

1 A bill to be entitled
2 An act relating to Professional Counselors Licensure
3 Compact; creating s. 491.017, F.S.; creating the
4 Professional Counselors Licensure Compact; providing
5 purposes and objectives; defining terms; specifying
6 requirements for state participation in the compact;
7 specifying duties of member states; specifying that
8 the compact does not affect an individual's ability to
9 apply for, and a member state's ability to grant, a
10 single state license pursuant to the laws of that
11 state; providing construction; providing for
12 recognition of the privilege to practice licensed
13 professional counseling in member states; specifying
14 criteria a licensed professional counselor must meet
15 for the privilege to practice under the compact;
16 providing for the expiration and renewal of the
17 privilege to practice; providing construction;
18 specifying that a licensee with a privilege to
19 practice in a remote state must adhere to the laws and
20 rules of that state; authorizing member states to act
21 on a licensee's privilege to practice under certain
22 circumstances; specifying the consequences and
23 parameters of practice for a licensee whose privilege
24 to practice has been acted on or whose home state
25 license is encumbered; specifying that a licensed

26 professional counselor may hold a home state license
27 in only one member state at a time; specifying
28 requirements and procedures for changing a home state
29 license designation; providing construction;
30 authorizing active duty military personnel or their
31 spouses to keep their home state designation during
32 active duty; specifying how such individuals may
33 subsequently change their home state license
34 designation; providing for the recognition of the
35 practice of professional counseling through telehealth
36 in member states; specifying that licensees must
37 adhere to the laws and rules of the remote state in
38 which they provide professional counseling through
39 telehealth; authorizing member states to take adverse
40 actions against licensees and issue subpoenas for
41 hearings and investigations under certain
42 circumstances; providing requirements and procedures
43 for adverse action; authorizing member states to
44 engage in joint investigations under certain
45 circumstances; providing that a licensee's privilege
46 to practice must be deactivated in all member states
47 for the duration of an encumbrance imposed by the
48 licensee's home state; providing for notice to the
49 data system and the licensee's home state of any
50 adverse action taken against a licensee; providing

51 construction; establishing the Counseling Compact
52 Commission; providing for the jurisdiction and venue
53 for court proceedings; providing construction;
54 providing for membership, meetings, and powers of the
55 commission; specifying powers and duties of the
56 commission's executive committee; providing for the
57 financing of the commission; providing commission
58 members, officers, executive directors, employees, and
59 representatives immunity from civil liability under
60 certain circumstances; providing exceptions; requiring
61 the commission to defend the commission's members,
62 officers, executive directors, employees, and
63 representative in civil actions under certain
64 circumstances; providing construction; requiring the
65 commission to indemnify and hold harmless such
66 individuals for any settlement or judgment obtained in
67 such actions under certain circumstances; providing
68 for the development of the data system, reporting
69 procedures, and the exchange of specified information
70 between member states; requiring the commission to
71 notify member states of any adverse action taken
72 against a licensee or applicant for licensure;
73 authorizing member states to designate as confidential
74 information provided to the data system; requiring the
75 commission to remove information from the data system

76 | under certain circumstances; providing rulemaking
 77 | procedures for the commission; providing for member
 78 | state enforcement of the compact; specifying that the
 79 | compact and commission rules have standing as
 80 | statutory law in member states; specifying that the
 81 | commission is entitled to receive notice of process,
 82 | and has standing to intervene, in certain judicial and
 83 | administrative proceedings; rendering certain
 84 | judgments and orders void as to the commission, the
 85 | compact, or commission rules under certain
 86 | circumstances; providing for defaults and termination
 87 | of compact membership; providing procedures for the
 88 | resolution of certain disputes; providing for
 89 | commission enforcement of the compact; providing for
 90 | remedies; providing construction; providing for
 91 | implementation of, withdrawal from, and amendment to
 92 | the compact; providing construction; specifying that
 93 | licensees practicing in a remote state under the
 94 | compact must adhere to the laws and rules of the
 95 | remote state; providing construction; specifying that
 96 | the compact, commission rules, and commission actions
 97 | are binding on member states; providing construction
 98 | and severability; amending s. 456.073, F.S.; requiring
 99 | the Department of Health to report certain
 100 | investigative information to the data system; amending

101 s. 456.076, F.S.; requiring monitoring contracts for
 102 impaired practitioners participating in treatment
 103 programs to contain certain terms; amending s.
 104 491.004, F.S.; requiring the Board of Clinical Social
 105 Work, Marriage and Family Therapy, and Mental Health
 106 Counseling to appoint an individual to serve as the
 107 state's delegate on the commission; amending ss.
 108 491.005 and 491.006, F.S.; exempting certain persons
 109 from licensure requirements; amending s. 491.009,
 110 F.S.; authorizing certain disciplinary action under
 111 the compact for specified prohibited acts; amending s.
 112 768.28, F.S.; designating the state delegate and other
 113 members or employees of the commission as state agents
 114 for the purpose of applying waivers of sovereign
 115 immunity; requiring the commission to pay certain
 116 claims or judgments; authorizing the commission to
 117 maintain insurance coverage to pay such claims or
 118 judgments; requiring the department to notify the
 119 Division of Law Revision upon enactment of the compact
 120 into law by 10 states; providing a contingent
 121 effective date.

