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# SENATE BILL No. 160

Proposed Changes to January 27, 2023 printing by AM016002

## DIGEST OF PROPOSED AMENDMENT

Conflict resolution. Resolves a code citation conflict.

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 25-23.6-2-8, AS AMENDED BY P.L.192-2017,
- 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2023]: Sec. 8. (a) The board shall adopt rules under IC 4-22-2
- 4 establishing standards for the following:
- 5 (1) The competent practice of marriage and family therapy,
- 6 bachelor's degree social work, social work, clinical social work,
- 7 mental health counseling, addiction counseling, and clinical
- 8 addiction counseling.
- 9 (2) The renewal of licenses issued under this article.
- 10 (3) Standards for the administration of this article.
- 11 (4) Continuing education requirements for an individual seeking
- 12 renewal of licensure as a bachelor's degree social worker, social
- 13 worker, clinical social worker, or marriage and family therapist.
- 14 (5) The retention of patient records and reports by a counselor.
- 15 (6) The approval of continuing education providers, programs,
- 16 courses, fees, and proof of course completion.
- 17 (b) The board shall establish fees under IC 25-1-8-2.
- 18 (c) The board shall do the following:
- 19 (1) Consider the qualifications of individuals who apply for a
- 20 license under this article.
- 21 (2) Provide for examinations required under this article.

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1 (3) Subject to IC 25-1-8-6, renew licenses under this article.  
 2 (4) Conduct proceedings under IC 25-1-9.  
 3 **(5) Administer the professional counselors licensure compact**  
 4 **under IC 25-4↔[2.5], including appointing members to the**  
 5 **counseling compact commission and adopting any rules**  
 6 **necessary to administer the compact.**  
 7 SECTION 2. IC 25-4↔[2.5] IS ADDED TO THE INDIANA  
 8 CODE AS A NEW ARTICLE TO READ AS FOLLOWS  
 9 [EFFECTIVE JULY 1, 2023]:  
 10 **ARTICLE 4↔[2.5]. PROFESSIONAL COUNSELORS**  
 11 **LICENSURE COMPACT**  
 12 **Chapter 1. Purpose**  
 13 **Sec. 1. The purpose of this compact is to facilitate interstate**  
 14 **practice of licensed professional counselors with the goal of**  
 15 **improving public access to professional counseling services. The**  
 16 **practice of professional counseling occurs in the state where the**  
 17 **client is located at the time of the counseling services. The compact**  
 18 **preserves the regulatory authority of states to protect public health**  
 19 **and safety through the current system of state licensure.**  
 20 **Sec. 2. This compact is designed to achieve the following**  
 21 **objectives:**  
 22 **(1) Increase public access to professional counseling services**  
 23 **by providing for the mutual recognition of other member**  
 24 **state licenses.**  
 25 **(2) Enhance the states' ability to protect the public's health**  
 26 **and safety.**  
 27 **(3) Encourage the cooperation of member states in**  
 28 **regulating multistate practice for licensed professional**  
 29 **counselors.**  
 30 **(4) Support spouses of relocating active duty military**  
 31 **personnel.**  
 32 **(5) Enhance the exchange of licensure, investigative, and**  
 33 **disciplinary information among member states.**  
 34 **(6) Allow for the use of telehealth technology to facilitate**  
 35 **increased access to professional counseling services.**  
 36 **(7) Support the uniformity of professional counseling**  
 37 **licensure requirements throughout the states to promote**  
 38 **public safety and public health benefits.**  
 39 **(8) Invest all member states with the authority to hold a**  
 40 **licensed professional counselor accountable for meeting all**  
 41 **state practice laws in the state in which the client is located**  
 42 **at the time care is rendered through the mutual recognition**

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- 1 of member state licenses.
- 2 (9) Eliminate the necessity for licenses in multiple states.
- 3 (10) Provide opportunities for interstate practice by licensed
- 4 professional counselors who meet uniform licensure
- 5 requirements.

6 Chapter 2. Definitions

7 Sec. 1. The definitions in this chapter apply throughout this  
8 article.

9 Sec. 2. "Active duty military" means full-time duty status in  
10 the active uniformed service of the United States, including  
11 members of the National Guard and reserve components of the  
12 armed forces of the United States on active duty orders pursuant  
13 to 10 U.S.C. Chapters 1209 and 1211.

14 Sec. 3. "Adverse action" means any administrative, civil,  
15 equitable, or criminal action permitted by a state's laws that is  
16 imposed by a licensing board or other authority against a licensed  
17 professional counselor, including actions against an individual's  
18 license or privilege to practice, such as revocation, suspension,  
19 probation, monitoring of the licensee, limitation on the licensee's  
20 practice, or any other encumbrance on licensure affecting a  
21 licensed professional counselor's authorization to practice,  
22 including issuance of a cease and desist action.

23 Sec. 4. "Alternative program" means a nondisciplinary  
24 monitoring or practice remediation process approved by a  
25 professional counseling licensing board to address impaired  
26 practitioners.

27 Sec. 5. "Continuing competence/education" means a  
28 requirement, as a condition of license renewal, to provide evidence  
29 of:

- 30 (1) participation in or completion of; or
- 31 (2) participation in and completion of;
- 32 educational and professional activities relevant to practice or area
- 33 of work.

34 Sec. 6. "Counseling compact commission" or "commission"  
35 means the national administrative body created and established by  
36 ~~IC 25-43-9-1~~ [\[IC 25-42.5-9-1\]](#), whose membership consists of all  
37 states that have enacted the compact.

