

CHAPTER 2022-63

Committee Substitute for House Bill No. 1521

An act relating to Professional Counselors Licensure Compact; creating s. 491.017, F.S.; creating the Professional Counselors Licensure Compact; providing purposes and objectives; defining terms; specifying requirements for state participation in the compact; specifying duties of member states; specifying that the compact does not affect an individual's ability to apply for, and a member state's ability to grant, a single state license pursuant to the laws of that state; providing construction; providing for recognition of the privilege to practice licensed professional counseling in member states; specifying criteria a licensed professional counselor must meet for the privilege to practice under the compact; providing for the expiration and renewal of the privilege to practice; providing construction; specifying that a licensee with a privilege to practice in a remote state must adhere to the laws and rules of that state; authorizing member states to act on a licensee's privilege to practice under certain circumstances; specifying the consequences and parameters of practice for a licensee whose privilege to practice has been acted on or whose home state license is encumbered; specifying that a licensed professional counselor may hold a home state license in only one member state at a time; specifying requirements and procedures for changing a home state license designation; providing construction; authorizing active duty military personnel or their spouses to keep their home state designation during active duty; specifying how such individuals may subsequently change their home state license designation; providing for the recognition of the practice of professional counseling through telehealth in member states; specifying that licensees must adhere to the laws and rules of the remote state in which they provide professional counseling through telehealth; authorizing member states to take adverse actions against licensees and issue subpoenas for hearings and investigations under certain circumstances; providing requirements and procedures for adverse action; authorizing member states to engage in joint investigations under certain circumstances; providing that a licensee's privilege to practice must be deactivated in all member states for the duration of an encumbrance imposed by the licensee's home state; providing for notice to the data system and the licensee's home state of any adverse action taken against a licensee; providing construction; establishing the Counseling Compact Commission; providing for the jurisdiction and venue for court proceedings; providing construction; providing for membership, meetings, and powers of the commission; specifying powers and duties of the commission's executive committee; providing for the financing of the commission; providing commission members, officers, executive directors, employees, and representatives immunity from civil liability under certain circumstances; providing exceptions; requiring the commission to defend the commission's members, officers, executive directors, employees, and representative in civil actions under certain circumstances; providing

construction; requiring the commission to indemnify and hold harmless such individuals for any settlement or judgment obtained in such actions under certain circumstances; providing for the development of the data system, reporting procedures, and the exchange of specified information between member states; requiring the commission to notify member states of any adverse action taken against a licensee or applicant for licensure; authorizing member states to designate as confidential information provided to the data system; requiring the commission to remove information from the data system under certain circumstances; providing rulemaking procedures for the commission; providing for member state enforcement of the compact; specifying that the compact and commission rules have standing as statutory law in member states; specifying that the commission is entitled to receive notice of process, and has standing to intervene, in certain judicial and administrative proceedings; rendering certain judgments and orders void as to the commission, the compact, or commission rules under certain circumstances; providing for defaults and termination of compact membership; providing procedures for the resolution of certain disputes; providing for commission enforcement of the compact; providing for remedies; providing construction; providing for implementation of, withdrawal from, and amendment to the compact; providing construction; specifying that licensees practicing in a remote state under the compact must adhere to the laws and rules of the remote state; providing construction; specifying that the compact, commission rules, and commission actions are binding on member states; providing construction and severability; amending s. 414.065, F.S.; conforming a cross-reference; amending s. 456.073, F.S.; requiring the Department of Health to report certain investigative information to the data system; amending s. 456.076, F.S.; requiring monitoring contracts for impaired practitioners participating in treatment programs to contain certain terms; amending s. 491.003, F.S.; defining the term “licensed professional counselor”; amending s. 491.004, F.S.; requiring the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling to appoint an individual to serve as the state’s delegate on the commission; amending ss. 491.005 and 491.006, F.S.; exempting certain persons from licensure requirements; amending s. 491.009, F.S.; authorizing certain disciplinary action under the compact for specified prohibited acts; amending s. 768.28, F.S.; designating the state delegate and other members or employees of the commission as state agents for the purpose of applying waivers of sovereign immunity; requiring the commission to pay certain claims or judgments; authorizing the commission to maintain insurance coverage to pay such claims or judgments; requiring the department to notify the Division of Law Revision upon enactment of the compact into law by 10 states; providing a contingent effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 491.017, Florida Statutes, is created to read:

491.017 Professional Counselors Licensure Compact.—The Professional Counselors Licensure Compact is hereby enacted and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I

PURPOSE

The compact is designed to achieve the following purposes and objectives:

(1) Facilitate interstate practice of licensed professional counseling to increase public access to professional counseling services by providing for the mutual recognition of other member state licenses.

