



**The Council  
of State  
Governments**

# COUNSELING COMPACT

LEGISLATIVE SUMMIT 2021

PRESENTED BY THE CSG NATIONAL CENTER FOR INTERSTATE COMPACTS  
IN CONJUNCTION WITH THE AMERICAN COUNSELING ASSOCIATION

# Housekeeping

- Please keep your microphone muted at all times unless speaking.
- Questions will be taken throughout, at the discretion of each panelist.
- There will be a longer, open Q&A at the end of the session.
- This session is being recorded.

# Agenda

- Compacts 101
- Counseling Compact Deep Dive
- Stakeholder Perspectives – Regulators, Practitioners, Military Spouses
- Enacting the Counseling Compact in Georgia and Maryland

# What is an Interstate Compact?

Andrew Bates

CSG National Center for Interstate Compacts

# What is an Interstate Compact?

- Simple, versatile and proven tool
- Binding contract between states
- Effective means of cooperatively addressing common problems
- Allows states to respond to national priorities with one voice
- Retains collective state sovereignty over issues belonging to the states

# Three Primary Uses

1. Used to resolve boundary disputes.
2. Used to manage shared natural resources.
3. Used to create administrative agencies which have jurisdiction over a wide variety of state concerns:
  - » State transportation
  - » Taxation
  - » Environmental matters
  - » Regulation
  - » Education
  - » Corrections
  - » Public safety
  - » **Occupational Licensure**

# Constitutional Authorization/Congressional Consent

Compacts between states are authorized under Art. I, Sec. 10, Clause 3 of the U.S. Constitution:

No State shall, without the Consent of Congress . . . enter into any Agreement or Compact with another State . . .”

The Supreme Court holds, in effect, that “any” does not mean “all,” and consent is not required unless the compact infringes on federal supremacy.

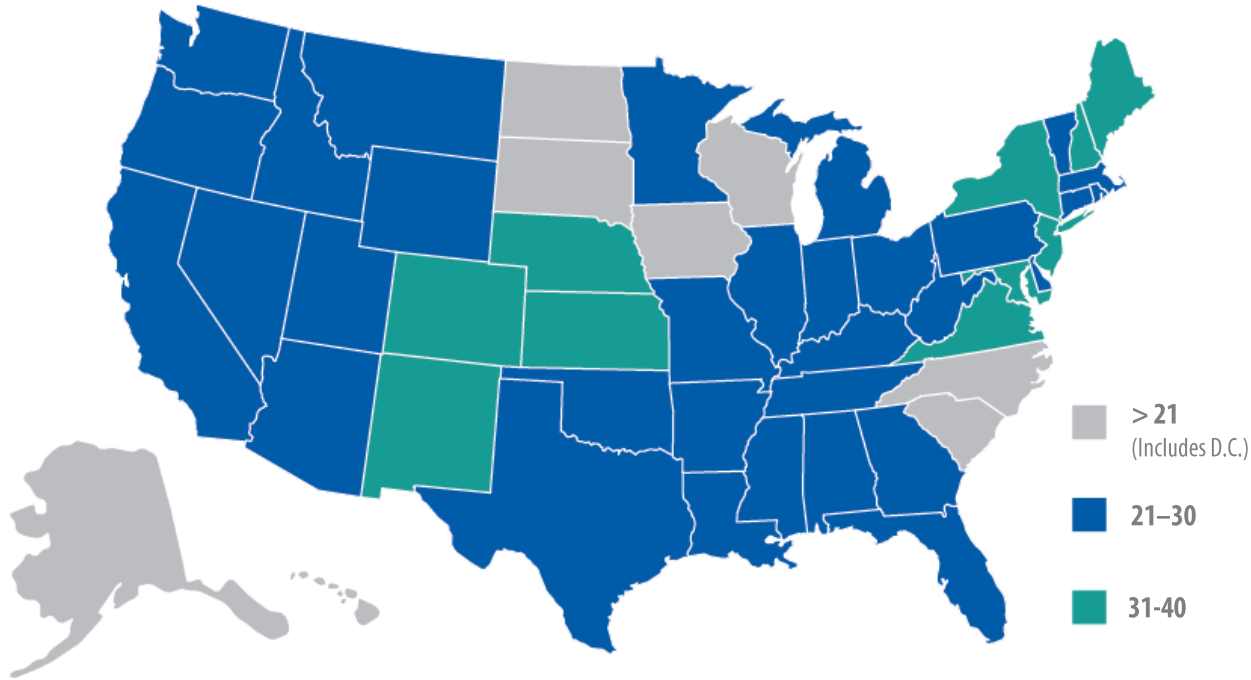
[See U.S. Steel Corp. v. Multi-State Tax Commission, 434 U.S. 452 (1978)]