38 Sec. 7. "Current significant investigative information" means:  
39 (1) investigative information that a licensing board, after a  
40 preliminary inquiry that includes notification and an  
41 opportunity for the licensed professional counselor to  
42 respond, if required by state law, has reason to believe is not

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1           groundless and, if proved true, would indicate more than a  
2           minor infraction; or

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

8           Sec. 8. "Data system" means a repository of information about  
9           licensees, including, but not limited to, continuing education,  
10          examination, licensure, investigative, privilege to practice, and  
11          adverse action information.

12          Sec. 9. "Encumbered license" means a license in which an  
13          adverse action restricts the practice of licensed professional  
14          counseling by the licensee and the adverse action has been reported  
15          to the National Practitioner Data Bank (NPDB).

16          Sec. 10. "Encumbrance" means a revocation or suspension of,  
17          or any limitation on, the full and unrestricted practice of licensed  
18          professional counseling by a licensing board.

19          Sec. 11. "Executive committee" means a group of directors  
20          elected or appointed to act on behalf of, and within the powers  
21          granted to them by, the commission.

22          Sec. 12. "Home state" means the member state that is the  
23          licensee's primary state of residence.

24          Sec. 13. "Impaired practitioner" means an individual who has  
25          one (1) or more conditions that may impair the practitioner's  
26          ability to practice as a licensed professional counselor without  
27          some type of intervention and may include, but are not limited to,  
28          alcohol and drug dependence, mental health impairment, and  
29          neurological or physical impairments.

30          Sec. 14. "Investigative information" means information,  
31          records, and documents received or generated by a professional  
32          counseling licensing board pursuant to an investigation.

33          Sec. 15. "Jurisprudence requirement", if required by a  
34          member state, means the assessment of an individual's knowledge  
35          of the laws and rules governing the practice of professional  
36          counseling in a state.

37          Sec. 16. "Licensed professional counselor" means a counselor  
38          licensed by a member state, regardless of the title used by that  
39          state, to independently assess, diagnose, and treat behavioral health  
40          conditions.

41          Sec. 17. "Licensee" means an individual who currently holds  
42          an authorization from the state to practice as a licensed

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1 professional counselor.  
 2 Sec. 18. "Licensing board" means the agency of a state, or  
 3 equivalent, that is responsible for the licensing and regulation of  
 4 licensed professional counselors.  
 5 Sec. 19. "Member state" means a state that has enacted the  
 6 compact.  
 7 Sec. 20. "Privilege to practice" means a legal authorization,  
 8 which is equivalent to a license, permitting the practice of  
 9 professional counseling in a remote state.  
 10 Sec. 21. "Professional counseling" means the assessment,  
 11 diagnosis, and treatment of behavioral health conditions by a  
 12 licensed professional counselor.  
 13 Sec. 22. "Remote state" means a member state other than the  
 14 home state, where a licensee is exercising or seeking to exercise the  
 15 privilege to practice.  
 16 Sec. 23. "Rule" means a regulation promulgated by the  
 17 commission that has the force of law.  
 18 Sec. 24. "Single state license" means a licensed professional  
 19 counselor license issued by a member state that authorizes practice  
 20 only within the issuing state and does not include a privilege to  
 21 practice in any other member state.  
 22 Sec. 25. "State" means any state, commonwealth, district, or  
 23 territory of the United States that regulates the practice of  
 24 professional counseling.  
 25 Sec. 26. "Telehealth" means the application of  
 26 telecommunication technology to deliver professional counseling  
 27 services remotely to assess, diagnose, and treat behavioral health  
 28 conditions.  
 29 Sec. 27. "Unencumbered license" means a license that  
 30 authorizes a licensed professional counselor to engage in the full  
 31 and unrestricted practice of professional counseling.  
 32 Chapter 3. State Participation in the Compact  
 33 Sec. 1. To participate in the compact, a state must currently  
 34 meet the following requirements:  
 35 (1) License and regulate licensed professional counselors.  
 36 (2) Require licensees to pass a nationally recognized exam  
 37 approved by the commission.  
 38 (3) Require licensees to have a sixty (60) semester hour or  
 39 ninety (90) quarter hour master's degree in counseling or  
 40 sixty (60) semester hours or ninety (90) quarter hours of  
 41 graduate course work, including the following topic areas:  
 42 (A) Professional counseling orientation and ethical

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- 1 practice.  
 2 (B) Social and cultural diversity.  
 3 (C) Human growth and development.  
 4 (D) Career development.  
 5 (E) Counseling and helping relationships.  
 6 (F) Group counseling and group work.  
 7 (G) Diagnosis and treatment.  
 8 (H) Assessment and testing.  
 9 (I) Research and program evaluation.  
 10 (J) Other areas as determined by the commission.
- 11 (4) Require licensees to complete a supervised postgraduate  
 12 professional experience as defined by the commission.  
 13 (5) Have a mechanism in place for receiving and  
 14 investigating complaints about licensees.
- 15 **Sec. 2. A member state shall comply with the following:**
- 16 (1) Participate fully in the commission's data system,  
 17 including using the commission's unique identifier as defined  
 18 in rules.
- 19 (2) Notify the commission, in compliance with the terms of  
 20 the compact and rules, of any adverse action or the  
 21 availability of investigative information regarding a licensee.
- 22 (3) Implement or utilize procedures for considering the  
 23 criminal history records of applicants for an initial privilege  
 24 to practice. These procedures shall include the submission of  
 25 fingerprints or other biometric-based information by  
 26 applicants for the purpose of obtaining an applicant's  
 27 criminal history record information from the Federal  
 28 Bureau of Investigation and the agency responsible for  
 29 retaining that state's criminal records. The following  
 30 requirements must be met:
- 31 (A) A member state must fully implement a criminal  
 32 background check requirement, within a time frame  
 33 established by rule, by receiving the results of the  
 34 Federal Bureau of Investigation record search and shall  
 35 use the results in making licensure decisions.
- 36 (B) Communication between a member state, the  
 37 commission, and among member states regarding the  
 38 verification of eligibility for licensure through the  
 39 compact shall not include any information received from  
 40 the Federal Bureau of Investigation relating to a federal  
 41 criminal records check performed by a member state  
 42 under federal Public Law 92-544.