(2) Enhance the member states’ ability to protect the public’s health and safety.

(3) Encourage the cooperation of member states in regulating multistate practice of licensed professional counselors.

(4) Support spouses of relocating active duty military personnel.

(5) Facilitate the exchange of information between member states regarding licensure, investigations, adverse actions, and disciplinary history of licensed professional counselors.

(6) Allow for the use of telehealth technology to facilitate increased access to professional counseling services.

(7) Support the uniformity of professional counseling licensure requirements throughout member states to promote public safety and public health benefits.

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

(9) Eliminate the necessity for licensed professional counselors to hold licenses in multiple states and provide opportunities for interstate practice by licensed professional counselors who meet uniform licensure requirements.

ARTICLE II

DEFINITIONS

As used in this compact, the term:

(1) “Active duty military” means full-time duty status in the active uniformed service of the United States, including, but not limited to, members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. chapters 1209 and 1211.

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

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

(4) “Continuing education” means a requirement, as a condition of license renewal, to participate in or complete educational and professional activities relevant to the licensee’s practice or area of work.

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

(6) “Current significant investigative information” means:

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

(b) Investigative information that indicates that the licensed professional counselor represents an immediate threat to public health and safety, regardless of whether the licensed professional counselor has been notified and had an opportunity to respond.

(7) “Data system” means a repository of information about licensees, including, but not limited to, information relating to continuing education, examinations, licensure statuses, investigations, the privilege to practice, and adverse actions.

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

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

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

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

(12) “Impaired practitioner” means an individual who has a condition that may impair his or her ability to safely practice as a licensed professional counselor without intervention. Such impairment may include, but is not limited to, alcohol or drug dependence, mental health conditions, and neurological or physical conditions.

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

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

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

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

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

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

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

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

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

(22) “Rule” means a regulation adopted by the commission which has the force of law.

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

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

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

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

ARTICLE III

STATE PARTICIPATION

(1) To participate in the compact, a state must currently do all of the following:

- (a) License and regulate licensed professional counselors.
- (b) Require licensees to pass a nationally recognized exam approved by the commission.
- (c) Require licensees to have a 60 semester hour, or 90 quarter hour, master’s degree in counseling or 60 semester hours, or 90 quarter hours, of graduate coursework including all of the following topic areas:
 - 1. Professional counseling orientation and ethical practice.
 - 2. Social and cultural diversity.
 - 3. Human growth and development.
 - 4. Career development.
 - 5. Counseling and helping relationships.
 - 6. Group counseling and group work.
 - 7. Diagnosis, assessment, testing, and treatment.
 - 8. Research and program evaluation.
 - 9. Other areas as determined by the commission.

(d) Require licensees to complete a supervised postgraduate professional experience as defined by the commission.

(e) Have a mechanism in place for receiving and investigating complaints about licensees.

(2) A member state shall do all of the following:

(a) Participate fully in the commission's data system, including using the commission's unique identifier as defined in rules adopted by the commission.

(b) Notify the commission, in compliance with the terms of the compact and rules adopted by the commission, of any adverse action or the availability of investigative information regarding a licensee.

(c) Implement or utilize procedures for considering the criminal history records of applicants for an initial privilege to practice. These procedures must include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

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

2. Communication between a member state and the commission and among member states regarding the verification of eligibility for licensure through the compact may not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under Public Law 92-544.

(d) Comply with the rules adopted by the commission.

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

(f) Grant the privilege to practice to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules adopted by the commission.

(g) Provide for the attendance of the state's commissioner at the commission meetings.

(3) Individuals not residing in a member state may continue to apply for a member state's single state license as provided under the laws of each member state. However, the single state license granted to these individuals

may not be recognized as granting a privilege to practice professional counseling under the compact in any other member state.

(4) Nothing in this compact affects the requirements established by a member state for the issuance of a single state license.

(5) A professional counselor license issued by a home state to a resident of that state must be recognized by each member state as authorizing that licensed professional counselor to practice professional counseling, under a privilege to practice, in each member state.

ARTICLE IV

PRIVILEGE TO PRACTICE

(1) To exercise the privilege to practice under the terms and provisions of the compact, the licensee must meet all of the following criteria:

(a) Hold a license in the home state.

(b) Have a valid United States Social Security Number or national provider identifier.

