



# **Counseling Compact Legislative Summit**

September 22, 2022

The Council of State Governments  
American Counseling Association

# Housekeeping Items

- Mute unless called upon after raising hand
- Reserve questions for the Q&A portions of the presentation
- Session will be recorded

# The Council of State Governments

- Nonpartisan membership organization
- Composed of all 50 states, Washington D.C. and the five U.S. territories
- Serves the three branches of state governments

# National Center for Interstate Compacts

- Serves as a technical assistance center in The Council of State Governments.
- Provides compact education, development and administration services.
- Works with:
  - Professional membership organizations.
  - Department of Defense.
  - Legislators.
  - Regulators.
  - Administrators

# Post-Summit Assistance from CSG

- Non-partisan legislative testimony
- Legislation Review
- Counseling Compact Resources
  - Policy Toolkit Available at <https://counselingcompact.org/tool-kit/>

# Agenda

- Introduction to the Counseling Compact
- Compact Perspectives
- Q&A



# American Counseling Association

Dr. Lynn Linde



# Compacts 101



# What is an Interstate Compact?



Legislatively enacted agreement among states



Cooperatively addresses shared problems



Versatile and proven policy tool



Applicable across policy areas, including occupational licensure

# Why Occupational Licensure Reciprocity?

- Mobile society (clients and practitioners)
- Technological advancements (telehealth)
- Access to care
- Provisions for family of military service members

# Compact Benefits for Licensing Boards and Agencies



States retain control of scope of practice.



States retain control of initial licensure process.



Compacts facilitate the exchange of licensure and disciplinary information.



Compacts improve cooperation in regulating the profession.

# Benefits for Practitioners



Authorizes practice in other member states



Improves licensure portability



Reduces effort needed to maintain individual state licenses



Takes advantage of new telehealth opportunities

# Benefits for Consumers



Increases access to health care services, including through telehealth



Improves continuity of care



Promotes practitioner diversity



Increases access to specialists

# State Participation in Occupational Licensure Compacts

- 230+ pieces of OL compact legislation since January 2016
- 43 states, DC & Guam → 1+ licensure compact(s)
- 35 states & DC → 3+ licensure compacts
- 15 states have enacted at least 6 licensure compacts

## Operationalized Licensure Compacts

- Emergency Medical Services Personnel
- Nurses
- Psychologists
- Physical Therapists
- Physicians

# **Compacts Available to States**

- Advanced Practice Registered Nurses
- Audiology and Speech-Language Pathology
- Counseling
- Occupational Therapy



## **Compacts Under Development**

- Cosmetology
- Dentistry and Dental Hygiene
- Dietitian Nutritionists
- Massage Therapy
- Physicians  
Assistants/Associates
- School Psychology
- Social Work
- Teaching

