CHAPTER 75

Professional Counselors, Marriage and Family Therapists, and Licensed Psycho-educational Specialists

Article 1

Professional Counselors and Marriage and Family Therapists

**SECTION 40-75-5. Application of Title 40, Chapter 1, Article 1.**

Unless otherwise provided for in this chapter, Article 1, Chapter 1, Title 40 applies to licensed professional counselors, marriage and family therapists, addiction counselors, and psycho-educational specialists regulated by the Department of Labor, Licensing and Regulation. If there is a conflict between this chapter and Article 1, Chapter 1, Title 40, the provisions of this chapter control.

HISTORY: 1998 Act No. 396, § 8; 2018 Act No. 249 (H.4601), § 2, eff May 18, 2018.

**SECTION 40-75-10. Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists; membership.**

(A) There is created the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists composed of eleven members appointed by the Governor. Of the eleven members, nine must be professional members, with representation from each congressional district in the State. Of the professional members, three must be licensed professional counselors, two must be licensed addiction counselors, three must be marriage and family therapists, and one must be a psycho-educational specialist. The remaining two members must be at large from the general public and must not be associated with, or financially interested in, the practice of professional counseling, marriage and family therapy, addiction counseling, or psycho-educational services.

(B) The membership must be representative of race, ethnicity, and gender. The eight professional members must have been actively engaged in the practice of their respective professions or in the education and training of professional counselors, marriage and family therapists, addiction counselors, or psycho-educational specialists for at least five years prior to appointment. Members may be licensed as a licensed professional counselor, marriage and family therapist, addiction counselor, or psycho-educational specialist. Members are eligible for reappointment. Vacancies must be filled in the same manner as the original appointment for the unexpired portion of the term. Each member shall receive per diem, subsistence, and mileage as allowed by law for members of state boards, commissions, and committees for each day actually engaged in the duties of the office, including a reasonable number of days, as determined by board regulation, for preparation and reviewing of applications and examinations in addition to time actually spent in conducting examinations.

HISTORY: 1998 Act No. 396, § 8; 2012 Act No. 222, § 10, eff June 7, 2012; 2018 Act No. 249 (H.4601), § 3, eff May 18, 2018.

**SECTION 40-75-20. Definitions.**

As used in this article:

(1) "Addiction counselor" means a professional who practices individual, family, and group addiction counseling.

(2) "Alcohol and drug counseling services" means those services offered for a fee as part of the treatment and rehabilitation of persons with a substance abuse disorder, at risk of developing a substance abuse disorder, or is negatively affected by someone with a substance abuse disorder. The purpose of alcohol and drug counseling services is to help individuals, families, and groups to address and resolve problems caused by substance abuse.

(3) "Approved supervisor" means a licensee who has met the requirements for approval as a professional counselor supervisor, marriage and family therapy supervisor, or addiction counselor supervisor as provided in regulation.

(4) "Assessment" in the practice of counseling and therapy means selecting, administering, scoring, and interpreting evaluative or standardized instruments; assessing, diagnosing, and treating, using standard diagnostic nomenclature, a client's attitudes, abilities, achievements, interests, personal characteristics, disabilities, and mental, emotional, and behavioral problems that are typical of the developmental life cycle; and the use of methods and techniques for understanding human behavior in relation to, coping with, adapting to, or changing life situations. A counselor may assess more serious problems as categorized in standard diagnostic nomenclature but only if the counselor has been specifically trained to assess and treat that particular problem. If a client presents with a problem which is beyond the counselor's training and competence, the counselor must refer that problem to a licensed professional who has been specifically trained to diagnose and treat the presenting problem. In all cases, ethical guidelines as established by the board must be followed.

(5) "Associate" means an individual who has met the requirements for licensure as a professional counselor associate, marriage and family therapy associate, or addiction counselor associate under the provisions of this article and has been issued a license by the board.

(6) "Board" means the South Carolina Board of Licensed Professional Counselors, Marriage and Family Therapists, Addictions Counselors, and Psycho-Educational Specialists.

(7) "Client" means a person or patient, whether an individual or a member of a group, a group, an agency or an organization, who receives in an office setting any treatment or service that falls within the scope of practice of a Licensed Professional Counselor, Marriage and Family Therapist, Addiction Counselor, or Psycho-Educational Specialist.

(8) "Consulting" means the application of scientific principles and procedures in counseling and human development to provide assistance in understanding and solving current or potential problems that the client may have in relation to a third party, individuals, groups, and organizations.

(9) "Director" means the Director of the Department of Labor, Licensing and Regulation.

(10) "Federally assisted program" means a program directly funded by the federal government, operated by the federal government, certified for Medicaid reimbursement, receiving federal block grant funds through a state or local government, licensed by the federal government, or exempt from paying taxes under a provision of the federal Internal Revenue Code.

(11) "License" means an authorization to practice counseling, marriage and family therapy, issued by the board pursuant to this article and includes an authorization to practice as a professional counselor associate, marriage and family therapy associate, or addiction counselor associate.

(12) "Licensee" means an individual who has met the requirements for licensure under this article and has been issued a license to practice as a professional counselor or professional counselor associate, marriage and family therapist or marriage and family therapy associate, or addiction counselor associate.

(13) "Licensed professional counselor" means an individual who practices professional counseling.

(14) "Marriage and family therapy" means the assessment and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems. Marriage and family therapy involves the application of psycho-therapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families for the purpose of treating diagnosed emotional, mental, behavioral, or addictive disorders.

(15) "Person" means an individual, organization, or corporation, except that only individuals can be licensed under this article.

(16) "Practice of marriage and family therapy" means the rendering of marriage and family therapy services to individuals, couples, and families, singly or in groups, whether these services are offered directly to the general public or through organizations, either public or private.

(17) "Practice of professional counseling" means functioning as a psycho-therapist and may include, but is not limited to, providing individual therapy, family counseling, group therapy, marital counseling, play therapy, couples counseling, substance abuse counseling, vocational counseling, school counseling, rehabilitation counseling, intervention, human growth and development counseling, behavioral modification counseling, and hypnotherapy. The practice of professional counseling may include assessment, crisis intervention, guidance and counseling to facilitate normal growth and development, including educational and career development; utilization of functional assessment and counseling for persons requesting assistance in adjustment to a disability or handicapping condition; and consultation and research. The use of specific methods, techniques, or modalities within the practice of licensed professional counseling is restricted to professional counselors appropriately trained in the use of these methods, techniques, or modalities.

