVERSE ACTIONS

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

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

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

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

18 (b) For purposes of taking adverse action, the home state shall give the
19 same priority and effect to reported conduct received from a member state as it
20 would if the conduct had occurred within the home state. In so doing, the
21 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 compliance
2 materials in furtherance of any joint or individual investigation initiated under
3 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.

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

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

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

8 (b) Membership, voting, and meetings.

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

11 (2) The delegate shall be either:

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

14 (B) an administrator of the licensing board.

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

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

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

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

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

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

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

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

10 (2) establish bylaws;

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

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

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

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

19 (7) purchase and maintain insurance and bonds;

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

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

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

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

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

16 (13) establish a budget and make expenditures;

17 (14) borrow money;

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

1 (16) provide and receive information from, and cooperate with, law
2 enforcement agencies;

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

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

7 (d) The executive committee.

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

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

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

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

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

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

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

20 (5) The executive committee shall have the following duties and
21 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
19 Commission or executive committee or other committees of the Commission
20 must discuss:

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

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

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

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

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

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

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

14 (H) disclosure of investigative records compiled for law enforcement
15 purposes;

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

20 (J) matters specifically exempted from disclosure by federal or
21 member state statute.

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

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

11 (f) Financing the Commission.

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

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

17 (3) The Commission may levy on and collect an annual assessment from
18 each member state or impose fees on other parties to cover the cost of the
19 operations and activities of the Commission and its staff, which must be in a
20 total amount sufficient to cover its annual budget as approved each year for
21 which revenue is not provided by other sources. The aggregate annual

1 assessment amount shall be allocated based upon a formula to be determined
2 by the Commission, which shall promulgate a rule binding upon all member
3 states.

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

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

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

16 (1) The members, officers, executive director, employees and
17 representatives of the Commission shall be immune from suit and liability,
18 either personally or in their official capacity, for any claim for damage to or
19 loss of property or personal injury or other civil liability caused by or arising
20 out of any actual or alleged act, error or omission that occurred, or that the
21 person against whom the claim is made had a reasonable basis for believing

1 occurred within the scope of Commission employment, duties or
2 responsibilities; provided that nothing in this subdivision shall be construed to
3 protect any such person from suit or liability for any damage, loss, injury, or
4 liability caused by the intentional or willful or wanton misconduct of that
5 person.

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

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

1 Commission employment, duties, or responsibilities, provided that the actual
2 or alleged act, error, or omission did not result from the intentional or willful
3 or wanton misconduct of that person

4 § 3275j. DATA SYSTEM

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

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

13 (1) identifying information;

14 (2) licensure data;

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

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

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

20 (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 adverse
6 action taken against a licensee or an individual applying for a license. Adverse
7 action information pertaining to a licensee in any member state will be
8 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
20 the Compact, or the powers granted hereunder, then such an action by the
21 Commission shall be invalid and have no force or effect.

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

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

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

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

15 (1) on the website of the Commission or other publicly accessible
16 platform; and

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

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

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

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

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

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

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

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

15 (1) at least 25 persons;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (4) protect public health and safety.

13 (n) The Commission or an authorized committee of the Commission may
14 direct revisions to a previously adopted rule or amendment for purposes of
15 correcting typographical errors, errors in format, errors in consistency, or
16 grammatical errors. Public notice of any revisions shall be posted on the
17 website of the Commission. The revision shall be subject to challenge by any
18 person for a period of 30 days after posting. The revision may be challenged
19 only on grounds that the revision results in a material change to a rule. A
20 challenge shall be made in writing and delivered to the Chair of the
21 Commission prior to the end of the notice period. If no challenge is made, the

1 revision will take effect without further action. If the revision is challenged,
2 the revision may not take effect without the approval of the Commission.

3 § 32751. OVERSIGHT, DISPUTE, RESOLUTION, AND ENFORCEMENT

4 (a) Oversight.

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

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

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

19 (b) Default, technical assistance, and termination. If the Commission
20 determines that a member state has defaulted in the performance of its

1 obligations or responsibilities under this Compact or the promulgated rules, the
2 Commission shall:

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

6 (2) provide remedial training and specific technical assistance regarding
7 the default.

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

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

19 (e) A state that has been terminated is responsible for all assessments,
20 obligations, and liabilities incurred through the effective date of termination,
21 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
21 default to enforce compliance with the provisions of the Compact and its

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

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

8 § 3275m. DATE OF IMPLEMENTATION OF THE COUNSELING

9 COMPACT COMMISSION AND ASSOCIATED RULES,

10 WITHDRAWAL, AND AMENDMENT

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

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

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

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

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

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

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

16 § 3275n. CONSTRUCTION AND SEVERABILITY

17 This Compact shall be liberally construed so as to effectuate the purposes
18 thereof. The provisions of this Compact shall be severable and if any phrase,
19 clause, sentence or provision of this Compact is declared to be contrary to the
20 constitution of any member state or of the United States or the applicability
21 thereof to any government, agency, person, or circumstance is held invalid, the

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

7 § 3275o. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

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

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

19 (f) In the event any provision of the Compact exceeds the constitutional
20 limits imposed on the legislature of any member state, the provision shall be

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

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

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

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

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

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

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

16 (E) licensed clinical mental health counselors licensed under
17 26 V.S.A. chapter 65;

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

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

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

2 § 3270a. FEES

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

5 (1) Application for licensure \$150.00

6 (2) Biennial renewal \$200.00

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

10 Sec. 4. EFFECTIVE DATES

11 This section and Sec. 2 (3 V.S.A. § 123(j)(1)) shall take effect on July 1,
12 2023. Sec. 1 (clinical mental health counselors) and Sec. 3 (fees) shall take
13 effect on July 1, 2024.