# Occupational Licensing Interstate Compact Membership

Nurse Licensure  
Compact – 39

Medical Licensure  
Compact – 39

Psychology  
Interjurisdictional  
Compact – 34

Physical Therapy  
Compact – 34

Audiology and  
Speech Language  
Pathology Compact –  
23

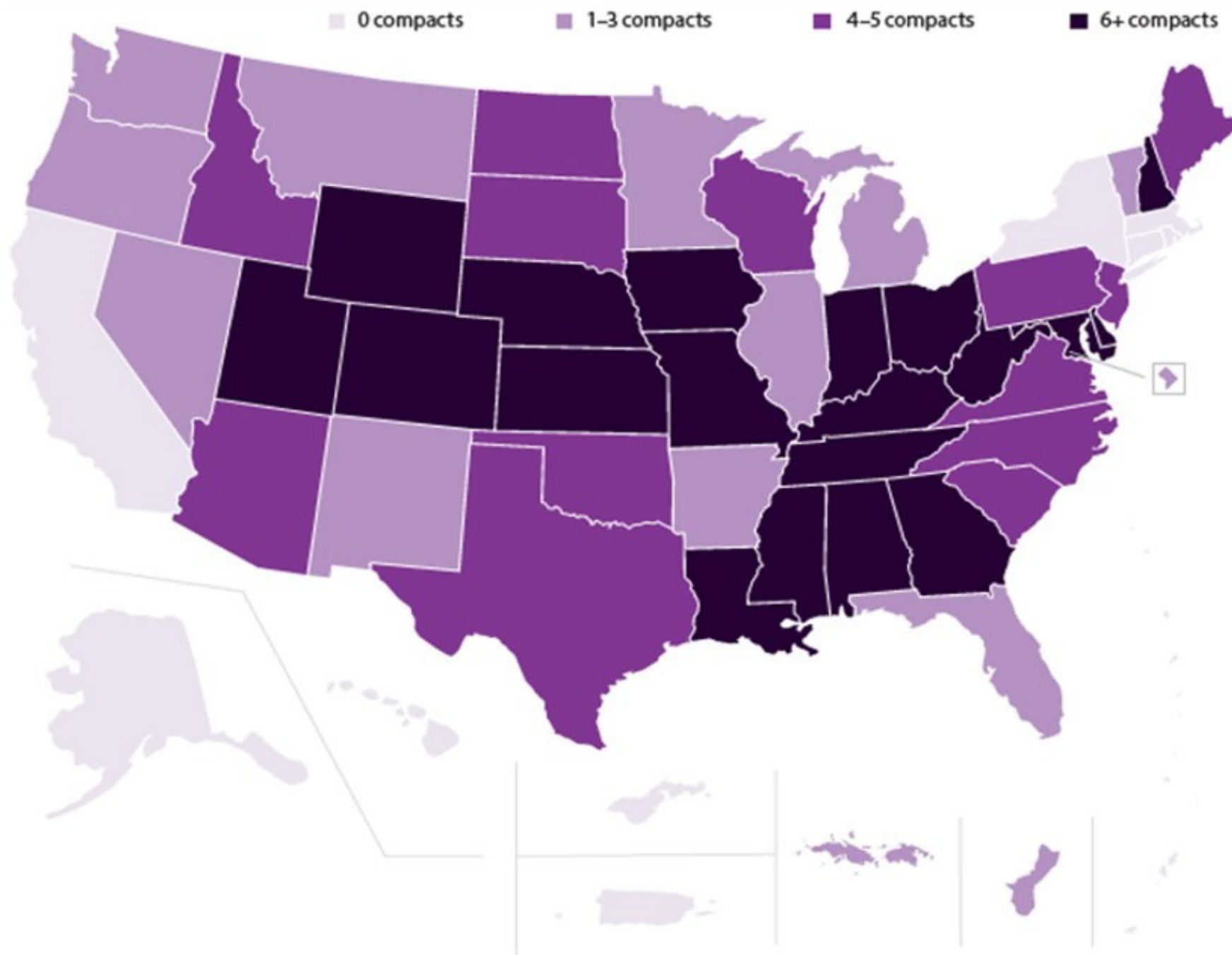
Occupational Therapy  
Compact – 22

EMS Compact – 22

Counseling Compact  
– 17

Advanced Practice  
Nursing Compact – 3

# Interstate Licensure Compacts





# Counseling Compact Overview

# What is the Counseling Compact?

- Addresses heightened demand for counseling services
- Facilitates interstate practice via a “**privilege**”
- Similar to other occupational licensure compacts
  - PT, OT, ASLP-IC
- As of September 2022, has 17 member-states

# State Requirements

- License LPCs
- National exam
- Supervised postgraduate professional experience
- 60 semester-hour master's degree
- Investigate complaints

# Practitioner Requirements

- Home state as compact member
- SSN/NPI
- No adverse actions against license within two years
- FBI background check
- Adhere to scope of practice
- Home State continuing education
- Privilege to practice
  - Privilege to practice considered equivalent to a license
  - Home state license “mutually recognized” by other member states