(c) Be eligible for a privilege to practice in any member state in accordance with subsections (4), (7), and (8).

(d) Have not had any encumbrance or restriction against any license or privilege to practice within the preceding 2 years.

(e) Notify the commission that the licensee is seeking the privilege to practice within a remote state.

(f) Meet any continuing education requirements established by the home state.

(g) Meet any jurisprudence requirements established by the remote state in which the licensee is seeking a privilege to practice.

(h) Report to the commission any adverse action, encumbrance, or restriction on a license taken by any nonmember state within 30 days after the action is taken.

(2) The privilege to practice is valid until the expiration date of the home state license. The licensee must continue to meet the criteria specified in subsection (1) to renew the privilege to practice in the remote state.

(3) For purposes of the compact, the practice of professional counseling occurs in the state where the client is located at the time of the counseling services. The compact does not affect the regulatory authority of states to protect public health and safety through their own system of state licensure.

(4) A licensee providing professional counseling in a remote state under the privilege to practice must adhere to the laws and regulations of the remote state.

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

(6) If a home state license is encumbered, a licensee loses the privilege to practice in any remote state until both of the following conditions are met:

(a) The home state license is no longer encumbered.

(b) The licensee has not had any encumbrance or restriction against any license or privilege to practice within the preceding 2 years.

(7) Once an encumbered license in the licensee’s home state is restored to good standing, the licensee may obtain a privilege to practice in any remote state if he or she meets the requirements of subsection (1).

(8) If a licensee’s privilege to practice in any remote state is removed, the individual may lose the privilege to practice in all other remote states until all of the following conditions are met:

(a) The specified period of time for which the privilege to practice was removed has ended.

(b) The licensee has paid all fines imposed.

(c) The licensee has not had any encumbrance or restriction against any license or privilege to practice within the preceding 2 years.

(9) Once the requirements of subsection (8) have been met, the licensee may obtain a privilege to practice in a remote state if he or she meets the requirements in subsection (1).

ARTICLE V

OBTAINING A NEW HOME STATE LICENSE
BASED ON A PRIVILEGE TO PRACTICE

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

(2) If a licensed professional counselor changes his or her primary state of residence by moving between two member states, then the licensed professional counselor must file an application for obtaining a new home state license based on a privilege to practice and notify the current and new home state in accordance with applicable rules adopted by the commission.

(3) Upon receipt of an application for obtaining a new home state license based on a privilege to practice, the new home state must verify that the licensed professional counselor meets the criteria outlined in article IV through the data system. The new home state does not need to seek primary source verification for information obtained from the data system, except for the following:

(a) A Federal Bureau of Investigation fingerprint-based criminal background check, if not previously performed or updated pursuant to applicable rules adopted by the commission in accordance with Public Law 92-544;

(b) Any other criminal background check as required by the new home state; and

(c) Proof of completion of any requisite jurisprudence requirements of the new home state.

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

(5) Notwithstanding any other provision of the compact, if the licensed professional counselor does not meet the criteria in article IV, the new home state may apply its own requirements for issuing a new single state license.

(6) If a licensed professional counselor changes his or her primary state of residence by moving from a member state to a nonmember state or from a nonmember state to a member state, the new state's own criteria apply for issuance of a single state license in the new state.

(7) The compact does not interfere with a licensee's ability to hold a single state license in multiple states. However, for the purposes of the compact, a licensee may have only one home state license.

(8) The compact does not affect the requirements established by a member state for the issuance of a single state license.

ARTICLE VI

ACTIVE DUTY MILITARY PERSONNEL AND THEIR SPOUSES

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

ARTICLE VII

COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

(1) Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with article III and under rules adopted by the commission, to practice professional counseling in any member state through telehealth under a privilege to practice as provided in the compact and rules adopted by the commission.

(2) A licensee providing professional counseling services in a remote state through telehealth under the privilege to practice must adhere to the laws and rules of the remote state.

ARTICLE VIII

ADVERSE ACTIONS

(1) In addition to the other powers conferred by state law, a remote state has the authority, in accordance with existing state due process law, to do any of the following:

(a) Take adverse action against a licensed professional counselor's privilege to practice within that member state.

(b) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses or the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state must be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence is located.

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

(3) For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as

it would if the conduct had occurred within the home state. The home state shall apply its own state laws to determine appropriate action in such cases.

(4) The home state shall complete any pending investigations of a licensed professional counselor who changes primary state of residence during the course of the investigations. The home state may also take appropriate action and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the data system shall promptly notify the new home state of any adverse actions.