# Compacts Today

- Approximately 215 active compacts
- Precedent for international participation
- On average, states are members of about 25 compacts
- Port Authority of NY & NJ (1922) signaled a new era in regulatory compacts



# State Compact Membership



# What drives interest in occupational licensure compacts?

- Threat of a federally mandated solution / distrust of federal government
- Advances in technology (telehealth)
- Increasingly mobile world
- Proven track record – powerful but accountable

# Benefits of the Interstate Compact

# Interstate Compacts – Key Benefits

1. Effectiveness and efficiency
  - Economies of scale
2. Flexibility and autonomy compared to national policy
  - “One size does not fit all”
3. Dispute resolution among the states
4. State and federal partnership
5. Cooperative behaviors leading to “win-win” situations

# Benefits of Occupational Licensure Compacts

1. Agreement on Uniform Licensure Requirements
2. Data System allowing rapid, electronic processing of interstate licensure
3. Disciplinary issues related to interstate licensure
4. FBI Fingerprint-Based Criminal Background Checks
5. Compact governance issues:
  - Legal status of interstate compact commission
  - Rulemaking and other authority

# Why Healthcare License Reciprocity?

- Mobile society (patients and practitioners)
- Technological advancements
- Deficit/availability of healthcare practitioners
- Practical advancement for current and future generations of practitioners
- Increase public access to healthcare services
- Support spouses of relocating military servicemembers

# Notable healthcare licensure compacts

- **Nurse Licensure Compact** – 37 states & Guam (25 to activate)
- **EMS Compact** – 22 states (10)
- **Interstate Medical Licensure Compact** – 33 states, DC & Guam (7)
- **Physical Therapy Licensure Compact** – 33 states & DC (10)
- **Psychology Interjurisdictional Compact** (PsyPact) – 25 states & DC (7)
- **Audiology & Speech-Language Pathology Compact** – 14 states (10)
- **APRN Compact** – 1 state (7)
- **Occupational Therapy Licensure Compact** – 8 states (10)
- **Counseling Compact** – 2 states (10)

# Compacts Under Development

- Physician Associates
- Dentistry & Dental Hygiene\*
- Massage Therapy\*
- K-12 Education\*
- Social Work\*
- Cosmetology & Barbering\*

\*under Cooperative Agreement with Department of Defense



# State Participation in Licensure Compacts

- Since January 2016 – 180 separate pieces of legislation enacted
- 43 states, DC and Guam have joined at least one licensure compact
- 33 states and DC have joined at least 3 licensure compacts
- 10 states have joined at least 6 licensure compacts
  - AL, CO, GA, MD, NC, OH, KS, NE, UT, WV

# Developing an Interstate Compact

# Licensure Compact Development Process

- Transparent process
- Convene wide range of stakeholders
  - Legislators, regulators, members of profession, industry groups, legal experts
- Solicit public comment & make amendments
- Difficult to revise once enacted → “get it right the first time”