# State Licensing Boards

- Retain control of scope of practice
- Retain control of initial licensure process
- Access centralized compact data system
- Appoint Counseling Compact Commissioner

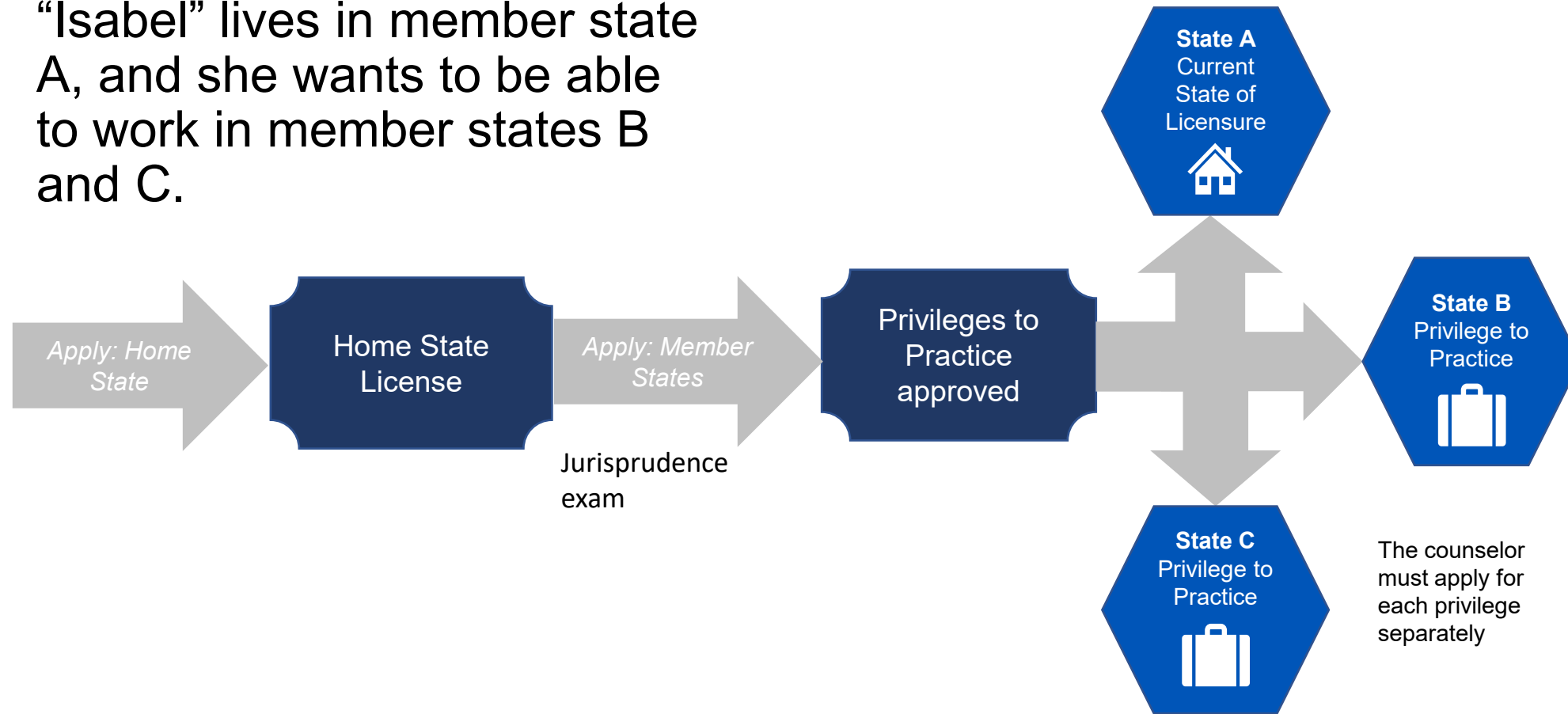


# Counseling Compact Administration

- Interstate Commission implements and administers
- Licensure data system
  - Member state licensure boards communicate and exchange information (licensure verification, disciplinary actions)

# Privilege to Practice: Visual

“Isabel” lives in member state A, and she wants to be able to work in member states B and C.