(18) "Practice of addiction counseling" means providing professional services that are delivered by a licensed addiction professional, designed to change substance use or addictive behavior, and involve specialized knowledge and skill related to addictions and addictive behaviors, including understanding addiction, knowledge of the treatment process, application to practice and professional readiness. The term includes:

(a) gathering information through structured interview screens using routine protocols;

(b) reviewing assessment findings to assist in the development of a plan individualized for treatment services and to coordinate services;

(c) referring for further assessment, diagnosis, evaluation and mental health therapy;

(d) providing client and family education related to addictions;

(e) providing information on social networks and community systems for referrals and discharge planning;

(f) participating in multidisciplinary treatment team meetings or consulting with clinical addiction professionals;

(g) counseling, through individual and group counseling, as well as group and family education, to treat addiction and substance use disorders in a variety of settings; and

(h) maintaining the highest level of professionalism and ethical responsibility.

(19) "Referral" means evaluating and identifying needs of a client to determine the advisability of referral to other specialists, informing the client of this determination, and communicating as requested or considered appropriate with these referral sources.

(20) "Supervision" means the supervision of clinical services in accordance with standards established by the board under the supervision of an approved supervisor.

HISTORY: 1998 Act No. 396, § 8; 2018 Act No. 249 (H.4601), § 4, eff May 18, 2018.

**SECTION 40-75-30. Licensure requirement.**

(A) It is unlawful for a person to practice as a professional counselor, a marriage and family therapist, or an addiction counselor in this State without being licensed in accordance with this article. A professional counselor associate may practice only under the direct supervision of a licensed professional counselor supervisor. A marriage and family therapy associate may practice only under the direct supervision of a licensed marriage and family therapist supervisor, as approved by the board. An addiction counselor associate only may work under a licensed addiction counselor supervisor or other approved board-licensed clinician as provided in regulation.

(B) A person is guilty of practicing without a license if the person represents himself or herself to be a marriage and family therapist by the use of any title or description of services which incorporates the words "licensed marital and family therapist", "licensed marriage and family therapist", "marital and family therapist", "marriage and family therapist", or "marriage and family counselor" to describe a function or service performed without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their profession are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(C) A person is guilty of practicing without a license if the person represents himself or herself to be a professional counselor by the use of any title or description of services which incorporates the words "licensed professional counselor", "professional counselor", or "licensed counselor" without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their professions are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(D) A person is guilty of practicing without a license if the person represents himself to be an addiction counselor by the use of any title or description of services which incorporates the words "licensed addiction counselor" or "addiction counselor" without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their professions are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(E) A licensed professional counselor, a licensed marital and family therapist, or a licensed addiction counselor may not use the title of "psycho-therapist".

HISTORY: 1998 Act No. 396, § 8; 2018 Act No. 249 (H.4601), § 5, eff May 18, 2018.

**SECTION 40-75-40. Nomination and appointment of board members; vacancies; replacements.**

Board members from the general public may be nominated by an individual, group, or association and must be appointed by the Governor in accordance with Section 40-1-45. In case of a vacancy on the board, the chair, with the consent of a majority of the sitting board members, may appoint a temporary replacement for the vacated seat. The replacement shall serve until the Governor appoints a replacement for the vacated seat and the appointee qualifies. In all cases, the replacement appointed must fill the same professional or consumer capacity as the predecessor in office held.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-50. Election of officers.**

In addition to the powers and duties enumerated in Section 40-1-50, the board shall, at the first board meeting in each calendar year elect from the professional membership a president, a vice president, and any other officer it considers necessary. Regular meetings must be held upon the call of the president or any two members of the board. A majority of the members of the board constitutes a quorum.

HISTORY: 1998 Act No. 396, § 8; 2018 Act No. 249 (H.4601), § 6, eff May 18, 2018.

**SECTION 40-75-60. Adoption of rules and regulations.**

The board may adopt rules governing its proceedings and internal operations, and may promulgate regulations necessary to carry out the provisions of this chapter.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-70. Additional powers and duties.**

In addition to the powers and duties provided in this chapter, the board has those powers and duties set forth in Section 40-1-70.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-80. Investigations; subpoena of witnesses, taking of evidence, and requiring production of documents.**

For the purpose of conducting an investigation or proceeding under this chapter, the board or a person designated by the board may subpoena witnesses, take evidence, and require the production of any documents or records which the board considers relevant to the inquiry.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-90. Complaints against licensees; investigation and proceedings.**

(A) The board may receive complaints by any person against a licensee and may require the complaints to be submitted in writing specifying the exact charge or charges and to be signed by the complainant. Upon receipt of a complaint, the board administrator shall refer the complaint to a designated investigator of the South Carolina Department of Labor, Licensing and Regulation, who shall investigate the allegations in the complaint and make a report to the board concerning the investigation. If the board desires to proceed further, it may file a formal accusation charging the licensee with a violation of this chapter or a regulation promulgated pursuant to this chapter. The accusation must be signed by the president or vice president on behalf of the board. When the accusation is filed and the board has set a date and a place for a hearing on the accusation, the administrator shall notify the accused in writing not less than thirty days prior to the hearing and a copy of the accusation must be attached to the notice. The notice must be served personally or sent to the accused by registered mail, return receipt requested, directed to the last mailing address furnished to the board. The post office registration receipt signed by the accused, his agent, or a responsible member of his household or office staff, or, if not accepted by the person to whom addressed, the postal authority stamp showing the notice refused, is prima facie evidence of service of the notice.

(B) The accused has the right to be present and present evidence and argument on all issues involved, to present and to cross-examine witnesses, and to be represented by counsel, at the accused's expense. For the purpose of these hearings, the board may require by subpoena the attendance of witnesses and the production of documents and other evidence and may administer oaths and hear testimony, either oral or documentary, for and against the accused. All investigations, inquiries, and proceedings undertaken under this chapter must be confidential, except as hereinafter provided.

(C) Every communication, whether oral or written, made by or on behalf of any complainant to the board or its agents or any member of the board, pursuant to this chapter, whether by way of complaint or testimony, is privileged and no action or proceeding, civil or criminal, may lie against any person by whom or on whose behalf the communication is made, except upon proof that the communication was made with malice.