Phase I Development	Phase II Education and Enactment	Phase III Transition and Operation
<p><b>ADVISORY GROUP</b></p> <ul style="list-style-type: none"> <li>➤ Composed of approx. 20 state officials, stakeholders and issue experts</li> <li>➤ Examines issues, current policy, best practices and alternative structures</li> <li>➤ Establishes recommendations as to the content of an interstate compact</li> </ul> <p><b>DRAFTING TEAM</b></p> <ul style="list-style-type: none"> <li>➤ Composed of 5 to 8 state officials, stakeholders, and issue experts</li> <li>➤ Crafts compact based on recommendations</li> <li>➤ Circulates draft compact to states and stakeholder groups for comment</li> </ul> <p><b>FINAL PRODUCT</b></p> <ul style="list-style-type: none"> <li>➤ Drafting team considers comments and incorporates into compact</li> <li>➤ Final product sent to advisory group</li> <li>➤ Released to states for consideration</li> </ul>	<p><b>EDUCATION</b></p> <ul style="list-style-type: none"> <li>➤ Develop comprehensive legislative resource kit</li> <li>➤ Develop informational website with state-by-state tracking and support documents</li> <li>➤ Convene “National Briefing” to educate legislators and key state officials</li> </ul> <p><b>STATE SUPPORT</b></p> <ul style="list-style-type: none"> <li>➤ Develop network of “champions”</li> <li>➤ Provide on-site technical support and assistance</li> <li>➤ Provide informational testimony to legislative committees</li> </ul> <p><b>STATE ENACTMENTS</b></p> <ul style="list-style-type: none"> <li>➤ Track and support state enactments</li> <li>➤ Prepare for transition and implementation of compact</li> <li>➤ Provide requested support as needed</li> </ul>	<p><b>TRANSITION</b></p> <ul style="list-style-type: none"> <li>➤ Enactment threshold met</li> <li>➤ State notification</li> <li>➤ Interim Executive Board appointed</li> <li>➤ Interim Committee’s established</li> <li>➤ Convene first Compact meeting</li> <li>➤ Information system development (standards, security, vendors)</li> </ul> <p><b>OPERATION</b></p> <ul style="list-style-type: none"> <li>➤ Ongoing state control and governance</li> <li>➤ Staff support</li> <li>➤ Annual assessment, if necessary</li> <li>➤ Annual business meeting</li> <li>➤ Information system oversight (maintenance, security, training, etc.)</li> <li>➤ Long-term enhancements / up-grades</li> </ul>

# Interstate Compact Governance

# Compact Commission

- Forms when the threshold of jurisdictions pass compact legislation
- Quasi-governmental entity (authority to issue binding rules)
- Instrumentality of the member states
- Supra-state, sub-federal nature
- Composed of member state officials (NOT a private entity)

# Compact Commission, cont.

- A commission is comprised of voting representatives from each member state and is responsible for key decisions with respect to the compact.
- The commission can form committees, including an executive committee that is responsible for making day-to-day decisions.
- Commissions are frequently granted the authority to hire staff, which is responsible for implementing the policies and procedures established by the commission
- Commissions serve agencies of the member states and are tasked with acting on their behalf and not on the behalf of any particular groups or organizations.

# Healthcare Licensure Compacts: Common Misconceptions



## *Myth 1:*

“Interstate compacts are a takeover  
of state licensing authority”

## *Myth 2:*

“Interstate compacts are owned or controlled by an outside organization”

*Myth 3:*  
“Commission rules and bylaws  
thwart state sovereignty”

# Contact Information

Counseling Compact website  
[counselingcompact.org](https://counselingcompact.org)

CSG National Center for Interstate Compacts  
[licensing.csg.org/compacts](https://licensing.csg.org/compacts)

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# Counseling Compact Deep Dive

Nahale Freeland Kalfas

Legal Counsel, National Center for Interstate Compacts

General Counsel, N.C. Board of Examiners for Speech-Language Pathologists and Audiologists

# Development of the Counseling Compact

- October 3-4, 2019: Advisory Group convenes to create list of recommendations for Drafting Team
- March 9-11, 2020: Drafting Team convenes to create first draft
- March-August 2020: Drafting Team/Advisory Group make adjustments to first draft
- August-September 2020: Stakeholder review of draft Compact – at least a dozen public comment sessions; several individual meetings with stakeholders
- October 2020: Drafting team reconvenes to review stakeholder feedback make additional adjustments to draft Compact
- November 2020: Advisory Group approves final draft for enactment by states

# What is the Counseling Compact?

The Counseling Compact is an ***occupational licensure interstate compact*** that:

- Allows licensed professional counselors to practice in person or via telehealth across state lines without having to complete a traditional application process for licensure.
- Licensees receive a ***privilege to practice*** which is equivalent to a license.
- Increases access to professional counseling services for populations currently underserved or geographically isolated.
- Increases continuity of care for clients who relocate or travel.

# How does the Counseling Compact work?

The Counseling Compact becomes operational once enacted by **10 states**.