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- 1           **(4) Comply with the rules of the commission.**  
 2           **(5) Require an applicant to obtain or retain a license in the**  
 3           **home state and meet the home state's qualifications for**  
 4           **licensure or renewal of licensure, as well as all other**  
 5           **applicable state laws.**  
 6           **(6) Grant the privilege to practice to a licensee holding a**  
 7           **valid unencumbered license in another member state in**  
 8           **accordance with the terms of the compact and rules.**  
 9           **(7) Provide for the attendance of the state's commissioner to**  
 10          **the counseling compact commission meetings.**

11          **Sec. 3. Member states may charge a fee for granting the**  
 12          **privilege to practice.**

13          **Sec. 4. Individuals not residing in a member state shall**  
 14          **continue to be able to apply for a member state's single state**  
 15          **license as provided under the laws of each member state. However,**  
 16          **the single state license granted to these individuals shall not be**  
 17          **recognized as granting a privilege to practice professional**  
 18          **counseling in any other member state.**

19          **Sec. 5. Nothing in this compact shall affect the requirements**  
 20          **established by a member state for the issuance of a single state**  
 21          **license.**

22          **Sec. 6. A license issued to a licensed professional counselor by**  
 23          **a home state to a resident in that state shall be recognized by each**  
 24          **member state as authorizing a licensed professional counselor to**  
 25          **practice professional counseling, under a privilege to practice, in**  
 26          **each member state.**

27          **Chapter 4. Privilege to Practice**

28          **Sec. 1. To exercise the privilege to practice under the terms**  
 29          **and provisions of the compact, the licensee shall meet the following**  
 30          **requirements:**

- 31               **(1) Hold a license in the home state.**  
 32               **(2) Have a valid United States Social Security number or**  
 33               **National Practitioner Identifier (NPI).**  
 34               **(3) Be eligible for a privilege to practice in any member state**  
 35               **in accordance with sections 4, 7, and 8 of this chapter.**  
 36               **(4) Have not had any encumbrance or restriction against any**  
 37               **license or privilege to practice within the previous two (2)**  
 38               **years.**  
 39               **(5) Notify the commission that the licensee is seeking the**  
 40               **privilege to practice within a remote state.**  
 41               **(6) Pay any applicable fees, including any state fee, for the**  
 42               **privilege to practice.**

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1 (7) Meet any continuing competence/education requirements  
2 established by the home state.

3 (8) Meet any jurisprudence requirements established by each  
4 remote state in which the licensee is seeking a privilege to  
5 practice.

6 (9) Report to the commission any adverse action,  
7 encumbrance, or restriction on a license taken by any  
8 nonmember state within thirty (30) days from the date the  
9 action is taken.

10 Sec. 2. The privilege to practice is valid until the expiration  
11 date of the home state license. The licensee must comply with the  
12 requirements of section 1 of this chapter to maintain the privilege  
13 to practice in the remote state.

14 Sec. 3. A licensee providing professional counseling in a remote  
15 state under the privilege to practice shall adhere to the laws and  
16 regulations of the remote state.

17 Sec. 4. A licensee providing professional counseling services in  
18 a remote state is subject to that state's regulatory authority. A  
19 remote state may, in accordance with due process and that state's  
20 laws, take any or all of the following actions:

21 (1) Remove a licensee's privilege to practice in the remote  
22 state for a specific period of time.

23 (2) Impose fines.

24 (3) Any other necessary actions to protect the health and  
25 safety of its citizens.

26 The licensee may be ineligible for a privilege to practice in any  
27 member state until the specific time for removal has passed and all  
28 fines are paid.

29 Sec. 5. If a home state license is encumbered, the licensee shall  
30 lose the privilege to practice in any remote state until all the  
31 following occur:

32 (1) The home state license is no longer encumbered.

33 (2) Have not had any encumbrance or restriction against any  
34 license or privilege to practice within the previous two (2)  
35 years.

36 Sec. 6. Once an encumbered license in the home state is  
37 restored to good standing, the licensee must meet the requirements  
38 of section 1 of this chapter to obtain a privilege to practice in any  
39 remote state.

40 Sec. 7. If a licensee's privilege to practice in any remote state  
41 is removed, the individual may lose the privilege to practice in all  
42 other remote states until all the following occur:

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- 1           (1) The specific period of time for which the privilege to
- 2           practice was removed has ended.
- 3           (2) All fines have been paid.
- 4           (3) Have not had any encumbrance or restriction against any
- 5           license or privilege to practice within the previous two (2)
- 6           years.
- 7           Sec. 8. Once the requirements of section 7 of this chapter have
- 8           been met, the licensee must meet the requirements of section 1 of
- 9           this chapter to obtain a privilege to practice in a remote state.
- 10          Chapter 5. Obtaining a New Home State License Based on a
- 11          Privilege to Practice
- 12          Sec. 1. A licensed professional counselor may hold a home
- 13          state license, which allows for a privilege to practice in other
- 14          member states, in only one (1) member state at a time.
- 15          Sec. 2. If a licensed professional counselor changes primary
- 16          state of residence by moving between two (2) member states, the
- 17          following conditions must be met:
- 18           (1) The licensed professional counselor shall file an
- 19           application for obtaining a new home state license based on
- 20           a privilege to practice, pay all applicable fees, and notify the
- 21           current and new home state in accordance with applicable
- 22           rules adopted by the commission.
- 23           (2) Upon receipt of an application for obtaining a new home
- 24           state license by virtue of a privilege to practice, the new
- 25           home state shall verify that the licensed professional
- 26           counselor meets the pertinent criteria outlined in
- 27           ~~IC 25-43-4~~ [\[IC 25-42.5-4\]](#) via the data system, without need
- 28           for primary source verification except for:
- 29           (A) a Federal Bureau of Investigation fingerprint based
- 30           criminal background check if not previously performed
- 31           or updated pursuant to applicable rules adopted by the
- 32           commission in accordance with federal Public Law
- 33           92-544;
- 34           (B) other criminal background checks as required by the
- 35           new home state; and
- 36           (C) completion of any requisite jurisprudence
- 37           requirements of the new home state.
- 38           (3) The former home state shall convert the former home
- 39           state license into a privilege to practice once the new home
- 40           state has activated the new home state license in accordance
- 41           with applicable rules adopted by the commission.
- 42           (4) Notwithstanding any other provision of this compact, if