(D) No person connected with any complaint, investigation, or other proceeding before the board, including, but not limited to, any witness, counsel, counsel's secretary, board member, board employee, court reporter, or investigator may mention the existence of the complaint, investigation, or other proceeding or disclose any information pertaining to the complaint, investigation, or proceeding, except to persons involved and having a direct interest in the complaint, investigation, or other proceeding and then only to the extent necessary for the proper disposition of the complaint, investigation, or other proceeding. However, if the board receives information in any complaint, investigation, or other proceeding before it indicating a violation of a state or federal law, the board may provide that information, to the extent the board considers necessary, to the appropriate state or federal law enforcement agency or regulatory body. Nothing contained in this section may be construed so as to prevent the board from making public a copy of its final order in any proceeding, as authorized or required by law.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-100. Issuance of cease and desist orders or temporary restraining orders; injunction restraining conduct.**

(A) In addition to other remedies provided for in this chapter or Chapter 1 of Title 40, the board in accordance with Section 40-1-100 may issue a cease and desist order or may petition an administrative law judge for a temporary restraining order or other equitable relief to enjoin a violation of this chapter or a regulation promulgated under this chapter.

(B) If the board has reason to believe that a person is violating or intends to violate a provision of this chapter or a regulation promulgated under this chapter, it may, in addition to all other remedies, order the person to desist immediately and refrain from the conduct. The board may apply to an administrative law judge for an injunction restraining the person from the conduct. The judge may issue a temporary injunction ex parte not to exceed ten days and, upon notice and full hearing, may issue any other order in the matter it considers proper. No bond may be required of the board by the judge as a condition to the issuance of an injunction or order contemplated by the provisions of this section.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-110. Revocation, suspension, reprimand, or restriction of licensee; grounds for discipline.**

(A) The board may revoke, suspend, publicly or privately reprimand, or restrict a licensee or otherwise discipline a licensee when it is established to the satisfaction of the board that a licensee has:

(1) uttered a false or fraudulent statement or forged a statement or document or committed or practiced a fraudulent, deceitful, or dishonest act in connection with license requirements;

(2) been convicted of a felony or other crime involving moral turpitude. Forfeiture of a bond or a plea of nolo contendere is the equivalent of a conviction;

(3) violated a regulation, directive, or order of the board;

(4) knowingly performed an act which substantially assists a person to practice counseling, marriage and family therapy, or addiction counseling illegally;

(5) caused to be published or circulated directly or indirectly fraudulent, false, or misleading statements as to the skills or methods or practice of a license holder when malice is shown;

(6) failed to provide and maintain reasonable sanitary facilities;

(7) sustained physical or mental impairment or disability which renders practice dangerous to the public;

(8) violated the code of ethics adopted by the board in regulations;

(9) obtained fees or assisted in obtaining fees under deceptive, false, or fraudulent circumstances;

(10) used an intentionally false or fraudulent statement in a document connected with the practice of professional counseling, marriage and family therapy, or addiction counseling;

(11) been found by the board to lack the professional competence to practice;

(12) practiced during the time his license has lapsed or been suspended or revoked;

(13) practiced the profession or occupation while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice his profession or occupation.

(B) In addition to other remedies and actions incorporated in this chapter, the license of a licensee adjudged mentally incompetent by a court of competent jurisdiction must be suspended automatically by the board until the licensee is adjudged competent by a court of competent jurisdiction.

HISTORY: 1998 Act No. 396, § 8; 2018 Act No. 249 (H.4601), § 7, eff May 18, 2018.

**SECTION 40-75-120. Sanctions.**

Upon a determination by the board that one or more of the grounds for discipline of a licensee exists, as provided for in Section 40-75-110 or 40-1-110, the board may impose sanctions as provided in Section 40-1-120, including imposing a fine of not more than one thousand dollars for each violation.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-130. Denial of licensure.**

As provided for in Section 40-1-130, the board may deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-140. Denial of license based on person's prior criminal record not permitted.**

A license may not be denied based solely on a person's prior criminal record as provided for in Section 40-1-140.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-150. Voluntary surrender of license.**

A licensee under investigation for a violation of this chapter or a regulation promulgated under this chapter may voluntarily surrender the license in accordance with Section 40-1-150.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-160. Appeal.**

A person aggrieved by a final action of the board may seek review of the decision in accordance with Section 40-1-160.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-170. Payment of investigation and prosecution costs.**

A person found in violation of this chapter or a regulation promulgated under this chapter may be required to pay costs associated with the investigation and prosecution of the case in accordance with Section 40-1-170.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-180. Collection and enforcement of imposed costs and fines.**

All costs and fines imposed pursuant to this chapter must be paid in accordance with and are subject to the collection and enforcement provisions of Section 40-1-180.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-190. Confidentiality of client communications; exceptions.**

(A) No person licensed under this chapter, and no person's employees or associates, shall disclose any information which he or she may have acquired during the course of treatment, except as required or permitted by applicable state law, federal law, or both, including, but not limited to, compliance with Sections 19-11-95, 43-35-25, 44-29-70, and 63-7-310.

(B) All communications between clients and their licensed professional counselor, marriage and family therapist, or addiction counselor are considered privileged as provided in Section 19-11-95, protecting confidences between patients of mental illness or emotional condition and licensees under this chapter, and as provided in Section 19-11-100, providing limited protection for persons engaged in the gathering of information for journalistic or literary purposes. Additionally, a licensed professional counselor, a licensed marital and family therapist, or addiction counselor must maintain privileged communications and patient confidentiality as required of psycho-therapists. All records of treatments maintained by a licensed professional counselor, marriage and family therapist, or an addiction counselor are confidential and must not be disclosed except under the circumstances provided for in this subsection.

(C) A person licensed under this chapter must comply with all applicable state and federal confidentiality laws related to alcohol or drug treatment records.

HISTORY: 1998 Act No. 396, § 8; 2018 Act No. 249 (H.4601), § 8, eff May 18, 2018.

**SECTION 40-75-200. Violations of chapter; penalty.**

(A) A person who practices or offers to practice as a counselor or therapist in this State in violation of this chapter or a regulation promulgated under this chapter or who knowingly submits false information to the board for the purpose of obtaining a license is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(B) A person violating any other provision of this chapter or a regulation promulgated under this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-210. Civil penalties; injunctive relief.**

In addition to initiating a criminal proceeding for a violation of this chapter, the board may seek civil penalties and injunctive relief in accordance with Section 40-1-210.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-220. Licensure as professional counselor, marriage and family therapist, or addiction counselor; requirements.**

(A) To be licensed by the board as a professional counselor, marriage and family therapist, or addiction counselor, an individual must:

(1) pay the appropriate fees and pass an examination approved by the board;

(2) complete forms prescribed by the board; and

(3) complete the following educational requirements:

(a) for licensed professional counselor or marriage and family therapist, successfully complete a minimum of a master's degree or higher degree program and have been awarded a graduate degree as provided in regulation, provided all coursework, including any additional core coursework, must be taken at a college or university accredited by a national educational accrediting body, or one that follows similar educational standards and by the Commission on the Colleges of the Southern Association of Colleges and Schools, one of its transferring regional associations, the Association of Theological Schools in the United States and Canada, or a post-degree program accredited by the Commission on Accreditation for Marriage and Family Therapy Education, or a regionally accredited institution of higher learning subsequent to receiving the graduate degree; or

(b) for licensed addiction counselor, successfully complete a minimum of a master's degree or higher degree program and have been awarded a graduate degree as provided in regulation, provided all coursework, including any additional core coursework, must be taken at a college or university accredited by a national educational accrediting body, or one that follows similar standards and the Commission on the Colleges of the Southern Association of Colleges and Schools, one of its transferring regional associations, the Association of Theological Schools in the United States and Canada, the National Addiction Studies Accreditation Commission, other board-approved educational institution, or a regionally accredited institution of higher learning.

