

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 HOUSE BILL 2723

 By: Hefner

7 AS INTRODUCED

8 An Act relating to mental health; creating the
9 Interstate Licensed Professional Counselors Compact;
10 stating purpose; providing definitions; providing
11 requirements for state participation in the Compact;
12 providing requirements for licensee to participate in
13 Compact; providing requirements for licensee to
14 obtain a new home state license based on
15 participation in Compact; providing for active duty
16 military and their spouse; providing for Compact
17 privilege to practice telehealth; establishing
18 Counseling Compact Commission; providing requirements
19 for Commission; providing rules; providing for
20 codification; and providing an effective date.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 6-220 of Title 43A, unless there
24 is created a duplication in numbering, reads as follows:

 Interstate Licensed Professional Counselors Compact

 ARTICLE I

 Purpose

1 The purpose of this compact is to facilitate interstate practice
2 of licensed professional counselors with the goal of improving
3 public access to professional counseling services. The practice of
4 professional counseling occurs in the state where the client is
5 located at the time of the counseling services. The compact
6 preserves the regulatory authority of states to protect public
7 health and safety through the current system of state licensure.
8 This compact is designed to achieve the following objectives:

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

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

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

16 4. Support spouses of relocating active duty military
17 personnel;

18 5. Enhance the exchange of licensure, investigative, and
19 disciplinary information among member states;

20 6. Allow for the use of telehealth technology to facilitate
21 increased access to professional counseling services;

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

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

6 9. Eliminate the necessity for licenses in multiple states; and

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

9 SECTION 2. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 6-221 of Title 43A, unless there
11 is created a duplication in numbering, reads as follows:

12 ARTICLE II

13 Definitions

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

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

20 2. "Adverse action" means any administrative, civil, equitable,
21 or criminal action permitted by a state's laws which is imposed by a
22 licensing board or other authority against a licensed professional
23 counselor, including actions against an individual's license or
24 privilege to practice such as revocation, suspension, probation,

1 monitoring of the licensee, limitation on the licensee's practice,
2 or any other encumbrance on licensure affecting a licensed
3 professional counselor's authorization to practice, including
4 issuance of a cease and desist action;

5 3. "Alternative program" means a nondisciplinary monitoring or
6 practice remediation process approved by a professional counseling
7 licensing board to address impaired practitioners;

8 4. "Continuing competence/education" means a requirement, as a
9 condition of license renewal, to provide evidence of participation
10 in, or completion of, educational and professional activities
11 relevant to practice or area of work;

12 5. "Counseling Compact Commission" or "Commission" means the
13 national administrative body whose membership consists of all states
14 that have enacted the compact;

15 6. "Current significant investigative information" means:

- 16 a. investigative information that a licensing board,
17 after a preliminary inquiry which includes
18 notification and an opportunity for the licensed
19 professional counselor to respond, if required by
20 state law, has reason to believe is not groundless
21 and, if proved true, would indicate more than a minor
22 infraction, or
23 b. investigative information that indicates that the
24 licensed professional counselor represents an

1 immediate threat to public health and safety
2 regardless of whether the licensed professional
3 counselor has been notified and had an opportunity to
4 respond;

5 7. "Data system" means a repository of information about
6 licensees, including, but not limited to, continuing education,
7 examination, licensure, investigative, privilege to practice, and
8 adverse action information;

9 8. "Encumbered license" means a license in which an adverse
10 action restricts the practice of licensed professional counseling by
11 the licensee and said adverse action has been reported to the
12 national practitioners data bank;

13 9. "Encumbrance" means a revocation or suspension of, or any
14 limitation on, the full and unrestricted practice of licensed
15 professional counseling by a licensing board;

16 10. "Executive committee" means a group of directors elected or
17 appointed to act on behalf of, and within the powers granted to them
18 by, the commission;

19 11. "Home state" means the member state that is the licensee's
20 primary state of residence;

21 12. "Impaired practitioner" means an individual who has a
22 condition that may impair his or her ability to practice as a
23 licensed professional counselor without some type of intervention
24

1 and may include, but is not limited to, alcohol and drug dependence,
2 mental health impairment, and neurological or physical impairments;

3 13. "Investigative information" means information, records, and
4 documents received or generated by a professional counseling
5 licensing board pursuant to an investigation;