(5) A member state, if authorized by state law, may recover from the affected licensed professional counselor the costs of investigations and dispositions of any cases resulting from adverse action taken against that licensed professional counselor.

(6) A member state may take adverse action against a licensed professional counselor based on the factual findings of a remote state, provided that the member state follows its own statutory procedures for taking adverse action.

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

(b) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(8) If adverse action is taken by the home state against the license of a professional counselor, the licensed professional counselor's privilege to practice in all other member states must be deactivated until all encumbrances have been removed from the home state license. All home state disciplinary orders that impose adverse action against the license of a professional counselor must include a statement that the licensed professional counselor's privilege to practice is deactivated in all member states while the order is in effect.

(9) If a member state takes adverse action, it must promptly notify the administrator of the data system. The administrator shall promptly notify the licensee's home state of any adverse actions by remote states.

(10) Nothing in the compact overrides a member state's decision to allow a licensed professional counselor to participate in an alternative program in lieu of adverse action.

ARTICLE IX

ESTABLISHMENT OF
COUNSELING COMPACT COMMISSION

(1) COMMISSION CREATED.—The compact member states hereby create and establish a joint public agency known as the Counseling Compact Commission.

(a) The commission is an instrumentality of the compact states.

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

(c) Nothing in the compact may be construed to be a waiver of sovereign immunity.

(2) MEMBERSHIP.—

(a) The commission shall consist of one voting delegate, appointed by each member state’s licensing board. The commission, by rule, shall establish a term of office for delegates and may establish term limits.

(b) The delegate must be either:

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

2. An administrator of the licensing board.

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

(d) The member state licensing board must fill any vacancy occurring on the commission within 60 days.

(e) Each delegate is entitled to one vote with regard to the adoption of rules and creation of bylaws and shall otherwise participate in the business and affairs of the commission.

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

(3) MEETINGS OF THE COMMISSION.—

(a) The commission shall meet at least once during each calendar year. Additional meetings must be held as set forth in the bylaws.

(b) All meetings must be open to the public, and public notice of meetings must be given in the same manner as required under the rulemaking provisions in article XI.

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

1. Noncompliance of a member state with its obligations under the compact.

2. The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees, or other matters related to the commission's internal personnel practices and procedures.

3. Current, threatened, or reasonably anticipated litigation.

4. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate.

5. Accusing any person of a crime or formally censuring any person.

6. Disclosure of trade secrets or commercial or financial information that is privileged or confidential.

7. Disclosure of information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy.

8. Disclosure of investigative records compiled for law enforcement purposes.

9. 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.

10. Matters specifically exempted from disclosure by federal or member state law.

(d) If a meeting, or portion of a meeting, is closed under this subsection, the commission's legal counsel or designee must certify that the meeting may be closed and must reference each relevant exempting provision.

(e) 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 must be identified in such minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

- (4) POWERS.—The commission may do any of the following:
- (a) Establish the fiscal year of the commission.
 - (b) Establish bylaws.
 - (c) Maintain its financial records in accordance with the bylaws.
 - (d) Meet and take actions that are consistent with the compact and bylaws.
 - (e) Adopt rules that are binding to the extent and in the manner provided for in the compact.
 - (f) Initiate and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state licensing board to sue or be sued under applicable law is not affected.
 - (g) Purchase and maintain insurance and bonds.
 - (h) Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state.
 - (i) Hire employees and elect or appoint officers; fix compensation for, define duties of, and grant appropriate authority to such employees and officers to carry out the purposes of the compact; and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.
 - (j) Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same, provided that at all times the commission avoids any appearance of impropriety or conflict of interest.
 - (k) Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use, any property, real, personal, or mixed, provided that at all times the commission avoids any appearance of impropriety or conflict of interest.
 - (l) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.
 - (m) Establish a budget and make expenditures.
 - (n) Borrow money.
 - (o) Appoint committees, including standing committees consisting of commission members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in the compact and bylaws.

(p) Provide information to, receive information from, and cooperate with law enforcement agencies.

(q) Establish and elect an executive committee.

(r) Perform any other function that may be necessary or appropriate to achieve the purposes of the compact and is consistent with the state regulation of professional counseling licensure and practice.

(5) THE EXECUTIVE COMMITTEE.—

(a) The executive committee may act on behalf of the commission according to the terms of the compact and shall consist of up to 11 members, as follows:

1. Seven voting members who are elected by the commission from the current membership of the commission.

2. Up to four ex officio, nonvoting members from four recognized national professional counselor organizations. The ex officio members shall be selected by their respective organizations.