(B) In addition to other requirements established by law, a person applying to be a licensed professional counselor, as defined in Section 40-75-20(13), must undergo a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division and the Federal Bureau of Investigation are authorized to retain the fingerprints for identification and certification purposes and for notification of the department regarding criminal charges. Cost of conducting a criminal history background check must be borne by the applicant. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed to the board as may be necessary to support the administrative action. The results of these criminal record checks must not be shared outside the department.

(C) In addition to other requirements established by law, a licensed professional counselor applying to enter the compact via a privilege to practice must undergo a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division, and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division and the Federal Bureau of Investigation are authorized to retain the fingerprints for identification and certification purposes and for notification of the department regarding criminal charges. Cost of conducting a criminal history background check must be borne by the applicant. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed to the board as may be necessary to support the administrative action. The results of these criminal record checks must not be shared outside the department.

HISTORY: 1998 Act No. 396, § 8; 2018 Act No. 249 (H.4601), § 9, eff May 18, 2018; 2024 Act No. 189 (S.610), § 3, eff May 21, 2024.

**SECTION 40-75-225. Licensure as addiction counselor; requirements.**

(A) An applicant for licensure as an addiction counselor before October 1, 2018 must:

(1)(a) complete a human services field program of study and field experiences from an accredited educational institution, culminating in a master's degree, and hold a current certification as a Certified Addiction Counselor II (CACII) or Certified Clinical Supervisor (CCS) through the South Carolina Association of Alcohol and Drug Abuse Counselors, a current certification as a Masters Addiction Counselor (MAC) or National Certified Addiction Counselor II (NCACII) through the National Association of Alcohol and Drug Abuse Counselors, or a current certification as an Alcohol and Drug Counselor (ADC) or Advanced Alcohol and Drug Counselor (AADC) from the International Certification and Reciprocity Consortium; and

(b) demonstrate at least two years full-time or four thousand hours of experience within the last five years working primarily with the substance use-disordered population, which may be experience in direct service providing or in a supervisory/consulting environment;

(2)(a) be currently licensed in this State as a Professional Counselor, Professional Counselor Supervisor, or Marriage and Family Therapist; and

(b) demonstrate at least two years full-time or four thousand hours of experience within the last five years working primarily with the substance use-disordered population, which may be experience in direct service providing or in a supervisory/consulting environment; or

(3)(a) complete a human services field program of study and field experiences from an accredited educational institution, culminating in a bachelor's degree, hold a current certification as a Certified Addiction Counselor II (CACII) through the South Carolina Association of Alcohol and Drug Abuse Counselors, a current certification as a National Certified Addiction Counselor II (NCACII) through the National Association of Alcohol and Drug Abuse Counselors, or a current Certification as an Advanced Alcohol and Drug Counselor (AADC) from the International Certification and Reciprocity Consortium; and

(b) demonstrate at least five years full-time or ten thousand hours of experience within the last eight years working primarily with the substance use-disordered population, which may be experience in direct service providing or in a supervisory/consulting environment.

(B) An applicant for licensure as an addiction counselor after October 1, 2018, must meet the standards provided in Section 40-75-220.

HISTORY: 2018 Act No. 249 (H.4601), § 1, eff May 18, 2018.

**SECTION 40-75-230. Licensure as professional counselor supervisor, marriage and family therapist supervisor, or addiction counselor; requirements.**

To be licensed as a professional counselor supervisor, marriage and family therapist supervisor, or addiction counselor, an individual must:

(1) be licensed in South Carolina in the discipline for which the supervisor license is sought;

(2) have been in the practice of counseling, marriage and family therapy, or addiction counseling for at least five years; and

(3) have met the additional requirements prescribed by the board in regulation.

HISTORY: 1998 Act No. 396, § 8; 2018 Act No. 249 (H.4601), § 10, eff May 18, 2018.

**SECTION 40-75-240. Associate licenses.**

A professional counselor associate license, marriage and family therapy associate license, or addiction counselor associate license must be issued to an applicant who has satisfied the educational requirements, as specified by the board in regulation, for licensure but who has not yet completed the supervision or experience requirements and has passed the examination required for licensure. An associate who has not completed the requirements for licensure within two years may apply to the board for an extension.

HISTORY: 1998 Act No. 396, § 8; 2018 Act No. 249 (H.4601), § 11, eff May 18, 2018.

**SECTION 40-75-250. Issuance of license; display; renewal.**

(A) If an applicant satisfies all licensure requirements as provided for in this article, the board may issue a license to the applicant. A license is a personal right and not transferable, and the issuance of a license is evidence that the person is entitled to all rights and privileges of a licensed professional counselor, marriage and family therapist, an addiction counselor, or of an associate, while the license remains current and unrestricted. However, the license is the property of the State and upon suspension or revocation immediately must be returned to the board.

(B) A person licensed under this chapter must display the license in a prominent and conspicuous place in the primary place of practice.

(C) Licenses issued under this chapter must be renewed every two years upon the payment of a renewal fee and upon the fulfillment of continuing education as determined by the board in regulation.

(D) A person licensed under this chapter must receive at least one hour of continuing education in suicide assessment, treatment, and management treatment, which may be completed virtually, as a portion of the total continuing education requirement for license renewal as determined by the board in regulation.

(E) A licensee who allows the license to lapse by failing to renew the license as provided in this section may be reinstated by the board upon payment of a reinstatement fee and the current renewal fee. The board, by regulation, may impose additional requirements for reinstatement.

HISTORY: 1998 Act No. 396, § 8; 2018 Act No. 249 (H.4601), § 12, eff May 18, 2018; 2024 Act No. 158 (S.408), § 1, eff May 20, 2024.