6 14. "Jurisprudence requirement", if required by a member state,
7 means the assessment of an individual's knowledge of the laws and
8 rules governing the practice of professional counseling in a state;

9 15. "Licensed professional counselor" means a counselor
10 licensed by a member state, regardless of the title used by that
11 state, to independently assess, diagnose, and treat behavioral
12 health conditions;

13 16. "Licensee" means an individual who currently holds an
14 authorization from the state to practice as a licensed professional
15 counselor;

16 17. "Licensing board" means the agency of a state, or
17 equivalent, that is responsible for the licensing and regulation of
18 licensed professional counselors;

19 18. "Member state" means a state that has enacted the compact;

20 19. "Privilege to practice" means a legal authorization, which
21 is equivalent to a license, permitting the practice of professional
22 counseling in a remote state;

1 20. "Professional counseling" means the assessment, diagnosis,
2 and treatment of behavioral health conditions by a licensed
3 professional counselor;

4 21. "Remote state" means a member state, other than the home
5 state, where a licensee is exercising or seeking to exercise the
6 privilege to practice;

7 22. "Rule" means a regulation promulgated by the commission
8 that has the force of law;

9 23. "Single state license" means a licensed professional
10 counselor license issued by a member state that authorizes practice
11 only within the issuing state and does not include a privilege to
12 practice in any other member state;

13 24. "State" means any state, commonwealth, district, or
14 territory of the United States of America that regulates the
15 practice of professional counseling;

16 25. "Telehealth" means the application of telecommunication
17 technology to deliver professional counseling services remotely to
18 assess, diagnose, and treat behavioral health conditions; and

19 26. "Unencumbered license" means a license that authorizes a
20 licensed professional counselor to engage in the full and
21 unrestricted practice of professional counseling.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 6-222 of Title 43A, unless there
24 is created a duplication in numbering, reads as follows:

ARTICLE III

State Participation in the Compact

A. To participate in the compact, a state must currently:

1. License and regulate licensed professional counselors;

2. Require licensees to pass a nationally recognized exam approved by the commission;

3. Require licensees to have a sixty (60) semester-hour, or ninety (90) quarter-hour, master's degree in counseling or sixty (60) semester-hours (or ninety (90) quarter-hours) of graduate coursework, including the following topic areas:

a. professional counseling orientation and ethical practice,

b. social and cultural diversity,

c. human growth and development,

d. career development,

e. counseling and helping relationships,

f. group counseling and group work,

g. diagnosis and treatment,

h. assessment and testing,

i. research and program evaluation, and

j. other areas as determined by the commission;

4. Require licensees to complete a supervised postgraduate professional experience as defined by the commission; and

1 5. Have a mechanism in place for receiving and investigating
2 complaints about licensees.

3 B. A member state shall:

4 1. Participate fully in the commission's data system, including
5 using the commission's unique identifier as defined in rules;

6 2. Notify the commission, in compliance with the terms of the
7 compact and rules, of any adverse action or the availability of
8 investigative information regarding a licensee;

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

16 A member state must fully implement a criminal background check
17 requirement, within a time frame established by rule, by receiving
18 the results of the Federal Bureau of Investigation record search and
19 shall use the results in making licensure decisions.

20 Communication between a member state, the commission, and among
21 member states regarding the verification of eligibility for
22 licensure through the compact shall not include any information
23 received from the Federal Bureau of Investigation relating to a
24

1 federal criminal records check performed by a member state under
2 Public Law 92-544;

3 4. Comply with the rules of the commission;

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

7 6. Grant the privilege to practice to a licensee holding a
8 valid unencumbered license in another member state in accordance
9 with the terms of the compact and rules; and

10 7. Provide for the attendance of the state's commissioner to
11 the counseling compact commission meetings.

12 C. Member states may charge a fee for granting the privilege to
13 practice.

14 D. Individuals not residing in a member state shall continue to
15 be able to apply for a member state's single state license as
16 provided under the laws of each member state. However, the single
17 state license granted to these individuals shall not be recognized
18 as granting a privilege to practice professional counseling in any
19 other member state.

20 E. Nothing in this compact shall affect the requirements
21 established by a member state for the issuance of a single state
22 license.