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1 the licensed professional counselor cannot meet the criteria  
 2 in ~~IC 25-43-4~~ [\[IC 25-42.5-4\]](#), the new home state may apply  
 3 its requirements for issuing a new single state license.

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

7 **Sec. 3.** If a licensed professional counselor changes primary  
 8 state of residence by moving from a member state to a nonmember  
 9 state, or from a nonmember state to a member state, the state  
 10 criteria shall apply for issuance of a single state license in the new  
 11 state.

12 **Sec. 4.** Nothing in this compact shall interfere with a licensee's  
 13 ability to hold a single state license in multiple states. However, for  
 14 the purposes of this compact, a licensee shall have only one (1)  
 15 home state license.

16 **Sec. 5.** Nothing in this compact shall affect the requirements  
 17 established by a member state for the issuance of a single state  
 18 license.

19 **Chapter 6. Active Duty Military Personnel or Their Spouses**

20 **Sec. 1.** Active duty military personnel or their spouses shall  
 21 designate a home state where the individual has a current license  
 22 in good standing. The individual may retain the home state  
 23 designation during the period the service member is on active duty.  
 24 Subsequent to designating a home state, the individual shall only  
 25 change their home state through application for licensure in the  
 26 new state or through the process outlined in  
 27 ~~IC 25-43-5~~ [\[IC 25-42.5-5\]](#).

28 **Chapter 7. Compact Privilege to Practice Telehealth**

29 **Sec. 1.** Member states shall recognize the right of a licensed  
 30 professional counselor, licensed by a home state in accordance with  
 31 ~~IC 25-43-3~~ [\[IC 25-42.5-3\]](#) and under rules promulgated by the  
 32 commission, to practice professional counseling in any member  
 33 state via telehealth under a privilege to practice as provided in the  
 34 compact and rules promulgated by the commission.

35 **Sec. 2.** A licensee providing professional counseling services in  
 36 a remote state under the privilege to practice shall adhere to the  
 37 laws and regulations of the remote state.

38 **Chapter 8. Adverse Actions**

39 **Sec. 1.** In addition to the other powers conferred by state law,  
 40 a remote state shall have the authority, in accordance with existing  
 41 state due process law, to do the following:

42 (1) Take adverse action against a licensed professional



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

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

17 Sec. 2. For purposes of taking adverse action, the home state  
 18 shall give the same priority and effect to reported conduct received  
 19 from a member state as it would if the conduct had occurred within  
 20 the home state. In so doing, the home state shall apply its own state  
 21 laws to determine appropriate action.

22 Sec. 3. The home state shall complete any pending  
 23 investigations of a licensed professional counselor who changes  
 24 primary state of residence during the course of the investigations.  
 25 The home state shall also have the authority to take all appropriate  
 26 actions and shall promptly report the conclusions of the  
 27 investigations to the administrator of the data system. The  
 28 administrator of the coordinated licensure information system  
 29 shall promptly notify the new home state of any adverse actions.

30 Sec. 4. A member state, if otherwise permitted by state law,  
 31 may recover from the affected licensed professional counselor the  
 32 costs of investigations and dispositions of cases resulting from any  
 33 adverse action taken against that licensed professional counselor.

34 Sec. 5. A member state may take adverse action based on the  
 35 factual findings of the remote state, provided that the member state  
 36 follows its own procedures for taking the adverse action.

37 Sec. 6. (a) In addition to the authority granted to a member  
 38 state by its respective professional counseling practice act or other  
 39 applicable state law, any member state may participate with other  
 40 member states in joint investigations of licensees.

41 (b) Member states shall share any investigative, litigation, or  
 42 compliance materials in furtherance of any joint or individual

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1 investigation initiated under the compact.

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

11 Sec. 8. If a member state takes adverse action, it shall  
12 promptly notify the administrator of the data system. The  
13 administrator of the data system shall promptly notify the home  
14 state of any adverse actions by remote states.

15 Sec. 9. Nothing in this compact shall override a member state's  
16 decision that participation in an alternative program may be used  
17 in lieu of adverse action.

18 **Chapter 9. Establishment of Counseling Compact Commission**

19 Sec. 1. (a) The compact member states hereby create and  
20 establish a joint public agency known as the counseling compact  
21 commission.

22 (b) The commission is an instrumentality of the compact  
23 states.

24 (c) Venue is proper and judicial proceedings by or against the  
25 commission shall be brought solely and exclusively in a court of  
26 competent jurisdiction where the principal office of the commission  
27 is located. The commission may waive venue and jurisdictional  
28 defenses to the extent it adopts or consents to participate in  
29 alternative dispute resolution proceedings.

30 (d) Nothing in this compact shall be construed to be a waiver  
31 of sovereign immunity.