- It is **similar in form and function to existing compacts** for nurses, psychologists, physical therapists, and EMS personnel.
- Compact states communicate and exchange information including license verification and disciplinary sanctions, promoting interstate cooperation and strengthening public protection.
- States retain the ability to regulate practice (*counselors must adhere to the **scope of practice** of the state in which they are practicing*).
- Rules of the Counseling Compact are only applicable to states that enact the compact.
- A state can withdraw from the Counseling Compact by repealing its enacting statute.



# How can my state join the Compact?

All states must meet the same requirements for licensure, regardless of the term/title used for the profession:

- Utilize a nationally recognized licensure exam
- Currently require a 60 semester-hour (90 quarter-hour) master's degree in counseling or equivalent graduate coursework in:
  - Professional Counseling Orientation and Practice
  - Social and Cultural Diversity
  - Human Growth and Development
  - Career Development
  - Counseling and Helping Relationships
  - Group Counseling and Group Work
  - Diagnosis and Treatment; Assessment and Testing
  - Research and Program Evaluation
  - Other areas as determined by the Commission
- Require licensees to complete a supervised postgraduate professional experience
- Use the results of state and federal (FBI) criminal record searches in making licensure decisions.

# How does a Privilege to Practice work?

- Counselors ***must be licensed in their home state*** (primary state of residence) in order to practice in another state (“remote state”) through the Compact.
  - Applicants must have not had any encumbrance or restriction against any license or privilege to practice in the previous two years, have a valid SSN or NPI, pay all fees, and meet any jurisprudence requirements of the remote state.
- A privilege to practice is equivalent to a license to practice counseling in the remote state.
- The privilege to practice renews at the same time as the home state license, and continuing education is tied to the home state license and is satisfied by home-state compliance.
- Active-duty servicemembers or their spouses may designate one state to serve as the individual’s home state for the duration of the servicemember’s active duty.

# How are Adverse Actions handled?

- Counseling Compact member states are required to communicate and exchange information including licensure verification and disciplinary sanctions.
- The home state may take adverse action against a license.
  - If the home state takes adverse action against a home-state license, the licensee **loses** the privilege to practice in **all** member states.
- A remote state may take adverse action against a counselor's privilege to practice.
  - If a remote state takes adverse action against a privilege to practice, the licensee **may lose** the privilege to practice in **any** member state.
- Only the home state may take adverse action against a home-state license.
- Member states are obligated to share investigative information in furtherance of investigations of practitioners in other member states.

# How is the Compact administered?

- The Counseling Compact Commission is created once the 10<sup>th</sup> state enacts the Compact legislation.
- The Commission is the governing body of the compact.
  - Responsible for oversight and creation of rules and bylaws to implement the Compact.
  - Consists of one Commissioner from each state, who is a member or administrator of the state's licensing board or agency responsible for licensing and regulation of LPCs
  - Each Commissioner receives one (1) vote in Commission affairs.
  - Executive Committee: seven state Commissioners, with nonvoting seats for up to four recognized national organizations.

# Counseling Compact: Summary of Key Provisions

# Section 1: Purpose

- The purpose of this Compact is to facilitate interstate practice of licensed professional counseling with the goal of improving public access to professional counseling services. The Compact preserves the regulatory authority of states to protect public health/safety through the current system of state licensure.
- The Compact is designed to:
  - Provide for the mutual recognition of other member state licenses.
  - Enhance states' abilities to protect the public's health and safety.
  - Encourage the cooperation of member states in regulating multistate practice for licensed professional counselors.
  - Support active-duty military personnel and their spouses.
  - Enhance the exchange of licensure, investigative, and disciplinary information among member states.
  - Allow for the use of telehealth technology to increase access to counseling services.
  - Support the uniformity of professional counseling licensure requirements throughout the states.
  - Eliminate the necessity for licenses in multiple states.
  - Facilitate interstate practice by licensed professional counselors who meet uniform requirements.

# Section 2: Definitions

Key terms are defined to alleviate confusion. Defined terms are capitalized throughout the document.

“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.