23 F. A license issued to a licensed professional counselor by a
24 home state to a resident in that state shall be recognized by each

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

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 6-223 of Title 43A, unless there
6 is created a duplication in numbering, reads as follows:

7 ARTICLE IV

8 Privilege to Practice

9 A. To exercise the privilege to practice under the terms and
10 provisions of the compact, the licensee shall:

- 11 1. Hold a license in the home state;
- 12 2. Have a valid United States Social Security number or
13 national practitioner identifier;
- 14 3. Be eligible for a privilege to practice in any member state
15 in accordance with Section 4(d), (g), and (h) of this compact;
- 16 4. Have not had any encumbrance or restriction against any
17 license or privilege to practice within the previous two (2) years;
- 18 5. Notify the commission that the licensee is seeking the
19 privilege to practice within a remote state(s);
- 20 6. Pay any applicable fees, including any state fee, for the
21 privilege to practice;
- 22 7. Meet any continuing competence/education requirements
23 established by the home state;

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

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

7 B. The privilege to practice is valid until the expiration date
8 of the home state license. The licensee must comply with the
9 requirements of Section 4(a) of this compact to maintain the
10 privilege to practice in the remote state.

11 C. A licensee providing professional counseling in a remote
12 state under the privilege to practice shall adhere to the laws and
13 regulations of the remote state.

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

1 E. If a home state license is encumbered, the licensee shall
2 lose the privilege to practice in any remote state until the
3 following occur:

4 1. The home state license is no longer encumbered; and

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

8 F. Once an encumbered license in the home state is restored to
9 good standing, the licensee must meet the requirements of Section
10 4(a) of this compact to obtain a privilege to practice in any remote
11 state.

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

15 1. The specific period of time for which the privilege to
16 practice was removed has ended;

17 2. All fines have been paid; and

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

21 H. Once the requirements of Section 4(g) of this compact have
22 been met, the licensee must meet the requirements in Section 4(a) of
23 this compact to obtain a privilege to practice in a remote state.
24

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6-224 of Title 43A, unless there
3 is created a duplication in numbering, reads as follows:

4 ARTICLE V

5 Obtaining a New Home State License Based on a Privilege to Practice

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

9 B. If a licensed professional counselor changes primary state
10 of residence by moving between two member states:

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

16 2. Upon receipt of an application for obtaining a new home
17 state license by virtue of a privilege to practice, the new home
18 state shall verify that the licensed professional counselor meets
19 the pertinent criteria outlined in Section 4 of this compact via the
20 data system, without need for primary source verification except
21 for:

- 22 a. a Federal Bureau of Investigation fingerprint-based
23 criminal background check if not previously performed
24

1 or updated pursuant to applicable rules adopted by the
2 commission in accordance with Public Law 92-544,

3 b. other criminal background check as required by the new
4 home state, and

5 c. completion of any requisite jurisprudence requirements
6 of the new home state;

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

11 4. Notwithstanding any other provision of this compact, if the
12 licensed professional counselor cannot meet the criteria in Section
13 4 of this compact, the new home state may apply its requirements for
14 issuing a new single state license;

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

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

22 D. Nothing in this compact shall interfere with a licensee's
23 ability to hold a single state license in multiple states; however
24

1 for the purposes of this compact, a licensee shall have only one
2 home state license.

3 E. Nothing in this compact shall affect the requirements
4 established by a member state for the issuance of a single state
5 license.

6 SECTION 6. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 6-225 of Title 43A, unless there
8 is created a duplication in numbering, reads as follows:

9 ARTICLE VI

10 Active Duty Military Personnel or Their Spouse

11 Active duty military personnel, or their spouse, shall designate
12 a home state where the individual has a current license in good
13 standing. The individual may retain the home state designation
14 during the period the service member is on active duty. Subsequent
15 to designating a home state, the individual shall only change his or
16 her home state through application for licensure in the new state,
17 or through the process outlined in Section 5.

18 SECTION 7. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 6-226 of Title 43A, unless there
20 is created a duplication in numbering, reads as follows:

21 ARTICLE VII

22 Compact Privilege to Practice Telehealth

23 A. Member states shall recognize the right of a licensed
24 professional counselor, licensed by a home state in accordance with

1 Section 3 of this compact and under rules promulgated by the
2 commission, to practice professional counseling in any member state
3 via telehealth under a privilege to practice as provided in the
4 compact and rules promulgated by the commission.