**SECTION 40-75-260. State reciprocity agreements; licensure of applicants licensed in other jurisdictions or educated in foreign countries.**

(A) The board may enter into a reciprocal agreement with a state that credentials professional counselors, marriage and family therapists, or addiction counselors if the board finds that the state has substantially the same or higher licensure requirements.

(B)(1) The board may license an individual who is currently credentialed or meets the requirements of a licensed professional counselor, licensed marriage and family therapist, or addiction counselor in another jurisdiction of the United States if the individual has met the standards defined in regulation.

(2) The board shall delineate in regulation procedures for verifying an applicant's credentials from another jurisdiction.

(3) The board may not license an applicant who is under investigation in this or another jurisdiction for an act that would constitute a violation of this chapter until the investigation is complete. When deciding a case, the board shall determine what, if any, rules or discipline apply.

(C) The board may grant a license to practice professional counseling, marriage and family therapy, or addiction counseling to an applicant who has completed an educational program in a college or university in a foreign country if the applicant:

(1) meets all requirements of this article; and

(2) demonstrates to the satisfaction of the board that the applicant's experience, command of the English language, and completed academic program meet the standards of a relevant academic program of an accredited educational institution within the United States. If the requirements of this item are met, the applicant must be considered to have received the education from an accredited educational institution as required by this article.

HISTORY: 1998 Act No. 396, § 8; 2018 Act No. 249 (H.4601), § 13, eff May 18, 2018.

**SECTION 40-75-270. Statement of professional disclosure.**

A licensee shall make available to each client a copy of a statement of professional disclosure. The statement of professional disclosure shall include the licensee's address and telephone number, fee schedule, educational training, and area of specialization. The professional disclosure statement shall also explicitly denote that sexual intimacy between a practitioner and a client is prohibited.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-280. Code of ethics; treatment for impaired practitioners; regulations.**

The board may promulgate regulations setting forth a code of ethics for licensees and shall establish regulations pertaining to treatment for impaired practitioners.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-285. Application of article.**

This article is for the regulation of the practice of licensed professional counselors, marriage and family therapists, and addiction counselors only and does not prevent human resource professionals, business consultants, and other persons from providing advice and counseling in their organizations or affiliated groups or to their companies and employees of their companies or from engaging in activities performed in the course of their employment.

HISTORY: 1998 Act No. 396, § 8; 2018 Act No. 249 (H.4601), § 14, eff May 18, 2018.

**SECTION 40-75-290. Persons not affected by article.**

This article does not apply to:

(1) salaried employees performing duties for which they were trained and hired solely within a federal, state, county, or local:

(a) governmental agency;

(b) licensed mental health or alcohol or drug abuse facility;

(c) accredited academic institutions;

(d) licensed, formally accredited nonprofit agencies; or

(e) research institutions.

(2) persons pursuing a course of study in a regionally accredited educational or training facility as a formal part of a process to obtain a license associated with this article, if the services constitute a part of a supervised course of study;

(3) nonresidents, appropriately licensed or credentialed in their home state, who offer services within this State, if these services are performed for no more than five days a month, and no more than thirty days in any calendar year;

(4) volunteers accountable to a sponsoring agency;

(5) qualified members of other professionals licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their profession if they do not represent themselves as being licensed pursuant to this article;

(6) a minister, priest, rabbi, or clergy person of any religious denomination or sect, when the activities are within the scope of performance of his or her regular or specialized ministerial duties, and no fee is received by him or her; or when these activities are performed, with or without compensation, by a person under the auspices or sponsorship of an established church, denomination, or sect and when the person rendering services remains accountable to the established authority and does not hold himself or herself out to the public as possessing a license issued pursuant to this article; or

(7) members of peer groups or self-help groups when engaging in or offering self-help assistance as part of peer support groups or self-help organizations including, but not limited to, Alcoholics Anonymous (AA) or Narcotics Anonymous (NA), AA or NA sponsorship, or other uncompensated alcohol or other drug abuse or dependent services.

HISTORY: 1998 Act No. 396, § 8; 2018 Act No. 249 (H.4601), § 15, eff May 18, 2018.

**SECTION 40-75-295. Third party payors not obligated to provide or pay for services under this chapter.**

Nothing in this article may be construed to require a health maintenance organization, a self-funded plan, an accident and health insurer, or any other third party payor to provide services or to pay for services provided for in this chapter.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-300. Repealed.**

HISTORY: Former Section, titled Licensure for alcohol and drug counselors, had the following history: 1998 Act No. 396, § 8. Repealed by 2018 Act No. 249, § 17, eff May 18, 2018.

**SECTION 40-75-310. Severability.**

If a provision of this chapter or the application of a provision to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application and, to this end, the provisions of this chapter are severable.

HISTORY: 1998 Act No. 396, § 8.

Article 3

Psycho-educational Specialists

**SECTION 40-75-510. Board to administer provisions of article and issue licenses.**

The Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-educational Specialists shall administer the provisions of this article and is the sole authority for issuing licenses pursuant to this article.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-520. Licensed psycho-educational specialist practice; description.**

(A) The practice of a licensed psycho-educational specialist is the utilization of a unique blend of training, incorporating skills and knowledge of psychology and education, to provide services addressing the educational, personal, and social needs of children and adolescents through assessment, intervention, consultation, counseling, information and referral, planning, training, and supervision in return for compensation. The practice of a licensed psycho-educational specialist includes:

(1) conducting psycho-educational assessments of individual needs using formal and informal psycho-educational measurement techniques including standardized measures of intelligence, aptitude, achievement, skills, development, personality traits, personal and social adjustment, interests, functional assessment, direct observation, interviews with parents, teachers, and other professionals, family histories, ecological data, criterion referenced measures, and curriculum-based assessment;

(2) interpreting assessment data and design and, when appropriate, providing interventions as indicated by the information;

(3) participating in instructional support and intervention teams;

(4) providing group and individual educational counseling for problems of learning, school adjustment, and academic performance;

(5) evaluating information and determining the need for referral to appropriate specialists and supportive services;

(6) providing consultation to clients, parents, teachers, school administrators, school systems, and professional colleagues;

(7) assisting in designing, planning, and developing instructional programs and curriculum;

(8) supervising the work of other licensed psycho-educational specialists.

(B) Whenever important aspects of a case fall outside the licensed psycho-educational specialist's competence, the specialist must obtain appropriate consultations and referrals. A licensed psycho-educational specialist must not attempt to diagnose, prescribe for, treat, or advise a client with reference to a complaint which is outside the scope of practice as provided for in this article.