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

34 (b) The delegate shall be either:

35 (1) a current member of the licensing board at the time of  
36 appointment, who is a licensed professional counselor or  
37 public member; or

38 (2) an administrator of the licensing board.

39 (c) Any delegate may be removed or suspended from office as  
40 provided by the law of the state from which the delegate is  
41 appointed.

42 (d) The member state licensing board shall fill any vacancy

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- 1 occurring on the commission within sixty (60) days.
- 2 (e) Each delegate shall be entitled to one (1) vote with regard
- 3 to the promulgation of rules and creation of bylaws and shall
- 4 otherwise have an opportunity to participate in the business and
- 5 affairs of the commission.
- 6 (f) A delegate shall vote in person or by such other means as
- 7 provided in the bylaws. The bylaws may provide for delegates'
- 8 participation in meetings by telephone or other means of
- 9 communication.
- 10 (g) The commission shall meet at least once during each
- 11 calendar year. Additional meetings shall be held as set forth in the
- 12 bylaws.
- 13 (h) The commission shall by rule establish a term of office for
- 14 delegates and may by rule establish term limits.
- 15 **Sec. 3. The commission shall have the following powers and**
- 16 **duties:**
  - 17 (1) Establish the fiscal year of the commission.
  - 18 (2) Establish bylaws.
  - 19 (3) Maintain its financial records in accordance with the
  - 20 bylaws.
  - 21 (4) Meet and take such actions as are consistent with the
  - 22 provisions of this compact and the bylaws.
  - 23 (5) Promulgate rules that shall be binding to the extent and
  - 24 in the manner provided for in the compact.
  - 25 (6) Bring and prosecute legal proceedings or actions in the
  - 26 name of the commission, provided that the standing of any
  - 27 state licensing board to sue or be sued under applicable law
  - 28 shall not be affected.
  - 29 (7) Purchase and maintain insurance and bonds.
  - 30 (8) Borrow, accept, or contract for services of personnel,
  - 31 including, but not limited to, employees of a member state.
  - 32 (9) Hire employees, elect or appoint officers, fix
  - 33 compensation, define duties, grant such individuals
  - 34 appropriate authority to carry out the purposes of the
  - 35 compact, and establish the commission's personnel policies
  - 36 and programs relating to conflicts of interest, qualifications
  - 37 of personnel, and other related personnel matters.
  - 38 (10) Accept any and all appropriate donations and grants of
  - 39 money, equipment, supplies, materials, and services, and to
  - 40 receive, utilize, and dispose of the same, provided that at all
  - 41 times, the commission shall avoid any appearance of
  - 42 impropriety or conflict of interest.

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- 1 (11) Lease, purchase, accept appropriate gifts or donations
- 2 of, or otherwise own, hold, improve, or use, any property,
- 3 real, personal or mixed, provided that at all times, the
- 4 commission shall avoid any appearance of impropriety.
- 5 (12) Sell convey, mortgage, pledge, lease, exchange, abandon,
- 6 or otherwise dispose of any property real, personal, or
- 7 mixed.
- 8 (13) Establish a budget and make expenditures.
- 9 (14) Borrow money.
- 10 (15) Appoint committees, including standing committees
- 11 composed of members, state regulators, state legislators or
- 12 their representatives, and consumer representatives, and
- 13 such other interested persons as may be designated in this
- 14 compact and the bylaws.
- 15 (16) Provide and receive information from, and cooperate
- 16 with, law enforcement agencies.
- 17 (17) Establish and elect an executive committee.
- 18 (18) Perform such other functions as may be necessary or
- 19 appropriate to achieve the purposes of this compact
- 20 consistent with the state regulation of professional counseling
- 21 licensure and practice.
- 22 **Sec. 4. (a) The executive committee shall have the power to act**
- 23 **on behalf of the commission according to the terms of this compact.**
- 24 **(b) The executive committee shall be composed of up to eleven**
- 25 **(11) members subject to the following:**
- 26 **(1) Seven (7) voting members who are elected by the**
- 27 **commission from the current membership of the commission.**
- 28 **(2) Up to four (4) ex officio, nonvoting members from four**
- 29 **(4) recognized national professional counselor organizations.**
- 30 **(3) The ex officio members will be selected by their**
- 31 **respective organizations.**
- 32 **(c) The commission may remove any member of the executive**
- 33 **committee as provided in the bylaws.**
- 34 **(d) The executive committee shall meet at least annually.**
- 35 **(e) The executive committee shall have the following duties and**
- 36 **responsibilities:**
- 37 **(1) Recommend to the entire commission changes to the rules**
- 38 **or bylaws, changes to this compact legislation, fees paid by**
- 39 **compact member states such as annual dues, and any**
- 40 **commission compact fee charged to licensees for the**
- 41 **privilege to practice.**
- 42 **(2) Ensure compact administration services are**

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- 1 appropriately provided, contractual or otherwise.
- 2 (3) Prepare and recommend the budget.
- 3 (4) Maintain financial records on behalf of the commission.
- 4 (5) Monitor compact compliance of member states and
- 5 provide compliance reports to the commission.
- 6 (6) Establish additional committees as necessary.
- 7 (7) Other duties as provided in rules or bylaws.

8 Sec. 5. (a) All meetings shall be open to the public, and public  
 9 notice of meetings shall be given in the same manner as required  
 10 under the rulemaking provisions in ~~IC 25-43-11~~ [\[IC 25-42.5-11\]](#).