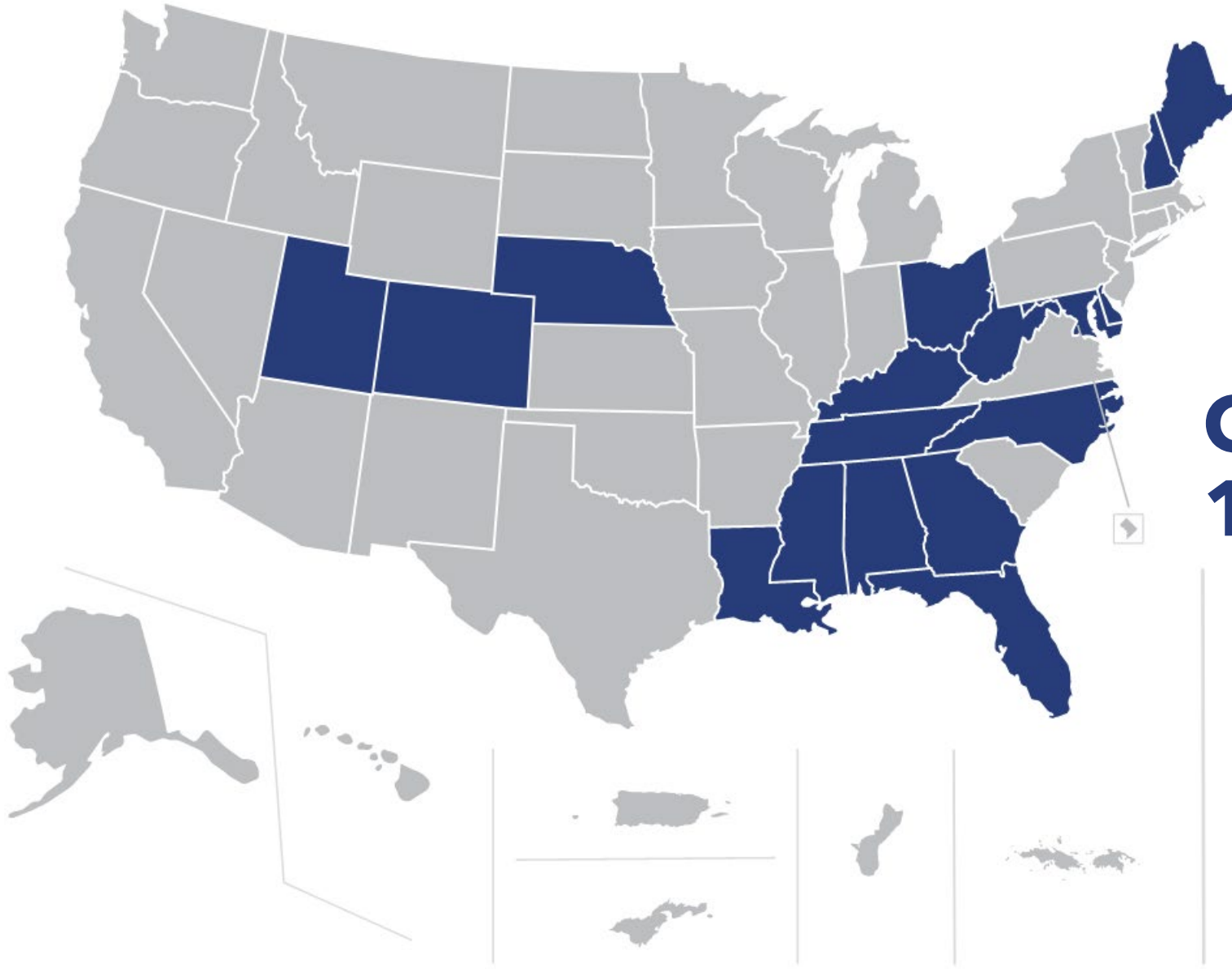


# Counseling Compact Public Protection Provisions

- Monitor practitioners through home state license
  - Home state must be compact member
  - Social Security Number and/or NPI
- Counselors undergo FBI background check
- Counselors must have unrestricted license for past two years
- Report adverse actions from non-member states to Commission
  - 30-day window