5 B. A licensee providing professional counseling services in a
6 remote state under the privilege to practice shall adhere to the
7 laws and regulations of the remote state.

8 SECTION 8. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 6-227 of Title 43A, unless there
10 is created a duplication in numbering, reads as follows:

11 ARTICLE VIII

12 Adverse Actions

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

- 16 1. Take adverse action against a licensed professional
17 counselor's privilege to practice within that member state; and
18 2. Issue subpoenas for both hearings and investigations that
19 require the attendance and testimony of witnesses as well as the
20 production of evidence. Subpoenas issued by a licensing board in a
21 member state for the attendance and testimony of witnesses or the
22 production of evidence from another member state shall be enforced
23 in the latter state by any court of competent jurisdiction,
24 according to the practice and procedure of that court applicable to

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

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

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

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

21 D. A member state, if otherwise permitted by state law, may
22 recover from the affected licensed professional counselor the costs
23 of investigations and dispositions of cases resulting from any
24 adverse action taken against that licensed professional counselor.

1 E. A member state may take adverse action based on the factual
2 findings of the remote state, provided that the member state follows
3 its own procedures for taking the adverse action.

4 F. Joint Investigations

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

9 2. Member states shall share any investigative, litigation, or
10 compliance materials in furtherance of any joint or individual
11 investigation initiated under the compact.

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

21 H. If a member state takes adverse action, it shall promptly
22 notify the administrator of the data system. The administrator of
23 the data system shall promptly notify the home state of any adverse
24 actions by remote states.

1 I. Nothing in this compact shall override a member state's
2 decision that participation in an alternative program may be used in
3 lieu of adverse action.

4 SECTION 9. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 6-228 of Title 43A, unless there
6 is created a duplication in numbering, reads as follows:

7 ARTICLE IX

8 Establishment of Counseling Compact Commission

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

11 1. The Commission is an instrumentality of the compact states;

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

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

23 2. The delegate shall be either:
24

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

4 b. an administrator of the licensing board.

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

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

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

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

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

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

22 C. The Commission shall have the following powers and duties:

23 1. Establish the fiscal year of the commission;

24 2. Establish bylaws;

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

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

5 5. Promulgate rules which shall be binding to the extent and in
6 the manner provided for in the compact;

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

10 7. Purchase and maintain insurance and bonds;

11 8. Borrow, accept, or contract for services of personnel,
12 including, but not limited to, employees of a member state;

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

18 10. Accept any and all appropriate donations and grants of
19 money, equipment, supplies, materials, and services, and to receive,
20 utilize, and dispose of the same; provided that at all times the
21 Commission shall avoid any appearance of impropriety or conflict of
22 interest;

23 11. Lease, purchase, accept appropriate gifts or donations of,
24 or otherwise to own, hold, improve or use, any property, real,

1 personal or mixed; provided that at all times the Commission shall
2 avoid any appearance of impropriety;

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

5 13. Establish a budget and make expenditures;

6 14. Borrow money;

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

12 16. Provide and receive information from, and cooperate with,
13 law enforcement agencies;

14 17. Establish and elect an executive committee; and

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

19 D. The executive committee

20 1. The executive committee shall have the power to act on
21 behalf of the Commission according to the terms of this compact.

22 2. The executive committee shall be composed of up to eleven
23 (11) members:

- a. seven voting members who are elected by the Commission from the current membership of the Commission, and
- b. up to four ex-officio, nonvoting members from four recognized national professional counselor organizations, selected by their respective organizations.

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

4. The executive committee shall meet at least annually.

5. The executive committee shall have the following duties and responsibilities:

- a. recommend to the entire Commission changes to the rules or bylaws, changes to this compact, fees paid by compact member states such as annual dues, and any Commission compact fee charged to licensees for the privilege to practice,
- b. ensure compact administration services are appropriately provided, contractual or otherwise,
- c. prepare and recommend the budget,
- d. maintain financial records on behalf of the Commission,
- e. monitor compact compliance of member states and provide compliance reports to the Commission,
- f. establish additional committees as necessary, and

1 g. other duties as provided in rules or bylaws.