11 (b) The commission, the executive committee, or other  
 12 committees of the commission may convene in a closed, nonpublic  
 13 meeting if the commission, executive committee, or other  
 14 committees of the commission must discuss any of the following:

- 15 (1) Noncompliance of a member state with its obligations
- 16 under the compact.
- 17 (2) The employment, compensation, discipline or other
- 18 matters, practices, or procedures related to specific
- 19 employees or other matters related to the commission's
- 20 internal personnel practices and procedures.
- 21 (3) Current, threatened, or reasonably anticipated litigation.
- 22 (4) Negotiation of contracts for the purchase, lease, or sale of
- 23 goods, services, or real estate.
- 24 (5) Accusing any person of a crime or formally censuring any
- 25 person.
- 26 (6) Disclosure of trade secrets or commercial or financial
- 27 information that is privileged or confidential.
- 28 (7) Disclosure of information of a personal nature where
- 29 disclosure would constitute a clearly unwarranted invasion
- 30 of personal privacy.
- 31 (8) Disclosure of investigative records compiled for law
- 32 enforcement purposes.
- 33 (9) Disclosure of information related to any investigative
- 34 reports prepared by or on behalf of or for use of the
- 35 commission or other committee charged with responsibility
- 36 of investigation or determination of compliance issues
- 37 pursuant to the compact.
- 38 (10) Matters specifically exempted from disclosure by federal
- 39 or member state statute.

40 (c) If a meeting, or portion of a meeting, is closed pursuant to  
 41 this section, the commission's legal counsel or designee shall certify  
 42 that the meeting may be closed and shall reference each relevant

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1 exempting provision.

2 (d) The commission shall keep minutes that fully and clearly

3 describe all matters discussed in a meeting and shall provide a full

4 and accurate summary of actions taken, and the reasons therefore,

5 including a description of the views expressed. All documents

6 considered in connection with an action shall be identified in such

7 minutes. All minutes and documents of a closed meeting shall

8 remain under seal, subject to release by a majority vote of the

9 commission or order of a court of competent jurisdiction.

10 Sec. 6. (a) The commission shall pay, or provide for the

11 payment of, the reasonable expenses of the commission's

12 establishment, organization, and ongoing activities.

13 (b) The commission may accept any and all appropriate

14 revenue sources, donations, and grants of money, equipment,

15 supplies, materials, and services.

16 (c) The commission may levy on and collect an annual

17 assessment from each member state or impose fees on other parties

18 to cover the cost of the operations and activities of the commission

19 and its staff, which must be in a total amount sufficient to cover its

20 annual budget as approved each year for which revenue is not

21 provided by other sources. The aggregate annual assessment

22 amount shall be allocated based upon a formula to be determined

23 by the commission, which shall promulgate a rule binding upon all

24 member states.

25 (d) The commission shall not incur obligations of any kind

26 prior to securing the funds adequate to meet the same nor shall the

27 commission pledge the credit of any of the member states, except

28 by and with the authority of the member state.

29 (e) The commission shall keep accurate accounts of all receipts

30 and disbursements. The receipts and disbursements of the

31 commission shall be subject to the audit and accounting procedures

32 established under its bylaws. However, all receipts and

33 disbursements of funds handled by the commission shall be audited

34 yearly by a certified or licensed public accountant, and the report

35 of the audit shall be included in and become part of the annual

36 report of the commission.

37 Sec. 7. (a) The members, officers, executive director,

38 employees and representatives of the commission shall be immune

39 from suit and liability, either personally or in their official

40 capacity, for any claim for damage to or loss of property or

41 personal injury or other civil liability caused by or arising out of

42 any actual or alleged act, error, or omission that occurred, or that

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1 the person against whom the claim is made had a reasonable basis  
 2 for believing occurred within the scope of commission employment,  
 3 duties, or responsibilities. However, nothing in this section shall be  
 4 construed to protect any such person from suit or liability for any  
 5 damage, loss, injury, or liability caused by the intentional or willful  
 6 or wanton misconduct of that person.

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

19 (c) The commission shall indemnify and hold harmless any  
 20 member, officer, executive director, employee, or representative of  
 21 the commission for the amount of any settlement or judgment  
 22 obtained against that person arising out of any actual or alleged  
 23 act, error, or omission that occurred within the scope of  
 24 commission employment, duties, or responsibilities, or that such  
 25 person had a reasonable basis for believing occurred within the  
 26 scope of commission employment, duties, or responsibilities,  
 27 provided that the actual or alleged act, error, or omission did not  
 28 result from the intentional or willful or wanton misconduct of that  
 29 person.

#### 30 Chapter 10. Data System

31 Sec. 1. The commission shall provide for the development,  
 32 maintenance, operation, and utilization of a coordinated data base  
 33 and reporting system containing licensure, adverse action, and  
 34 investigative information on all licensed individuals in member  
 35 states.

36 Sec. 2. Notwithstanding any other provision of state law to the  
 37 contrary, a member state shall submit a uniform data set to the  
 38 data system on all individuals to whom this compact is applicable  
 39 as required by the rules of the commission, including the following:

- 40 (1) Identifying information.
- 41 (2) Licensure data.
- 42 (3) Adverse actions against a license or privilege to practice.

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- 1           **(4) Nonconfidential information related to alternative**
- 2           **program participation.**
- 3           **(5) Any denial of application for licensure, and the reasons**
- 4           **for the denial.**
- 5           **(6) Current significant investigative information.**
- 6           **(7) Other information that may facilitate the administration**
- 7           **of this compact, as determined by the rules of the**
- 8           **commission.**

9           **Sec. 3. Investigative information pertaining to a licensee in any**  
 10           **member state will only be available to other member states.**

11           **Sec. 4. The commission shall promptly notify all member states**  
 12           **of any adverse action taken against a licensee or an individual**  
 13           **applying for a license. Adverse action information pertaining to a**  
 14           **licensee in any member state will be available to any other member**  
 15           **state.**

16           **Sec. 5. Member states contributing information to the data**  
 17           **system may designate information that may not be shared with the**  
 18           **public without the express permission of the contributing state.**