(b) The commission may remove any member of the executive committee as provided in its bylaws.

(c) The executive committee shall meet at least annually.

(d) The executive committee shall do all of the following:

1. Make recommendations to the commission for any changes to the rules, bylaws, or compact legislation.

2. Ensure compact administration services are appropriately provided, contractually or otherwise.

3. Prepare and recommend the budget.

4. Maintain financial records on behalf of the commission.

5. Monitor compact compliance of member states and provide compliance reports to the commission.

6. Establish additional committees as necessary.

7. Perform any other duties provided for in the rules or bylaws.

(6) FINANCING OF THE COMMISSION.—

(a) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The commission may accept any appropriate revenue sources, donations, or grants of money, equipment, supplies, materials, or services.

(c) The commission may not incur obligations of any kind before securing the funds adequate to meet the same; nor may the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited annually by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the commission.

(7) QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.

(a) The members, officers, executive director, employees, and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. This paragraph may not be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(b) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct. This paragraph may not be construed to prohibit that person from retaining his or her own counsel.

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

ARTICLE XDATA SYSTEM

(1) The commission shall provide for the development, operation, and maintenance of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed professional counselors in member states.

(2) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all licensees to whom the compact is applicable, as required by the rules of the commission, including all of the following:

(a) Identifying information.

(b) Licensure data.

(c) Adverse actions against a license or privilege to practice.

(d) Nonconfidential information related to alternative program participation.

(e) Any denial of application for licensure and the reason for such denial.

(f) Current significant investigative information.

(g) Other information that may facilitate the administration of the compact, as determined by the rules of the commission.

(3) Investigative information pertaining to a licensee in any member state may be made available only to other member states.

(4) The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state must be made available to any other member state.

(5) Member states reporting information to the data system may designate information that may not be shared with the public without the express permission of the reporting state.

(6) Any information submitted to the data system which is subsequently required to be expunged by the laws of the member state reporting the information must be removed from the data system.

ARTICLE XIRULEMAKING

(1) The commission shall adopt reasonable rules to effectively and efficiently achieve the purposes of the compact. If, however, the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the commission is invalid and has no force or effect.

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

(3) If a majority of the legislatures of the member states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact within 4 years after the date of adoption of the rule, such rule does not have further force and effect in any member state.

(4) Rules or amendments to the rules must be adopted at a regular or special meeting of the commission.

(5) Before adoption of a final rule by the commission, and at least 30 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(a) On the website of the commission or other publicly accessible platform; and

(b) On the website of each member state's professional counseling licensing board or other publicly accessible platform or in the publication in which each state would otherwise publish proposed rules.

(6) The notice of proposed rulemaking must include:

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

(b) The text of the proposed rule or amendment and the reason for the proposed rule;

(c) A request for comments on the proposed rule from any interested person; and

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

(7) Before adoption of a proposed rule, the commission must allow persons to submit written data, facts, opinions, and arguments, which must be made available to the public.

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

(a) At least 25 persons who submit comments independently of each other;

(b) A state or federal governmental subdivision or agency; or

(c) An association that has at least 25 members.

(9) If a hearing is held on the proposed rule or amendment, the commission must publish the place, time, and date of the scheduled public hearing. If the hearing is held through electronic means, the commission must publish the mechanism for access to the electronic hearing.

(a) All persons wishing to be heard at the hearing must notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing at least 5 business days before the scheduled date of the hearing.

(b) Hearings must be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(c) All hearings must be recorded. A copy of the recording must be made available on request.

(d) This section may not be construed to require a separate hearing on each rule. Rules may be grouped at hearings required by this section for the convenience of the commission.

(10) If the commission does not receive a written notice of intent to attend the public hearing by interested parties, the commission may proceed with adoption of the proposed rule without a public hearing.

(11) 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.

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

(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 are retroactively applied to the rule as soon as reasonably possible, but no later than 90 days after the effective date of the rule. For purposes of this subsection, an emergency rule is one that must be adopted immediately in order to:

- (a) Meet an imminent threat to public health, safety, or welfare;
- (b) Prevent a loss of commission or member state funds;
- (c) Meet a deadline for the adoption of an administrative rule established by federal law or rule; or
- (d) Protect public health and safety.

(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 revision must be posted on the website of the commission. Revisions are subject to challenge by any person for a period of 30 days after posting. A revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing and delivered to the chair of the commission before the end of the notice period. If a challenge is not made, the revision takes effect without further action. If a revision is challenged, the revision may not take effect without the approval of the commission.