(C) A licensed psycho-educational specialist employed by a school district may provide private sector services to students living within that district if the:

(1) parent, guardian, surrogate, or adult client is informed in writing, before services are provided, of the individual's eligibility for free services of the same kind from the school district;

(2) client is not a student assigned to any school to which the licensed psycho-educational specialist is assigned;

(3) parent, guardian, surrogate, or adult client is informed that the licensed psycho-educational specialist may not function as an independent evaluator;

(4) licensed psycho-educational specialist does not provide private sector services during hours of contracted employment with a school district;

(5) licensed psycho-educational specialist does not use his or her position within a school district to offer or promote private sector services;

(6) licensed psycho-educational specialist does not utilize tests, materials, or services belonging to the school district in providing private sector services.

(D) School districts employing licensed psycho-educational specialists on a contractual basis during the school year may require, upon contract renewal, notification of intent to perform psycho-educational services in the private sector.

(E) Persons whose practice is covered in this section shall use the title "Licensed Psycho-educational Specialist" in any advertisement, solicitation, or other written contract with members of the public. The term "South Carolina Department of Education Certified in School Psychology", along with the certificate number, must be used only in conjunction with the title "Licensed Psycho-educational Specialist", and only on letterhead, on business cards, and as a signature line in reports written for South Carolina Department of Education schools or private schools.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-530. Application procedures; qualifications.**

An applicant for licensure shall complete procedures for application as prescribed by the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, and Licensed Psycho-educational Specialists. An applicant must furnish the board with satisfactory evidence that the applicant:

(1) holds from a regionally accredited institution of higher education whose program is approved by the National Association of School Psychologists or the American Psychological Association or from a degree program which the board finds to be substantially equivalent based on criteria established by the board in regulation:

(a) a master's degree plus thirty hours;

(b) a sixty hour master's degree;

(c) a specialist's degree, which must require sixty semester hours or ninety quarter hours; or

(d) a doctorate in school psychology;

(2) is certified by the South Carolina Department of Education as a school psychologist level II or III;

(3) has served successfully for at least two years as a certified school psychologist in a school psychology or comparable setting, at least one year of which must have been under the supervision of a licensed psycho-educational specialist;

(4) has made a satisfactory score, as prescribed by the board, on the Educational Training Service's School Psychology Examination.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-540. Regulations for continuing education; license renewal.**

(A) The board shall promulgate regulations in accordance with Chapter 23, Title 1 (Administrative Procedures Act) establishing requirements for continuing education which must be met by a person licensed as a licensed psycho-educational specialist. An applicant for license renewal shall present evidence satisfactory to the board that continuing education requirements have been met.

(B) A person licensed under this chapter must receive at least one hour of continuing education in suicide assessment, treatment, and management treatment, which may be completed virtually, as a portion of the total continuing education requirement for license renewal as determined by the board in regulation.

HISTORY: 1998 Act No. 396, § 8; 2024 Act No. 158 (S.408), § 2, eff May 20, 2024.

**SECTION 40-75-550. Issuance of license to person furnishing satisfactory evidence to licensure board in another state.**

Upon application, accompanied by the required fee, the board may issue a license to a person who has furnished evidence satisfactory to the board of licensure in another state, a territorial possession of the United States, the District of Columbia, or the commonwealth of Puerto Rico, if the requirements for licensure are equivalent to the requirements of this article, pursuant to the determination of the board.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-560. Use of Licensed Psycho-educational Specialist title.**

(A) A person licensed pursuant to this article may use the title "Licensed Psycho-educational Specialist" and the letters "LPES" following his or her name.

(B) It is unlawful for a person who is not licensed in accordance with this article to use the title "Licensed Psycho-educational Specialist".

(C) A licensee shall display his or her license in a prominent place at each place of practice.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-570. Credential lines to be used for work done for school district or private school.**

Notwithstanding the provisions of Chapter 55, Title 40, additional credential lines must be used to indicate legitimate qualifications of the licensee whenever the work being done is for use by a school district or private school. Credential lines shall follow the typed or printed name of the licensee. For South Carolina Department of Education school psychologists, level II, the credential line shall read "Licensed Psycho-educational Specialist, Certified by South Carolina Department of Education in School Psychology, Certification No. \_\_\_\_\_\_\_\_\_\_"; For Department of Education school psychologists, level III, the credential line shall read "Licensed School Psychologist, Certified by South Carolina Department of Education in School Psychology, Certification No. \_\_\_\_\_\_\_\_\_\_"; however, to use this credential line a level III school psychologist must be licensed by the South Carolina Board of Examiners in Psychology.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-580. Application of Article 1.**

The provisions of Article 1 pertaining to the administrative responsibilities of licensure and regulatory requirements applicable to professional counselors and marriage and family therapists that are not inconsistent with this article also pertain to the licensure and regulation of licensed psycho-educational specialists.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-590. Code of ethics regulations.**

The board shall promulgate regulations necessary to carry out the provisions of this article including a code of ethics for licensed psycho-educational specialists using as resources the code of ethics of the National Association of School Psychologists and other relevant organizations.

HISTORY: 1998 Act No. 396, § 8.

**SECTION 40-75-600. Payment of benefits and claims against third parties.**

Nothing in this article may be construed to create a right in a psycho-educational specialist to:

(1) have paid to a licensed psycho-educational specialist a benefit under:

(a) a self-funded plan providing benefits to residents of this State;

(b) accident and health insurance provided to residents of this State;

(c) a plan of operation established by a health maintenance organization licensed in this State; or

(2) have a claim against a third party payer, however situated.

HISTORY: 1998 Act No. 396, § 8.

Article 5

Behavioral Telehealth

**SECTION 40-75-800. Out-of-state counselors and related therapists authorized.**

(A) For purposes of this chapter, "behavioral telehealth" means the practice of professional counseling, addiction counseling, marriage and family therapy, and licensed psycho-educational specialty using electronic communications, information technology, or other means between a registrant located outside this State and a client located in this State with or without an intervening practitioner. A behavioral telehealth provider has the duty to practice in a manner consistent with his scope of practice and the prevailing professional standard of practice for a behavioral health care professional who provides in-person professional counseling, addiction counseling, marriage and family therapy, and licensed psycho-educational specialist services to clients in this State.

(B) Individuals who hold an active license to provide professional counseling, addiction counseling, marriage and family therapy, and licensed psycho-educational specialist services in another state or jurisdiction may provide these services using behavioral telehealth to a client located in this State if the individual is registered with the board and provides the services within the applicable scope of practice established by this State.