# Section 3: State Participation in the Compact

A member state must:

- License and regulate licensed professional counselors.
- Require licensees to pass a nationally recognized exam.
- Require licensees to have a 60-hour master's degree in counseling or 60 hours of graduate coursework in relevant areas.
- Require licensees to complete a supervised postgraduate professional experience.
- Have a mechanism in place for receiving and investigating complaints about licensees.
- Participate fully in the compact commission's licensure data system.
- Notify the commission of any adverse action against or current significant investigative information regarding a licensee.
- Conduct criminal background checks of candidates for an initial privilege to practice.
- Comply with the rules of the commission, the governing body of the compact.
- Grant the privilege to practice professional counseling to a licensee holding a valid, unencumbered license in another member state.
- Provide for the state's commissioner to attend the meetings of the commission.



# Section 4: Privilege to Practice

To exercise the privilege to practice professional counseling in a remote state, a licensee must:

- Hold a license in their home state, which must be a member of the compact.
- Have had no encumbrance or restriction against on any license or privilege to practice within the previous two years.
- Meet any jurisprudence requirements of the remote state and pay all applicable fees.
- Report to the commission any adverse action, encumbrance, or restriction imposed on the licensee by a non-member state within 30 days from the date of the action.

# Section 4: Privilege to Practice, cont.

- A privilege to practice is valid until the expiration date of the practitioner's home state license.
- If a licensee's home state license is revoked, the licensee loses the privilege to practice in all member states for the next two years.
- If a licensee's privilege to practice is revoked by a member state, the licensee may lose the privilege to practice in other member states for the next two years.

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

- This section creates an alternative pathway to licensure for privilege holders who change their primary state of residence between compact member states.
- A licensee who moves from one member state to another member state may obtain a new, expedited home state license in the new state of residence if they hold a privilege to practice in the new state.
- The licensee will be required to complete a new FBI fingerprint based criminal background check, any required state-level background check, and any jurisprudence requirements of the new home state.
- A licensee may hold more than one single-state license concurrently, but only the license from the individual's primary state of residence may serve as the individual's "home state license" for the purposes of the Compact.

# Section 6: Active-Duty Military or their Spouses

This section allows an active duty servicemember, or their spouse, to designate a home state where the individual has a current license in good standing. This state then serves as the individual's home state *for the duration of the servicemember's active duty*.

# Section 7: Compact Privilege to Practice Telehealth

This section establishes that privilege to practice under the compact shall include provision of telehealth services to patients in remote states.

Licensees providing telehealth services in a remote state must adhere to the laws and regulations, including scope of practice, of the remote state.

# Section 8: Adverse Actions

- This section clarifies that only a practitioner's home state may take adverse action against a home state license.
- However, remote states may take adverse action against a counselor's privilege to practice and may issue enforceable subpoenas for witnesses and evidence from other member states.
- Home states must take reported adverse action from any member state into account, in accordance with the home state's laws.

# Section 8: Adverse Actions, cont.

- Member states may initiate joint investigations of licensees and are required to share investigative materials in furtherance of any joint or single-state investigation of a licensee.
- Member states must report any adverse action to the compact data system, which then promptly alerts the home state of this adverse action. Any member state may take adverse action based on the factual findings of a remote state.
- If a licensee changes their home state during an active investigation by their former home state, the former home state completes the investigation, takes appropriate action under its laws, and then reports its findings to the compact commission's data system.
- Member states retain the right to require a licensee to participate in an alternative program for mental health-related concerns in lieu of adverse action.

# Section 9: Establishment of the Counseling Compact Commission

This section outlines the composition and powers of the compact commission and executive committee. The compact is not a waiver of sovereign immunity.

- Each member state is entitled to exactly one delegate selected by that state's licensing board from among the board's members and/or employees.
- Each delegate has one (1) vote on commission affairs.
- The commission is directed to establish a term of office for delegates and may establish term limits.
- The commission may establish and maintain a code of ethics, bylaws, rules, a budget and financial records in order to carry out the compact.
- The commission shall elect an executive committee composed of up to eleven members: seven members of the commission and up to four ex-officio, nonvoting members from four recognized national professional counselor organizations.
- All commission meetings shall be open to the public unless confidential or privileged information must be discussed.
- Commission members and employees are immune from liability related to their positions except in cases of wanton misconduct.



# Section 10: Data System

This section requires the sharing of licensure information by all compact states.