# Additional Benefits

- Active-duty military personnel or their spouse
  - Select state with current license in good standing
  - Designate as home state for the duration of the service member's active duty



# Counseling Compact: 17 Current Members



# Counseling Compact Timeline

- Oct. 2019 | **Advisory Group creates recommendations for Drafting Team**
- March 2020 | **Drafting Team convenes to create first draft**
- March-Aug. 2020 | **Drafting Team/Advisory Group make adjustments**
- August-Sept. 2020 | **Stakeholder Review of Draft Compact**
- Oct. 2020 | **Drafting Team reviews and incorporates stakeholder feedback**
- Dec. 2020 | **Advisory Group approves draft for enactment by states**

# Counseling Compact Timeline

- Dec. 2020 | **Compact available for state adoption**
- March 2020 | **GA becomes the first state to adopt Counseling Compact**
- April 2022 | **Compact is activated - NE becomes the tenth adopting state**
- Oct. 2022 | **Counseling Compact Commission Inaugural Meeting**

# Counseling Compact Activation

- Compact Commission being stood up
- Convene October 2022
  - Draft rules and bylaws
  - Start creating data system
- Visit compact website for updates
  - Commission tab
  - <https://counselingcompact.org/>
- Expected to begin issuing privileges in 12-14 months



# Counseling Compact: The Bottom Line

- ✓ Increases access to counseling services
- ✓ Expands market opportunities
- ✓ Supports military families
- ✓ Facilitates telehealth
- ✓ Counselor credentials transportable between states
- ✓ Promotes cooperation among Compact member states
- ✓ Provides consumer protection across state lines



# **Section-by-Section Review**

# Section 1: Purpose

- Facilitate interstate practice of licensed professional counseling
- Improve public access to professional counseling services
- Preserve regulatory authority of states

# Section 2: Definitions

- **Establishes key terms used throughout the compact**
- Licensed Professional Counselor
  - "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

- **Establishes the duties of the compact's member states**
- 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.

# Section 3: State Participation in the Compact

- A member-state must (continued):
  - 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.
  - 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

- **Establishes the requirements for a licensee to exercise the privilege to practice 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 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.



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

- If a practitioner moves from a non-member state to a member state, or from a member state to a non-member state, the practitioner must apply for a single-state license in the new state, under the new state's licensure requirements.
- Nothing in the compact affects a member state's requirements for issuance of a single-state license.

# Section 6: Active-Duty Military Personnel 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.**
- 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

- 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.
- 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 Compact Commission

**This section outlines the composition and powers of the compact commission.**

- Each state's board selects a delegate.
- Each delegate has one vote on commission affairs.
- The commission is directed to establish a term of office for delegates and may establish term limits.

# Section 9: Establishment of the Compact Commission

- 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:
  - Seven commissioners
  - Up to four nonvoting representatives from national professional counselor organizations.

# Section 10: Data System

- States required to share licensure information
- Commission will set up a database
  - 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 subsequently must be expunged from the submitting state's records will also be removed from the data system.



# Section 10: 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 pertaining to a licensee in a member state shall not be available to non-member states.

# Section 11: Rulemaking

- Rules limited in scope to compact administration and business.
- 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.
- In the event of a failure by a member state to comply with the compact, a state can expect the following:
  - A period of technical assistance
  - Dispute resolution processes
  - 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, & 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.



# Questions?

Raise your hand, put it in the chat, or email  
[counselingcompact@csg.org](mailto:counselingcompact@csg.org).