

1 **Counseling Compact**

2 **Counseling Compact Commission**

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4 **Title of Rule:** Rule on Rulemaking

5 **History of Rule:** Drafted September 23, 2022

6 Adopted at public meeting on October 25, 2022

7 **Reason for Rule:** To further outline and clarify the rule promulgation process of the

8 Counseling Compact Commission.

9 **Effective Date:** November 25, 2022

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12 **Chapter 1:** Rulemaking

13 **Authority:** Section 13: Date of Implementation of the Interstate Commission for

14 Counseling Practice and Associated Rules, Withdrawal, and Amendment

15 Section 9: Establishment of the Counseling Compact Commission

16 Section 11: Rulemaking

17 **1.0 Purpose:** Pursuant to Section 11, the Counseling Compact Commission shall

18 promulgate reasonable and lawful uniform rules to facilitate and

19 coordinate implementation and administration of the Counseling Compact.

20 This Rule will become effective upon passage by the Counseling Compact

21 Commission as provided in Section 11 of the Counseling Compact.

22 **1.1 Definition(s):** (a) “**Commission**” means: the Counseling Compact Commission, which

23 is the national administrative body whose membership consists of all

24 states that have enacted the Compact.

25 (b) “**Compact**” means: Counseling Compact.

26 (c) “**Delegate**” means: the appointed delegate from each state as described

27 in Section 9 of the Compact and further rules promulgated by the

28 Commission pursuant to the criteria set forth in Section 11.

29 (d) “**Member state**” means a state, the District of Columbia, or United

30 States territory that has enacted this Compact legislation and which has

31 not withdrawn pursuant to Section 13 or has not been discharged pursuant

32 to Section 12 due to non-compliance with the provisions of Section 3.

33 (d) **“Rule”** means: a regulation, principle or directive promulgated by the
34 Commission pursuant to the criteria set forth in Section 11 that has the
35 force and effect of statutory law in a Member state and includes the
36 amendment, repeal, or suspension of an existing Rule.

37 (e) **“Rules Committee”** means: a committee that is established as a
38 standing committee to develop reasonable and lawful uniform rules for
39 consideration by the Commission and subsequent implementation by the
40 states and to review existing rules and recommend necessary changes to
41 the Commission for consideration.

42 (f) **“Scope of Practice”** means: the procedures, actions, and processes a
43 Licensed Professional Counselor is permitted to undertake in that state and
44 the circumstances under which the Licensed Professional Counselor is
45 permitted to undertake those procedures, actions and processes. Such
46 procedures, actions and processes and the circumstances under which they
47 may be undertaken may be established through official means, including,
48 but not limited to, statute, rules and regulations, case law, and other
49 processes available to the State Regulatory Authority or other government
50 agency.
51

52 (g) **“State”** means: any state, commonwealth, district, or territory of the
53 United States of America that regulates the practice of Professional
54 Counseling.

55 **1.2 Proposed rules or amendments:** rules shall be adopted by majority vote of the Member
56 States of the Commission pursuant to the criteria set forth in Section 11 and in the following
57 manner:

58 (a) New rules and amendments to existing rules proposed pursuant to Section 9 and
59 Section 11 and the Commission Bylaws shall be submitted to the Commission office for
60 referral to the Rules Committee in any of the following ways:

- 61 (1) Any Delegate may submit a proposed Rule or rule amendment for referral to
62 the Rules Committee during the next scheduled Commission meeting.
63 (2) Standing Committees of the Commission may propose rules or rule
64 amendments by majority vote of that Committee.
65 (3) The Commission or an authorized committee of the Commission may direct
66 revisions to a previously adopted Rule or amendment for purposes of correcting
67 typographical errors, errors in format, errors in consistency, or grammatical
68 errors. Public notice of any revisions shall be posted on the website of the
69 Commission. The revision shall be subject to challenge by any person for a period
70 of thirty (30) days after posting. The revision may be challenged only on grounds
71 that the revision results in a material change to a Rule. A challenge shall be made
72 in writing and delivered to the Chair of the Commission prior to the end of the
73 notice period. If no challenge is made, the revision will take effect without further

74 action. If the revision is challenged, the revision may not take effect without the
75 approval of the Commission.
76

77 **1.3 The Rules Committee:** shall prepare a draft of all proposed rules and provide the draft to the
78 Executive Committee to provide to all Delegates for review and comments. Based on the
79 comments made by the Delegates, the Rules Committee shall prepare a final draft of the
80 proposed rule(s) or amendments for consideration by the Commission not later than 30 days
81 prior to the next Commission meeting.

82 **1.4 Prior to promulgation and adoption of a final Rule:** In accordance with Section 11 of the
83 Compact, the Commission shall publish the text of the proposed rule or amendment prepared by
84 the Rules Committee not later than 30 days prior to the meeting at which the vote is scheduled,
85 on the official website of the Commission and on the website of each Member state licensing
86 board or other publicly accessible platform or the publication in which each state would
87 otherwise publish proposed rules. All written comments received by the Rules Committee on
88 proposed rules shall be made available to the public upon request. In addition to the text of the
89 proposed Rule or amendment, the reason for the proposed rule shall be provided.