19           **Sec. 6. Any information submitted to the data system that is**  
 20           **subsequently required to be expunged by the laws of the member**  
 21           **state contributing the information shall be removed from the data**  
 22           **system.**

23           **Chapter 11. Rulemaking**

24           **Sec. 1. (a) The commission shall promulgate reasonable rules**  
 25           **in order to effectively and efficiently achieve the purpose of the**  
 26           **compact.**

27           **(b) Notwithstanding subsection (a), in the event the**  
 28           **commission exercises its rulemaking authority in a manner that is**  
 29           **beyond the scope of the purposes of the compact, or the powers**  
 30           **granted hereunder, then the action by the commission shall be**  
 31           **invalid and have no force or effect.**

32           **Sec. 2. The commission shall exercise its rulemaking powers**  
 33           **pursuant to the criteria set forth in this section and the rules**  
 34           **adopted thereunder. Rules and amendments shall become binding**  
 35           **as of the date specified in each rule or amendment.**

36           **Sec. 3. If a majority of the legislatures of the member states**  
 37           **rejects a rule, by enactment of a statute or resolution in the same**  
 38           **manner used to adopt the compact within four (4) years of the date**  
 39           **of adoption of the rule, then such rule shall have no further force**  
 40           **and effect in any member state.**

41           **Sec. 4. Rules or amendments to the rules shall be adopted at a**  
 42           **regular or special meeting of the commission.**

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1           **Sec. 5. Prior to promulgation and adoption of a final rule or**  
2 **rules by the commission, and at least thirty (30) days in advance of**  
3 **the meeting at which the rule will be considered and voted upon,**  
4 **the commission shall file a notice of proposed rulemaking:**

5           **(1) on the website of the commission or other publicly**  
6 **accessible platform; and**

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

11           **Sec. 6. The notice of proposed rulemaking shall include the**  
12 **following:**

13           **(1) The proposed time, date, and location of the meeting in**  
14 **which the rule will be considered and voted upon.**

15           **(2) The text of the proposed rule or amendment and the**  
16 **reason for the proposed rule.**

17           **(3) A request for comments on the proposed rule from any**  
18 **interested person.**

19           **(4) The manner in which interested persons may submit**  
20 **notice to the commission of their intention to attend the**  
21 **public hearing and any written comments.**

22           **Sec. 7. Prior to adoption of a proposed rule, the commission**  
23 **shall allow persons to submit written data, facts, opinions, and**  
24 **arguments, which shall be made available to the public.**

25           **Sec. 8. The commission shall grant an opportunity for a public**  
26 **hearing before it adopts a rule or amendment if a hearing is**  
27 **requested by:**

28           **(1) at least twenty-five (25) persons;**

29           **(2) a state or federal governmental subdivision or agency; or**

30           **(3) an association having at least twenty-five (25) members.**

31           **Sec. 9. (a) If a hearing is held on the proposed rule or**  
32 **amendment, the commission shall publish the place, time, and date**  
33 **of the scheduled public hearing. If the hearing is held via electronic**  
34 **means, the commission shall publish the mechanism for access to**  
35 **the electronic hearing.**

36           **(b) All persons wishing to be heard at the hearing shall notify**  
37 **the executive director of the commission or other designated**  
38 **member in writing of their desire to appear and testify at the**  
39 **hearing not less than five (5) business days before the scheduled**  
40 **date of the hearing.**

41           **(c) Hearings shall be conducted in a manner providing each**  
42 **person who wishes to comment a fair and reasonable opportunity**

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to comment orally or in writing.  
(d) All hearings will be recorded. A copy of the recording will be made available on request.

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

Sec. 10. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

Sec. 11. If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

Sec. 12. The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

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

- (1) meet an imminent threat to public health, safety, or 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.

Sec. 14. 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

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1 delivered to the chair of the commission prior to the end of the  
 2 notice period. If no challenge is made, the revision will take effect  
 3 without further action. If the revision is challenged, the revision  
 4 may not take effect without the approval of the commission.

5 **Chapter 12. Oversight, Dispute Resolution, and Enforcement**

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

12 **(b) All courts shall take judicial notice of the compact and the**  
 13 **rules in any judicial or administrative proceeding in a member**  
 14 **state pertaining to the subject matter of this compact, which may**  
 15 **affect the powers, responsibilities, or actions of the commission.**

16 **(c) The commission shall be entitled to receive service of**  
 17 **process in any such proceeding and shall have standing to**  
 18 **intervene in such a proceeding for all purposes. Failure to provide**  
 19 **service of process to the commission shall render a judgment or**  
 20 **order void as to the commission, this compact, or promulgated**  
 21 **rules.**

22 **Sec. 2. If the commission determines that a member state has**  
 23 **defaulted in the performance of its obligations or responsibilities**  
 24 **under this compact or the promulgated rules, the commission shall:**

25 **(1) provide written notice to the defaulting state and other**  
 26 **member states of the nature of the default, the proposed**  
 27 **means of curing the default and any other action to be taken**  
 28 **by the commission; and**

29 **(2) provide remedial training and specific technical**  
 30 **assistance regarding the default.**

31 **Sec. 3. If a state in default fails to cure the default, the**  
 32 **defaulting state may be terminated from the compact upon an**  
 33 **affirmative vote of a majority of the member states, and all rights,**  
 34 **privileges and benefits conferred by this compact may be**  
 35 **terminated on the effective date of termination. A cure of the**  
 36 **default does not relieve the offending state of obligations or**  
 37 **liabilities incurred during the period of default.**

38 **Sec. 4. Termination of membership in the compact shall be**  
 39 **imposed only after all other means of securing compliance have**  
 40 **been exhausted. Notice of intent to suspend or terminate shall be**  
 41 **given by the commission to the governor, the majority and**  
 42 **minority leaders of the defaulting state's legislature, and each of**

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1 the member states.