ARTICLE XII

OVERSIGHT; DEFAULT, TECHNICAL ASSISTANCE,
AND TERMINATION; DISPUTE RESOLUTION;
AND ENFORCEMENT

(1) OVERSIGHT.—

(a) The executive, legislative, and judicial branches of state government in each member state shall enforce the compact and take all actions necessary and appropriate to effectuate the compact’s purposes and intent. The compact and the rules adopted thereunder have standing as statutory law.

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

(c) The commission is entitled to receive service of process in any judicial or administrative proceeding specified in paragraph (b) and has standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or an order void as to the commission, the compact, or adopted rules.

(2) DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION.—

(a) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the compact or adopted rules, the commission must:

1. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, and any other action to be taken by the commission; and

2. Provide remedial training and specific technical assistance regarding the default.

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

(c) Termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. The commission shall submit a notice of intent to suspend or terminate a defaulting member state to that state's governor, to the majority and minority leaders of that state's legislature, and to each member state.

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

(e) The commission may not bear any costs related to a member state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting member state.

(f) The defaulting member state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney fees.

(3) DISPUTE RESOLUTION.—

(a) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact which arise among member states and between member and nonmember states.

(b) The commission shall adopt rules providing for both mediation and binding dispute resolution for disputes as appropriate.

(4) ENFORCEMENT.—

(a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact.

(b) By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the compact and its adopted rules and bylaws. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party must be awarded all costs of such litigation, including reasonable attorney fees.

(c) The remedies under this article are not the exclusive remedies to the commission. The commission may pursue any other remedies available under federal or state law.

ARTICLE XIII

DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

(1) The compact becomes effective on the date on which the compact is enacted into law in the 10th member state. The provisions that become effective at that time are limited to the powers granted to the commission relating to assembly and the adoption of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary for implementation and administration of the compact.

(2) Any state that joins the compact subsequent to the commission's initial adoption of the rules is subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission has the full force and effect of law on the day the compact becomes law in that state.

(3) Any member state may withdraw from the compact by enacting a statute repealing the compact.

(a) A member state's withdrawal does not take effect until 6 months after enactment of the repealing statute.

(b) Withdrawal does not affect the continuing requirement of the withdrawing state's professional counseling licensing board to comply with the investigative and adverse action reporting requirements of the compact before the effective date of withdrawal.

(4) The compact may not be construed to invalidate or prevent any professional counseling licensure agreement or other cooperative arrangement between a member state and a nonmember state which does not conflict with the compact.

(5) The compact may be amended by the member states. An amendment to the compact is not effective and binding upon any member state until it is enacted into the laws of all member states.

ARTICLE XIV

BINDING EFFECT OF COMPACT AND OTHER LAWS

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

(2) The compact does not prevent the enforcement of any other law of a member state which is not inconsistent with the compact.

(3) Any laws in a member state which conflict with the compact are superseded to the extent of the conflict.

(4) Any lawful actions of the commission, including all rules and bylaws properly adopted by the commission, are binding on the member states.

(5) All permissible agreements between the commission and the member states are binding in accordance with their terms.

(6) If any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XV

CONSTRUCTION AND SEVERABILITY

The compact must be liberally construed so as to effectuate the purposes thereof. The provisions of the compact are severable, and if any phrase, clause, sentence, or provision of the compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of the compact and the applicability thereof to any government, agency, person, or circumstance is not affected thereby. If the compact is held contrary to the constitution of any member state, the compact remains in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

Section 2. Paragraph (c) of subsection (4) of section 414.065, Florida Statutes, is amended to read:

414.065 Noncompliance with work requirements.—

(4) EXCEPTIONS TO NONCOMPLIANCE PENALTIES.—Unless otherwise provided, the situations listed in this subsection shall constitute exceptions to the penalties for noncompliance with participation requirements, except that these situations do not constitute exceptions to the applicable time limit for receipt of temporary cash assistance:

(c) Noncompliance related to treatment or remediation of past effects of domestic violence.—An individual who is determined to be unable to comply with the work requirements under this section due to mental or physical impairment related to past incidents of domestic violence may be exempt from work requirements, except that such individual shall comply with a plan that specifies alternative requirements that prepare the individual for self-sufficiency while providing for the safety of the individual and the individual's dependents. A participant who is determined to be out of compliance with the alternative requirement plan shall be subject to the penalties under subsection (1). The plan must include counseling or a course of treatment necessary for the individual to resume participation. The need for treatment and the expected duration of such treatment must be verified by a physician licensed under chapter 458 or chapter 459; a psychologist licensed under s. 490.005(1), s. 490.006, or the provision identified as s. 490.013(2) in s. 1, chapter 81-235, Laws of Florida; a therapist as defined in s. 491.003(2) or (7) ~~s. 491.003(2) or (6)~~; or a treatment professional who is registered under s. 39.905(1)(g), is authorized to maintain confidentiality under s. 90.5036(1)(d), and has a minimum of 2 years' ~~years~~ experience at a certified domestic violence center. An exception granted under this paragraph does not automatically constitute an exception from the time limitations on benefits specified under s. 414.105.

Section 3. Subsection (10) of section 456.073, Florida Statutes, is amended to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(10) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first. The department shall report any significant investigation information relating to a nurse holding a multistate license to the coordinated licensure information system pursuant to s. 464.0095, and any significant investigatory information relating to a health care practitioner practicing under the Professional Counselors Licensure Compact to the data system pursuant to s. 491.017. Upon completion of the investigation and a recommendation by the department to find probable cause, and pursuant to a written request by the subject or the subject's attorney, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may

inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days of mailing by the department, unless an extension of time has been granted by the department. This subsection does not prohibit the department from providing such information to any law enforcement agency or to any other regulatory agency.

Section 4. Subsection (5) of section 456.076, Florida Statutes, is amended to read:

456.076 Impaired practitioner programs.—

(5) A consultant shall enter into a participant contract with an impaired practitioner and shall establish the terms of monitoring and shall include the terms in a participant contract. In establishing the terms of monitoring, the consultant may consider the recommendations of one or more approved evaluators, treatment programs, or treatment providers. A consultant may modify the terms of monitoring if the consultant concludes, through the course of monitoring, that extended, additional, or amended terms of monitoring are required for the protection of the health, safety, and welfare of the public. If the impaired practitioner is a health care practitioner practicing under the Professional Counselors Licensure Compact pursuant to s. 491.017, the terms of the monitoring contract must include the impaired practitioner's withdrawal from all practice under the compact.

Section 5. Subsections (5) through (17) of section 491.003, Florida Statutes, are renumbered as subsections (6) through (18), respectively, and a new subsection (5) is added to that section, to read:

491.003 Definitions.—As used in this chapter:

(5) “Licensed professional counselor” means a clinical social worker, marriage and family therapist, or mental health counselor authorized to provide services under s. 491.017.

Section 6. Subsection (8) is added to section 491.004, Florida Statutes, to read:

491.004 Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling.—

(8) The board shall appoint an individual to serve as the state's delegate on the Counseling Compact Commission, as required under s. 491.017.

Section 7. Subsection (6) is added to section 491.005, Florida Statutes, to read:

491.005 Licensure by examination.—

(6) EXEMPTION.—A person licensed as a clinical social worker, marriage and family therapist, or mental health counselor in another state who is practicing under the Professional Counselors Licensure Compact pursuant to s. 491.017, and only within the scope provided therein, is exempt from the licensure requirements of this section, as applicable.

Section 8. Subsection (3) is added to section 491.006, Florida Statutes, to read:

491.006 Licensure or certification by endorsement.—

(3) A person licensed as a clinical social worker, marriage and family therapist, or mental health counselor in another state who is practicing under the Professional Counselors Licensure Compact pursuant to s. 491.017, and only within the scope provided therein, is exempt from the licensure requirements of this section, as applicable.

Section 9. Section 491.009, Florida Statutes, is amended to read:

491.009 Discipline.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2) or s. 491.017:

(a) Attempting to obtain, obtaining, or renewing a license, registration, or certificate under this chapter by bribery or fraudulent misrepresentation or through an error of the board or the department.

(b) Having a license, registration, or certificate to practice a comparable profession revoked, suspended, or otherwise acted against, including the denial of certification or licensure by another state, territory, or country.

(c) Being convicted or found guilty of, regardless of adjudication, or having entered a plea of nolo contendere to, a crime in any jurisdiction which directly relates to the practice of his or her profession or the ability to practice his or her profession. However, in the case of a plea of nolo contendere, the board shall allow the person who is the subject of the disciplinary proceeding to present evidence in mitigation relevant to the underlying charges and circumstances surrounding the plea.

(d) False, deceptive, or misleading advertising or obtaining a fee or other thing of value on the representation that beneficial results from any treatment will be guaranteed.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Maintaining a professional association with any person who the applicant, licensee, registered intern, or certificateholder knows, or has

reason to believe, is in violation of this chapter or of a rule of the department or the board.