2 E. Meetings of the Commission

3 1. All meetings shall be open to the public, and public notice
4 of meetings shall be given in the same manner as required under the
5 rulemaking provisions in Section 11 of this compact.

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

10 a. non-compliance of a member state with its obligations
11 under the compact,

12 b. the employment, compensation, discipline, or other
13 matters, practices, or procedures related to specific
14 employees or other matters related to the Commission's
15 internal personnel practices and procedures,

16 c. current, threatened, or reasonably anticipated
17 litigation,

18 d. negotiation of contracts for the purchase, lease, or
19 sale of goods, services, or real estate,

20 e. accusing any person of a crime or formally censuring
21 any person,

22 f. disclosure of trade secrets or commercial or financial
23 information that is privileged or confidential,
24

- g. disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy,
- h. disclosure of investigative records compiled for law enforcement purposes,
- i. disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact, or
- j. matters specifically exempted from disclosure by federal or member state statute.

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

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

1 F. Financing of the Commission

2 1. The Commission shall pay, or provide for the payment of, the
3 reasonable expenses of its establishment, organization, and ongoing
4 activities.

5 2. The Commission may accept any and all appropriate revenue
6 sources, donations, and grants of money, equipment, supplies,
7 materials, and services.

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

17 4. The Commission shall not incur obligations of any kind prior
18 to securing the funds adequate to meet the same; nor shall the
19 Commission pledge the credit of any of the member states, except by
20 and with the authority of the member state.

21 5. The Commission shall keep accurate accounts of all receipts
22 and disbursements. The receipts and disbursements of the Commission
23 shall be subject to the audit and accounting procedures established
24 under its bylaws. However, all receipts and disbursements of funds

1 handled by the Commission shall be audited yearly by a certified or
2 licensed public accountant, and the report of the audit shall be
3 included in and become part of the annual report of the Commission.

4 G. Qualified immunity, defense, and indemnification

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

17 2. The Commission shall defend any member, officer, executive
18 director, employee, or representative of the Commission in any civil
19 action seeking to impose liability arising out of any actual or
20 alleged act, error, or omission that occurred within the scope of
21 Commission employment, duties, or responsibilities, or that the
22 person against whom the claim is made had a reasonable basis for
23 believing occurred within the scope of Commission employment,
24 duties, or responsibilities; provided that nothing herein shall be

1 construed to prohibit that person from retaining his or her own
2 counsel; and provided further, that the actual or alleged act,
3 error, or omission did not result from that person's intentional or
4 willful or wanton misconduct.

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

15 SECTION 10. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 6-229 of Title 43A, unless there
17 is created a duplication in numbering, reads as follows:

18 ARTICLE X

19 Data System

20 A. The Commission shall provide for the development,
21 maintenance, operation, and utilization of a coordinated database
22 and reporting system containing licensure, adverse action, and
23 investigative information on all licensed individuals in member
24 states.

1 B. Notwithstanding any other provision of state law to the
2 contrary, a member state shall submit a uniform data set to the data
3 system on all individuals to whom this compact is applicable as
4 required by the rules of the Commission, including:

- 5 1. Identifying information;
- 6 2. Licensure data;
- 7 3. Adverse actions against a license or privilege to practice;
- 8 4. Non-confidential information related to alternative program
9 participation;
- 10 5. Any denial of application for licensure, and the reason(s)
11 for such denial;
- 12 6. Current significant investigative information; and
- 13 7. Other information that may facilitate the administration of
14 this compact, as determined by the rules of the Commission.

15 C. Investigative information pertaining to a licensee in any
16 member state shall only be available to other member states.

17 D. The Commission shall promptly notify all member states of
18 any adverse action taken against a licensee or an individual
19 applying for a license. Adverse action information pertaining to a
20 licensee in any member state will be available to any other member
21 state.

22 E. Member states contributing information to the data system
23 may designate information that may not be shared with the public
24 without the express permission of the contributing state.

1 F. Any information submitted to the data system that is
2 subsequently required to be expunged by the laws of the member state
3 contributing the information shall be removed from the data system.

4 SECTION 11. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 6-230 of Title 43A, unless there
6 is created a duplication in numbering, reads as follows:

7 ARTICLE XI

8 Rulemaking

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

16 B. The Commission shall exercise its rule-making powers
17 pursuant to the criteria set forth in this section and the rules
18 adopted thereunder. Rules and amendments shall become binding as of
19 the date specified in each rule or amendment.