(C) To be registered, the individual must:

(1) complete an application in the format prescribed by the board;

(2) be licensed with an active, unencumbered license that is issued by another state, the District of Columbia, or a possession or territory of the United States and that is substantially similar to a license issued by South Carolina to a professional counselor, addiction counselor, marriage and family therapist, or licensed psycho-educational specialist;

(3) have not been the subject of disciplinary action relating to his license during the five-year period immediately prior to the submission of the application; and

(4) pay a ten-dollar fee.

(D) The website of a behavioral telehealth registrant must prominently display a hyperlink to the board's website containing information required under subsection (F).

(E) The individual may not register under this subsection if his license to provide professional counseling, addiction counseling, marriage and family therapy, or licensed psycho-educational specialist services is subject to a pending disciplinary investigation or action, or has been revoked in any state or jurisdiction. An individual registered under this section must notify the board of restrictions placed on his license to practice or any disciplinary action taken or pending against him in any state or jurisdiction. The notification must be provided within five business days after the restriction is placed or disciplinary action is initiated or taken.

(F) The board shall publish on its website a list of all registrants and include, to the extent applicable, each registrant's:

(1) name;

(2) address;

(3) out-of-state professional license type with the license number; and

(4) South Carolina behavioral telehealth registration number.

(G) The board may take disciplinary action against an out-of-state registrant registered under this section if the individual:

(1) fails to notify the board of any adverse actions taken against his license as required under subsection (E);

(2) has restrictions placed on or disciplinary action taken against his license in any state or jurisdiction;

(3) violates any of the requirements of this section; or

(4) commits any act that constitutes grounds for disciplinary action under the board's statutes or regulations.

(H) For the purposes of this section, the delivery of behavioral telehealth services by a registrant licensed by another state or jurisdiction to a client residing in this State is deemed to occur in this State, and the registrant consents, as a condition of registration, to the personal and subject matter jurisdiction and disciplinary authority of the board.

(I) Nothing in this section requires or authorizes an individual licensed by this State pursuant to this chapter to obtain a behavioral telehealth registration in order to provide behavioral telehealth services to a client residing in this State.

HISTORY: 2022 Act No. 155 (S.1179), § 3, eff June 12, 2022.

Article 6

Professional Counseling Compact

**SECTION 40-75-910. Purpose.**

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

(B) This compact is designed to achieve the following objectives:

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

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

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

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

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

(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 the states to promote public safety and public health benefits;

(8) invest all 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 of care is rendered through the mutual recognition of member-state licenses;

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

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

HISTORY: 2024 Act No. 189 (S.610), § 2, eff May 21, 2024.

**SECTION 40-75-920. Definitions.**

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

(1) "Active-duty military" means full-time duty status in the active uniformed service of the United States, including 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, equitable, or criminal action permitted 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, or any other encumbrance on licensure affecting a licensed professional counselor's authorization to practice, including issuance of a cease and desist action.

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

(4) "Continuing competence/education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to 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 the opportunity to respond.

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

(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 Practitioners Data Bank (NPDB).

(9) "Encumbrance" means a revocation of, 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 conditions that may impair their ability to practice as a licensed professional counselor without some type of intervention and may include, but are not limited to, alcohol and drug dependence, mental health impairment, and neurological or physical impairments.

(13) "Investigative information" means information, records, and 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 the 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, permitting 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 promulgated by the commission that has the force of law.

(23) "Single-state license" means a licensed professional counselor license issued by a member state that 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 that 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.

HISTORY: 2024 Act No. 189 (S.610), § 2, eff May 21, 2024.

**SECTION 40-75-930. State participation in the compact.**

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

(1) license and regulate licensed professional counselors;

(2) require licensees to pass a nationally recognized exam approved by the commission;

(3) require licensees to have a sixty semester hours (or ninety quarter hours) master's degree in counseling or sixty semester hours (or ninety quarter hours) of graduate coursework including the following topic areas:

(a) professional counseling orientation and ethical practice;

(b) social and cultural diversity;

(c) human growth and development;

(d) career development;

(e) counseling and helping relationships;

(f) group counseling and group work;

(g) diagnosis and treatment, assessment, and testing;

(h) research and program evaluation; and

(i) other areas as determined by the commission;

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

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

(B) A member state shall:

(1) participate fully in the commission's data system, including using the commission's unique identifier as defined in rules;

(2) notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

(3) implement or utilize procedures for considering the criminal history records of applicants for an initial privilege to practice. These procedures shall 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;

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

(b) communication between a member state, the commission and among member states regarding the verification of eligibility for licensure through the compact shall 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;

(4) comply with the rules of the commission;

(5) 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;

(6) 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; and

(7) provide for the attendance of the state's commissioner to the counseling compact commission meetings.

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

(D) Individuals not residing in a member state shall continue to be able 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 shall not be recognized as granting a privilege to practice professional counseling in any other member state.

(E) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

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

HISTORY: 2024 Act No. 189 (S.610), § 2, eff May 21, 2024.

**SECTION 40-75-940. Privilege to practice.**

(A) To exercise the privilege to practice under the terms and provisions of the compact, the licensee shall:

(1) hold a license in the home state;

(2) have a valid United States social security number or national practitioner identifier;

(3) be eligible for a privilege to practice in any member state in accordance with subsections (D), (G), and (H);

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

(5) notify the commission that the licensee is seeking the privilege to practice within a remote state;

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

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

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

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

(B) The privilege to practice is valid until the expiration date of the home-state license. The licensee must comply with the requirements of subsection (A) to maintain the privilege to practice in the remote state.

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

(D) 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 specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. 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.

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

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

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

(F) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection (A) to obtain a privilege to practice in any remote state.

(G) 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 the following occur:

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

(2) all fines have been paid; and

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

(H) Once the requirements of subsection (G) have been met, the licensee must meet the requirements in subsection (A) to obtain a privilege to practice in a remote state.

HISTORY: 2024 Act No. 189 (S.610), § 2, eff May 21, 2024.

**SECTION 40-75-950. Obtaining a new home-state license based on a privilege to practice.**

(A) 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.

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

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

(2) Upon receipt of an application for obtaining a new home-state license by virtue of a privilege to practice, the new home state shall verify that the licensed professional counselor meets the pertinent criteria outlined in Section 40-75-940 via the data system, without need for primary source verification except for:

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

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

(3) 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.

(4) Notwithstanding any other provision of this compact, if the licensed professional counselor cannot meet the criteria in Section 40-75-940, the new home state may apply its requirements for issuing a new single-state license.

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

(C) If a licensed professional counselor changes primary state of residence by moving from a member state to a nonmember state, or from a nonmember state to a member state, the state criteria shall apply for issuance of a single-state license in the new state.