90 **1.5 The Notice of Proposed Rulemaking shall include:**

- 91 (a) The proposed time, date and location of the meeting in which the Rule shall be
92 considered and voted upon,
- 93 (b) The text of the proposed Rule or amendment and the reason for the proposed Rule.
- 94 (c) A request for comments on the proposed Rule from any interested person; and
- 95 (d) The manner in which interested persons may submit notice to the Commission of their
96 intention to attend the public meeting and any written comments.
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98 **1.6 Public Hearings:** The Commission shall grant an opportunity for a public hearing before it
99 adopts a Rule or amendment if a hearing is requested by:

- 100 1. At least twenty-five (25) persons;
- 101 2. A state or federal governmental subdivision or agency; or
- 102 3. An association having at least twenty-five (25) members.

103 If no written notice of intent to attend the public hearing by interested parties is received, the
104 Commission may proceed with promulgation of the proposed Rule without a public hearing.

105 If a hearing is held on the proposed rule or amendment, the Commission shall publish the place,
106 time, and date of the scheduled public hearing. If the hearing is held via electronic means, the
107 Commission shall publish the mechanism for access to the electronic hearing.

- 108 1. All persons wishing to be heard at the hearing shall notify the executive director of the
109 Commission or other designated member in writing of their desire to appear and testify at
110 the hearing not less than five (5) business days before the scheduled date of the hearing.

- 111 2. Hearings shall be conducted in a manner providing each person who wishes to comment
112 a fair and reasonable opportunity to comment orally or in writing.
113 3. All hearings shall be recorded. A copy of the recording shall be made available on
114 request.
115 4. Nothing in this section shall be construed as requiring a separate hearing on each Rule.
116 Rules may be grouped for the convenience of the Commission at hearings required by
117 this section.

118 Following the scheduled hearing date, or by the close of business on the scheduled hearing date
119 if the hearing was not held, the Commission shall consider all written and oral comments
120 received.

121 **1.7 Final adoption of Rule:** The Commission shall, by majority vote of all Member States, take
122 final action on the proposed Rule and shall determine the effective date of the rule, if any, based
123 on the rulemaking record and the full text of the rule.

- 124 1. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a
125 statute or resolution in the same manner used to adopt the Compact within 4 years of the
126 date of adoption of the Rule, the Rule shall have no further force and effect in any
127 Member state.
128 2. Rules or amendments to the rules shall be adopted at a regular or special meeting of the
129 Commission.

130 **1.8 Status of Rules upon adoption of Compact additional Member states and applicability:**

131 Any state that joins the Compact subsequent to the Commission's initial adoption of the rules
132 shall be subject to the rules as they exist on the date on which the Compact becomes law in that
133 state. Any Rule that has been previously adopted by the Commission shall have the full force and
134 effect of law on the day the Compact becomes law in that state.

135 No Member State's rulemaking requirements shall apply under this Compact.

136 The Rules of the Commission shall have the force of law in each Member State, provided
137 however that where the Rules of the Commission conflict with the laws of the Member State that
138 establish the Member State's Scope of Practice as held by a court of competent jurisdiction, the
139 rules of the Commission shall be ineffective in that State to the extent of the conflict.
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141 **1.9 Emergency Rulemaking:** Upon determination that an emergency exists, the Commission
142 may consider and adopt an emergency Rule without prior notice, opportunity for comment, or
143 hearing, provided that the usual rulemaking procedures provided in the Compact and in this
144 section shall be retroactively applied to the rule as soon as reasonably possible, in no event later
145 than ninety (90) days after the effective date of the rule. For the purposes of this provision, an
146 emergency rule is one that must be adopted immediately in order to:

- 147 1. Meet an imminent threat to public health, safety, or welfare,

- 148 2. Prevent a loss of Commission or Member state funds; or
149 3. Meet a deadline for the promulgation of an administrative Rule that is established by
150 federal law or rule.

151 **2.0 Non-substantive Rule Revisions:** The Commission or an authorized committee of the
152 Commission may direct revisions to a previously adopted Rule or amendment for purposes of
153 correcting typographical errors, errors in format, errors in consistency, or grammatical errors.
154 Public notice of any revisions shall be posted on the website of the Commission. The revision
155 shall be subject to challenge by any person for a period of thirty (30) days after posting. The
156 revision may be challenged only on grounds that the revision results in a material change to a
157 Rule. A challenge shall be made in writing and delivered to the Commission prior to the end
158 of the notice period. If no challenge is made, the revision will take effect without further
159 action. If the revision is challenged, the revision may not take effect without the approval of
160 the Commission.

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162 The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in Section
163 11 of the Compact and the rules adopted thereunder. Rules and amendments shall become
164 binding as of the date specified in each Rule or amendment.