20 C. If a majority of the legislatures of the member states
21 rejects a rule, by enactment of a statute or resolution in the same
22 manner used to adopt the compact within four (4) years of the date
23 of adoption of the rule, then such rule shall have no further force
24 and effect in any member state.

1 D. Rules or amendments to the rules shall be adopted at a
2 regular or special meeting of the Commission.

3 E. Prior to promulgation and adoption of a final rule or rules
4 by the Commission, and at least thirty (30) days in advance of the
5 meeting at which the rule will be considered and voted upon, the
6 Commission shall file a notice of proposed rule-making:

7 1. On the website of the Commission or other publicly
8 accessible platform; and

9 2. On the website of each member state's professional
10 counseling licensing board or other publicly accessible platform or
11 the publication in which each state would otherwise publish proposed
12 rules.

13 F. The notice of proposed rule-making shall include:

14 1. The proposed time, date, and location of the meeting in
15 which the rule will be considered and voted upon;

16 2. The text of the proposed rule or amendment and the reason
17 for the proposed rule;

18 3. A request for comments on the proposed rule from any
19 interested person; and

20 4. The manner in which interested persons may submit notice to
21 the Commission of their intention to attend the public hearing and
22 any written comments.
23
24

1 G. Prior to adoption of a proposed rule, the Commission shall
2 allow persons to submit written data, facts, opinions, and
3 arguments, which shall be made available to the public.

4 H. The Commission shall grant an opportunity for a public
5 hearing before it adopts a rule or amendment if a hearing is
6 requested by:

- 7 1. At least twenty-five persons;
- 8 2. A state or federal governmental subdivision or agency; or
- 9 3. An association having at least twenty-five members.

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

15 1. All persons wishing to be heard at the hearing shall notify
16 the executive director of the Commission or other designated member
17 in writing of their desire to appear and testify at the hearing not
18 less than five (5) business days before the scheduled date of the
19 hearing.

20 2. Hearings shall be conducted in a manner providing each
21 person who wishes to comment a fair and reasonable opportunity to
22 comment orally or in writing.

23 3. All hearings will be recorded. A copy of the recording will
24 be made available on request.

1 4. Nothing in this section shall be construed as requiring a
2 separate hearing on each rule. Rules may be grouped for the
3 convenience of the Commission at hearings required by this section.

4 J. Following the scheduled hearing date, or by the close of
5 business on the scheduled hearing date if the hearing was not held,
6 the Commission shall consider all written and oral comments
7 received.

8 K. If no written notice of intent to attend the public hearing
9 by interested parties is received, the Commission may proceed with
10 promulgation of the proposed rule without a public hearing.

11 L. The Commission shall, by majority vote of all members, take
12 final action on the proposed rule and shall determine the effective
13 date of the rule, if any, based on the rule-making record and the
14 full text of the rule.

15 M. Upon determination that an emergency exists, the Commission
16 may consider and adopt an emergency rule without prior notice,
17 opportunity for comment, or hearing, provided that the usual rule-
18 making procedures provided in the compact and in this section shall
19 be retroactively applied to the rule as soon as reasonably possible,
20 in no event later than ninety (90) days after the effective date of
21 the rule. For the purposes of this provision, an emergency rule is
22 one that must be adopted immediately in order to:

23 1. Meet an imminent threat to public health, safety, or
24 welfare;

2. Prevent a loss of Commission or member state funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. Protect public health and safety.

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

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-231 of Title 43A, unless there is created a duplication in numbering, reads as follows:

ARTICLE XII

Oversight, Dispute Resolution, and Enforcement

A. Oversight

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

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

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

15 B. Default, technical assistance, and termination

16 1. If the Commission determines that a member state has
17 defaulted in the performance of its obligations or responsibilities
18 under this compact or the promulgated rules, the Commission shall:

- 19 a. provide written notice to the defaulting state and
20 other member states of the nature of the default, the
21 proposed means of curing the default, and any other
22 action to be taken by the Commission, and
23 b. provide remedial training and specific technical
24 assistance regarding the default.