2 **Sec. 5.** A state that has been terminated is responsible for all  
3 assessments, obligations, and liabilities incurred through the  
4 effective date of termination, including obligations that extend  
5 beyond the effective date of termination.

6 **Sec. 6.** The commission shall not bear any costs related to a  
7 state that is found to be in default or that has been terminated from  
8 the compact, unless agreed upon in writing between the  
9 commission and the defaulting state.

10 **Sec. 7.** The defaulting state may appeal the action of the  
11 commission by petitioning the United States District Court for the  
12 District of Columbia or the federal district where the commission  
13 has its principal offices. The prevailing member shall be awarded  
14 all costs of such litigation, including reasonable attorney's fees.

15 **Sec. 8. (a)** Upon request by a member state, the commission  
16 shall attempt to resolve disputes related to the compact that arise  
17 among member states and between member and nonmember  
18 states.

19 **(b)** The commission shall promulgate a rule providing for both  
20 mediation and binding dispute resolution for disputes as  
21 appropriate.

22 **Sec. 9. (a)** The commission, in the reasonable exercise of its  
23 discretion, shall enforce the provisions and rules of this compact.

24 **(b)** By majority vote, the commission may initiate legal action  
25 in the United States District Court for the District of Columbia or  
26 the federal district where the commission has its principal offices  
27 against a member state in default to enforce compliance with the  
28 provisions of the compact and its promulgated rules and bylaws.  
29 The relief sought may include both injunctive relief and damages.  
30 In the event judicial enforcement is necessary, the prevailing  
31 member shall be awarded all costs of such litigation, including  
32 reasonable attorney's fees.

33 **(c)** The remedies herein shall not be the exclusive remedies of  
34 the commission. The commission may pursue any other remedies  
35 available under federal or state law.

36 **Chapter 13. Date of Implementation of the Counseling**  
37 **Compact Commission and Associated Rules, Withdrawal, and**  
38 **Amendment**

39 **Sec. 1.** The compact shall come into effect on the date on which  
40 the compact statute is enacted into law in the tenth member state.  
41 The provisions, which become effective at that time, shall be  
42 limited to the powers granted to the commission relating to

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1 assembly and the promulgation of rules. Thereafter, the  
 2 commission shall meet and exercise rulemaking powers necessary  
 3 to the implementation and administration of the compact.

4 **Sec. 2.** Any state that joins the compact subsequent to the  
 5 commission's initial adoption of the rules shall be subject to the  
 6 rules as they exist on the date on which the compact becomes law  
 7 in that state. Any rule that has been previously adopted by the  
 8 commission shall have the full force and effect of law on the day the  
 9 compact becomes law in that state.

10 **Sec. 3. (a)** Any member state may withdraw from this compact  
 11 by enacting a statute repealing the same.

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

14 (c) Withdrawal shall not affect the continuing requirement of  
 15 the withdrawing state's professional counseling licensing board to  
 16 comply with the investigative and adverse action reporting  
 17 requirements of this act prior to the effective date of withdrawal.

18 **Sec. 4.** Nothing contained in this compact shall be construed to  
 19 invalidate or prevent any professional counseling licensure  
 20 agreement or other cooperative arrangement between a member  
 21 state and a nonmember state that does not conflict with the  
 22 provisions of this compact.

23 **Sec. 5.** This compact may be amended by the member states.  
 24 No amendment to this compact shall become effective and binding  
 25 upon any member state until it is enacted into the laws of all  
 26 member states.

#### 27 Chapter 14. Construction and Severability

28 **Sec. 1.** This compact shall be liberally construed so as to  
 29 effectuate the purposes thereof. The provisions of this compact  
 30 shall be severable and if any phrase, clause, sentence, or provision  
 31 of this compact is declared to be contrary to the constitution of any  
 32 member state or of the United States or the applicability thereof to  
 33 any government, agency, person, or circumstance is held invalid,  
 34 the validity of the remainder of this compact and the applicability  
 35 thereof to any government, agency, person, or circumstance shall  
 36 not be affected thereby. If this compact shall be held contrary to  
 37 the constitution of any member state, the compact shall remain in  
 38 full force and effect as to the remaining member states and in full  
 39 force and effect as to the member state affected as to all severable  
 40 matters.

#### 41 Chapter 15. Binding Effect of Compact and Other Laws

42 **Sec. 1.** A licensee providing professional counseling services in

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1 a remote state under the privilege to practice shall adhere to the  
 2 laws and regulations, including scope of practice, of the remote  
 3 state.  
 4 Sec. 2. Nothing herein prevents the enforcement of any other  
 5 law of a member state that is not inconsistent with the compact.  
 6 Sec. 3. Any laws in a member state in conflict with the compact  
 7 are superseded to the extent of the conflict.  
 8 Sec. 4. Any lawful actions of the commission, including all  
 9 rules and bylaws properly promulgated by the commission, are  
 10 binding upon the member states.  
 11 Sec. 5. All permissible agreements between the commission  
 12 and the member states are binding in accordance with their terms.  
 13 Sec. 6. In the event any provision of the compact exceeds the  
 14 constitutional limits imposed on the legislature of any member  
 15 state, the provision shall be ineffective to the extent of the conflict  
 16 with the constitutional provision in question in that member state.  
 17 SECTION 3. IC 34-30-2.1-391.5 IS ADDED TO THE INDIANA  
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 19 [EFFECTIVE JULY 1, 2023]: Sec. 391.5.  
 20 ~~IC 25-43-9-7~~ [\[IC 25-42.5-9-7\]](#) (Concerning officers, employees,  
 21 and representatives of the counseling compact commission under  
 22 the professional counselors licensure compact).

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