(g) Knowingly aiding, assisting, procuring, or advising any nonlicensed, nonregistered, or noncertified person to hold himself or herself out as licensed, registered, or certified under this chapter.

(h) Failing to perform any statutory or legal obligation placed upon a person licensed, registered, or certified under this chapter.

(i) Willfully making or filing a false report or record; failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record; or inducing another person to make or file a false report or record or to impede or obstruct the filing of a report or record. Such report or record includes only a report or record which requires the signature of a person licensed, registered, or certified under this chapter.

(j) Paying a kickback, rebate, bonus, or other remuneration for receiving a patient or client, or receiving a kickback, rebate, bonus, or other remuneration for referring a patient or client to another provider of mental health care services or to a provider of health care services or goods; referring a patient or client to oneself for services on a fee-paid basis when those services are already being paid for by some other public or private entity; or entering into a reciprocal referral agreement.

(k) Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined pursuant to s. 491.0111.

(l) Making misleading, deceptive, untrue, or fraudulent representations in the practice of any profession licensed, registered, or certified under this chapter.

(m) Soliciting patients or clients personally, or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct.

(n) Failing to make available to a patient or client, upon written request, copies of tests, reports, or documents in the possession or under the control of the licensee, registered intern, or certificateholder which have been prepared for and paid for by the patient or client.

(o) Failing to respond within 30 days to a written communication from the department or the board concerning any investigation by the department or the board, or failing to make available any relevant records with respect to any investigation about the licensee's, registered intern's, or certificateholder's conduct or background.

(p) Being unable to practice the profession for which he or she is licensed, registered, or certified under this chapter with reasonable skill or

competence as a result of any mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the State Surgeon General, the State Surgeon General's designee, or the board that probable cause exists to believe that the licensee, registered intern, or certificateholder is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee, registered intern, or certificateholder to submit to a mental or physical examination by psychologists, physicians, or other licensees under this chapter, designated by the department or board. If the licensee, registered intern, or certificateholder refuses to comply with such order, the department's order directing the examination may be enforced by filing a petition for enforcement in the circuit court in the circuit in which the licensee, registered intern, or certificateholder resides or does business. The licensee, registered intern, or certificateholder against whom the petition is filed may shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee, registered intern, or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice for which he or she is licensed, registered, or certified with reasonable skill and safety to patients.

(q) Performing any treatment or prescribing any therapy which, by the prevailing standards of the mental health professions in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(r) Failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee, registered intern, or certificateholder is not qualified by training or experience.

(s) Delegating professional responsibilities to a person whom the licensee, registered intern, or certificateholder knows or has reason to know is not qualified by training or experience to perform such responsibilities.

(t) Violating a rule relating to the regulation of the profession or a lawful order of the department or the board previously entered in a disciplinary hearing.

(u) Failure of the licensee, registered intern, or certificateholder to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 491.0147.

(v) Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2)(a) The board or, in the case of certified master social workers, the department may enter an order denying licensure or imposing any of the penalties authorized in s. 456.072(2) against any applicant for licensure or any licensee who violates subsection (1) or s. 456.072(1).

(b) The board may take adverse action against a clinical social worker's, a marriage and family therapist's, or a mental health counselor's privilege to practice under the Professional Counselors Licensure Compact pursuant to s. 491.017 and may impose any of the penalties in s. 456.072(2) if the clinical social worker, marriage and family therapist, or mental health counselor commits an act specified in subsection (1) or s. 456.072(1).

Section 10. Paragraph (h) is added to subsection (10) of section 768.28, Florida Statutes, to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; civil liability for damages caused during a riot; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(10)

(h) For purposes of this section, the individual appointed under s. 491.004(8) as the state's delegate on the Counseling Compact Commission, when serving in that capacity pursuant to s. 491.017, and any administrator, officer, executive director, employee, or representative of the commission, when acting within the scope of his or her employment, duties, or responsibilities in this state, is considered an agent of the state. The commission shall pay any claims or judgments pursuant to this section and may maintain insurance coverage to pay any such claims or judgments.

Section 11. The Department of Health shall notify the Division of Law Revision upon enactment of the Professional Counselors Licensure Compact into law by 10 states.

Section 12. This act shall take effect upon enactment of the Professional Counselors Licensure Compact into law by 10 states.

Approved by the Governor April 6, 2022.

Filed in Office Secretary of State April 6, 2022.