(D) Nothing in this compact shall interfere with a licensee's ability to hold a single-state license in multiple states, however for the purposes of this compact, a licensee shall have only one home state license.

(E) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

HISTORY: 2024 Act No. 189 (S.610), § 2, eff May 21, 2024.

**SECTION 40-75-960. Active duty military personnel or 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 designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change their home state through application for licensure in the new state, or through the process outlined in Section 40-75-950.

HISTORY: 2024 Act No. 189 (S.610), § 2, eff May 21, 2024.

**SECTION 40-75-970. Compact privilege to practice telehealth.**

(A) Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with Section 40-75-930 and under rules promulgated by the commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.

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

HISTORY: 2024 Act No. 189 (S.610), § 2, eff May 21, 2024.

**SECTION 40-75-980. Adverse actions.**

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

(1) take adverse action against a licensed professional counselor's privilege to practice within that member state;

(2) issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as 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 shall 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 are located; and

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

(B) 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. In so doing, the home state shall apply its own state laws to determine appropriate action.

(C) 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 shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any adverse actions.

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

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

(F) Joint investigations:

(1) 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.

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

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

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

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

HISTORY: 2024 Act No. 189 (S.610), § 2, eff May 21, 2024.

**SECTION 40-75-990. Establishment of Counseling Compact Commission.**

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

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

(2) 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 it adopts or consents to participate in alternative dispute resolution proceedings.

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

(B) Membership, voting, and meetings:

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

(2) The delegate shall be either:

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

(b) an administrator of the licensing board.

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

(4) The member-state licensing board shall fill any vacancy occurring on the commission within sixty days.

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

(6) 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.

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

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

(C) The commission shall have the following powers and duties:

(1) establish the fiscal year of the commission;

(2) establish bylaws;

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

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

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

(6) bring 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 shall not be affected;

(7) purchase and maintain insurance and bonds;

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

(9) hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority 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;

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

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

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

(13) establish a budget and make expenditures;

(14) borrow money;

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

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

(17) establish and elect an executive committee; and

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

(D) The executive committee:

(1) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact.

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

(a) seven voting members who are elected by the commission from the current membership of the commission;

(b) up to four ex officio, nonvoting members from four recognized national professional counselor organizations; and

(c) the ex officio members will be selected by their respective organizations.

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

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

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

(a) recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues, and any commission compact fee charged to licensees for the privilege to practice;

(b) ensure compact administration services are appropriately provided, contractual or otherwise;

(c) prepare and recommend the budget;

(d) maintain financial records on behalf of the commission;

(e) monitor compact compliance of member states and provide compliance reports to the commission;

(f) establish additional committees as necessary; and

(g) other duties as provided in the rules or bylaws.

(E) Meetings of the commission:

(1) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 40-75-1010.

(2) 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:

(a) noncompliance of a member state with its obligations under the compact;

(b) 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;

(c) current, threatened, or reasonably anticipated litigation;

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

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

(f) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

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

(h) disclosure of investigative records compiled for law enforcement purposes;

(i) disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

(j) matters specifically exempted from disclosure by federal or member state statute.

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

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

(F) Financing of the commission:

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

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

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

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

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

(G) Qualified immunity, defense, and indemnification:

(1) The members, officers, executive director, employees, and representatives of the commission shall be 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; provided, that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or wilful or wanton misconduct of that person.

(2) 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 within the scope of commission employment, duties, or responsibilities, 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 nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or wilful or wanton misconduct.

(3) 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 within the scope of commission employment, duties, or responsibilities, 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 wilful or wanton misconduct of that person.

HISTORY: 2024 Act No. 189 (S.610), § 2, eff May 21, 2024.

**SECTION 40-75-1000. Data system.**

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

(B) 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 individuals to whom this compact is applicable as required by the rules of the commission, including:

(1) identifying information;

(2) licensure data;

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

(4) nonconfidential information related to alternative program participation;

(5) any denial of application for licensure, and the reason for such denial;

(6) current significant investigative information; and

(7) other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(C) Investigative information pertaining to a licensee in any member state will only be available to other member states.

(D) 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 will be available to any other member state.

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

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

HISTORY: 2024 Act No. 189 (S.610), § 2, eff May 21, 2024.

**SECTION 40-75-1010. Rulemaking.**

(A) The commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purpose of the compact. Notwithstanding the foregoing, in the event 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 shall be invalid and have no force or effect.

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

(C) 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 four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

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

(E) Prior to promulgation and adoption of a final rule or rules by the commission, and at least thirty 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:

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

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

(F) The notice of proposed rulemaking shall include:

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

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

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

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

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

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

(1) at least twenty-five persons;

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

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

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

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

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

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

(4) 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.

(J) 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.

(K) 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.

(L) 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.

(M) 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 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one 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.

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

HISTORY: 2024 Act No. 189 (S.610), § 2, eff May 21, 2024.

**SECTION 40-75-1020. Oversight, dispute resolution, and enforcement.**

(A) Oversight:

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

(2) 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 this compact which may affect the powers, responsibilities, or actions of the commission.

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

(B) Default, technical assistance, and termination:

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

(a) 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/or any other action to be taken by the commission; and

(b) provide remedial training and specific technical assistance regarding the default.

(C) 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 this compact may be 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.

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

(E) A 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.

(F) The commission shall not bear any costs related to a 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 state.

(G) The defaulting 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 member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(H) Dispute resolution:

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

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

(I) Enforcement:

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

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

(3) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

HISTORY: 2024 Act No. 189 (S.610), § 2, eff May 21, 2024.

**SECTION 40-75-1030. Date of implementation of the Counseling Compact Commission and associated rules, withdrawal, and amendment.**

(A) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(B) Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be 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 shall have the full force and effect of law on the day the compact becomes law in that state.

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

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

(2) Withdrawal shall 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 this act prior to the effective date of withdrawal.

(D) Nothing contained in this compact shall be construed to invalidate or prevent any professional counseling licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

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

HISTORY: 2024 Act No. 189 (S.610), § 2, eff May 21, 2024.

**SECTION 40-75-1040. Construction and severability.**

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this 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 this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any member state, the compact shall remain 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.

HISTORY: 2024 Act No. 189 (S.610), § 2, eff May 21, 2024.

**SECTION 40-75-1050. Binding effect of compact and other laws.**

(A) 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.

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

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

(D) Any lawful actions of the commission, including all rules and bylaws properly promulgated by the commission, are binding upon the member states.

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

(F) In the event 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.

HISTORY: 2024 Act No. 189 (S.610), § 2, eff May 21, 2024.