1 C. If a state in default fails to cure the default, the
2 defaulting state may be terminated from the compact upon an
3 affirmative vote of a majority of the member states, and all rights,
4 privileges and benefits conferred by this compact may be terminated
5 on the effective date of termination. A cure of the default does
6 not relieve the offending state of obligations or liabilities
7 incurred during the period of default.

8 D. Termination of membership in the compact shall be imposed
9 only after all other means of securing compliance have been
10 exhausted. Notice of intent to suspend or terminate shall be given
11 by the Commission to the governor, the majority and minority leaders
12 of the defaulting state's legislature, and each of the member
13 states.

14 E. A state that has been terminated is responsible for all
15 assessments, obligations, and liabilities incurred through the
16 effective date of termination, including obligations that extend
17 beyond the effective date of termination.

18 F. The Commission shall not bear any costs related to a state
19 that is found to be in default or that has been terminated from the
20 compact, unless agreed upon in writing between the Commission and
21 the defaulting state.

22 G. The defaulting state may appeal the action of the Commission
23 by petitioning the United States District Court for the District of
24 Columbia or the federal district where the Commission has its

1 principal offices. The prevailing member shall be awarded all costs
2 of such litigation, including reasonable attorney fees.

3 H. Dispute resolution

4 1. Upon request by a member state, the Commission shall attempt
5 to resolve disputes related to the compact that arise among member
6 states and between member and non-member states.

7 2. The Commission shall promulgate a rule providing for both
8 mediation and binding dispute resolution for disputes as
9 appropriate.

10 I. Enforcement

11 1. The Commission, in the reasonable exercise of its
12 discretion, shall enforce the provisions and rules of this compact.

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

22 3. The remedies herein shall not be the exclusive remedies of
23 the Commission. The commission may pursue any other remedies
24 available under federal or state law.

1 SECTION 13. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6-232 of Title 43A, unless there
3 is created a duplication in numbering, reads as follows:

4 ARTICLE XIII

5 Date of Implementation of Counseling Compact Commission and
6 Associated Rules, Withdrawal, and Amendment

7 A. The compact shall come into effect on the date on which the
8 compact statute is enacted into law. The provisions, which become
9 effective at that time, shall be limited to the powers granted to
10 the Commission relating to assembly and the promulgation of rules.
11 Thereafter, the Commission shall meet and exercise rulemaking powers
12 necessary to the implementation and administration of the compact.

13 B. Any state that joins the compact subsequent to the
14 Commission's initial adoption of the rules shall be subject to the
15 rules as they exist on the date on which the compact becomes law in
16 that state. Any rule that has been previously adopted by the
17 Commission shall have the full force and effect of law on the day
18 the compact becomes law in that state.

19 C. Any member state may withdraw from this compact by enacting
20 a statute repealing the same.

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

23 2. Withdrawal shall not affect the continuing requirement of
24 the withdrawing state's professional counseling licensing board to

1 comply with the investigative and adverse action reporting
2 requirements of this compact prior to the effective date of
3 withdrawal.

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

9 E. This compact may be amended by the member states. No
10 amendment to this compact shall become effective and binding upon
11 any member state until it is enacted into the laws of all member
12 states.

13 SECTION 14. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 6-233 of Title 43A, unless there
15 is created a duplication in numbering, reads as follows:

16 ARTICLE XIV

17 Construction and Severability

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

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

7 SECTION 15. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 6-234 of Title 43A, unless there
9 is created a duplication in numbering, reads as follows:

10 ARTICLE XV

11 Binding Effect of Compact and Other Laws

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

16 B. Nothing herein prevents the enforcement of any other law of
17 a member state that is not inconsistent with the compact.

18 C. Any laws in a member state in conflict with the compact are
19 superseded to the extent of the conflict.

20 D. Any lawful actions of the Commission, including all rules
21 and bylaws properly promulgated by the Commission, are binding upon
22 the member states.

23 E. All permissible agreements between the Commission and the
24 member states are binding in accordance with their terms.

1 F. In the event any provision of the compact exceeds the
2 constitutional limits imposed on the legislature of any member
3 state, the provision shall be ineffective to the extent of the
4 conflict with the constitutional provision in question in that
5 member state.

6 SECTION 16. This act shall become effective November 1, 2023.
7

8 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated
9 02/22/2023 - DO PASS.
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