- A member state submits a uniform dataset to the data system on all counselors to whom this compact is applicable as required by the rules of the commission. This database will allow for the expedited sharing of adverse action or significant investigative information against professional counselors utilizing the compact.
- Adverse action information pertaining to a licensee in any member state will be available to any other member state, except that any submitted information that later must be expunged from the submitting state's records will also be removed from the data system.
- Member states may designate information submitted to the data system that may not be shared with the public without the express permission of the state in question.
- Investigative information about a licensee in a member state shall not be available to non-member states.

# Section 11: Rulemaking

- Rules carry the force of law in all member states.
- A simple majority of member state legislatures may veto a rule of the commission.
- Changes to the rules require a 30-day notice of proposed rulemaking, with an opportunity for a public hearing if one is requested by 25 people or by a government agency.
- If the commission issues a rule that exceeds its authority under the compact, such a rule shall be void and have no force or effect.

# Section 12: Oversight, Dispute Resolution and Enforcement

Ensures compliance with the compact by member states. The procedures to be followed in the event of a failure by a member state to comply with the compact include:

- A period of technical assistance in remedying the situation
- Dispute resolution processes; and
- Termination from the compact in the event no other means of compliance has been successful.

The commission shall attempt to resolve any compact-related disputes that may arise between states.

## Section 13: Date of Implementation, Withdrawal, and Amendment

- The compact takes effect on the date of enactment by the tenth state.
- States that join after this date are subject to the rules of the commission as they exist on the date when the compact becomes law in that state.
- Member states may enact a law to repeal their membership in the compact. A state's withdrawal takes effect 6 months after enactment of such a law.
- The member states may amend the compact, but changes do not take effect until enacted into the laws of all member states.

# Section 14: Construction and Severability

- The compact is to be liberally construed so as to effectuate its purposes.
- The compact's provisions are severable, meaning that:
  - If a provision of the compact is declared to conflict with the United States Constitution, all other provisions remain valid for all member states, and
  - If a provision is held contrary to a member state's constitution, the compact retains its full force in all other states, and all other provisions remain valid in the affected state.

# Section 15: Binding Effect of Compact and Other Laws

- Reiterates that licensees must adhere to the laws and regulations, including scope of practice, of the state in which they are practicing.
- Reiterates that all rules and bylaws of the commission are binding on member states.
- According to legal precedent, in the event of a conflict between a law of a member state and the compact, the state law is superseded to the extent of the conflict.

# Questions?

Raise your hand or use the chat!

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# Enacting the Counseling Compact in Georgia

Dr. Asha Dickerson

Chair

American Counseling Association of Georgia





- American Counseling Association of Georgia (ACA-GA) VS Licensed Professional Counselor Association of Georgia (LPCAGA)
- Representative Dave Belton (Sponsor) – House Bill 395
- March 9: Testimony delays because of discussion about internal issues with requirements for internships.
- March 10: Testifying at the Georgia Senate Hearing
- Voted Favorably by Georgia Occupational Regulatory Review Council (GORRC)
- Passed through Senate
- Reviewed by Governor's Office
- Bill Signing...Coincided with “voter suppression” signing and was deemed unimportant
- Bills not actively vetoed go into effect. It was signed behind closed doors, though.

# Multi-State Practitioner's Perspective

Dr. John P. Duggan

LPC & Substance Abuse Treatment Practitioner

Sr. Manager, Continuing & Professional Education

American Counseling Association

# Military Spouse Perspective

Dr. Elizabeth Burgin  
Counselor, Professor & Military Spouse  
The College of William & Mary

# Interstate Barriers to Mobility

Differing requirements:

- Graduate courses
- Supervised clinical experience requirements
- Post-licensure experience

# Military Spouse Employability

- 22% unemployment
- 26% wage gap
- 34% hold professional licenses
- 1 in 5 waited 10+ months for a transfer of license
- Relocation on average ever 2-3yrs
  - 10x more often than civilian counterparts

# Mental Healthcare Accessibility

- 41% of post 9/11 Veterans have mental health needs
  - 55% do not access mental health services
  - 50% of those who access care do not complete treatment
- Mental health needs among military spouses and children exceed rates of access

# Alignment of Counseling and Military Values



# Regulator's Perspective

Dr. Kevin Doyle

President

American Association of State Counseling Boards



# Enacting the Counseling Compact in Maryland

Jake Whitaker  
Deputy Legislative Officer  
Office of Governor Larry Hogan  
State of Maryland

# QUESTIONS?

Raise your hand or put it in the chat!