122

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

124

125 Section 1. Section 491.017, Florida Statutes, is created

126 to read:

127 491.017 Professional Counselors Licensure Compact.—The
 128 Professional Counselors Licensure Compact is hereby enacted and
 129 entered into by this state with all other jurisdictions legally
 130 joining therein in the form substantially as follows:

131
 132 ARTICLE I

133 PURPOSE

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

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

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

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

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

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

150 (6) Allow for the use of telehealth technology to

151 facilitate increased access to professional counseling services.

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

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

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

165 ARTICLE II

166 DEFINITIONS

167 As used in this compact, the term:

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

172 (2) "Adverse action" means any administrative, civil, or
 173 criminal action authorized by a state's laws which is imposed by
 174 a licensing board or other authority against a licensed
 175 professional counselor, including actions against an

176 individual's license or privilege to practice, such as
177 revocation, suspension, probation, monitoring of the licensee,
178 limitation on the licensee's practice, issuance of a cease and
179 desist action, or any other encumbrance on licensure affecting a
180 licensed professional counselor's authorization to practice.

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

185 (4) "Continuing education" means a requirement, as a
186 condition of license renewal, to participate in or complete
187 educational and professional activities relevant to the
188 licensee's practice or area of work.

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

192 (6) "Current significant investigative information" means:

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

199 (b) Investigative information that indicates that the
200 licensed professional counselor represents an immediate threat

201 to public health and safety, regardless of whether the licensed
 202 professional counselor has been notified and had an opportunity
 203 to respond.

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

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

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

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

218 (11) "Home state" means the member state that is the
 219 licensee's primary state of residence.

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

226 (13) "Investigative information" means information,
 227 records, or documents received or generated by a professional
 228 counseling licensing board pursuant to an investigation.

229 (14) "Jurisprudence requirement," if required by a member
 230 state, means the assessment of an individual's knowledge of the
 231 laws and rules governing the practice of professional counseling
 232 in a state.

233 (15) "Licensed professional counselor" means a mental
 234 health counselor licensed under chapter 491 or a counselor
 235 licensed by a member state, regardless of the title used by that
 236 state, to independently assess, diagnose, and treat behavioral
 237 health conditions.

238 (16) "Licensee" means an individual who currently holds an
 239 authorization from the state to practice as a licensed
 240 professional counselor.

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

244 (18) "Member state" means a state that has enacted the
 245 compact.

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

249 (20) "Professional counseling" means the assessment,
 250 diagnosis, and treatment of behavioral health conditions by a

251 licensed professional counselor.

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

255 (22) "Rule" means a regulation adopted by the commission
256 which has the force of law.

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

261 (24) "State" means any state, commonwealth, district, or
262 territory of the United States of America which regulates the
263 practice of professional counseling.

264 (25) "Telehealth" means the application of
265 telecommunication technology to deliver professional counseling
266 services remotely to assess, diagnose, and treat behavioral
267 health conditions.

268 (26) "Unencumbered license" means a license that
269 authorizes a licensed professional counselor to engage in the
270 full and unrestricted practice of professional counseling.

271

272 ARTICLE III

273 STATE PARTICIPATION

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

276 (a) License and regulate licensed professional counselors.
 277 (b) Require licensees to pass a nationally recognized exam
 278 approved by the commission.
 279 (c) Require licensees to have a 60 semester hour, or 90
 280 quarter hour, master's degree in counseling or 60 semester
 281 hours, or 90 quarter hours, of graduate coursework including all
 282 of the following topic areas:
 283 1. Professional counseling orientation and ethical
 284 practice.
 285 2. Social and cultural diversity.
 286 3. Human growth and development.
 287 4. Career development.
 288 5. Counseling and helping relationships.
 289 6. Group counseling and group work.
 290 7. Diagnosis, assessment, testing, and treatment.
 291 8. Research and program evaluation.
 292 9. Other areas as determined by the commission.
 293 (d) Require licensees to complete a supervised
 294 postgraduate professional experience as defined by the
 295 commission.
 296 (e) Have a mechanism in place for receiving and
 297 investigating complaints about licensees.
 298 (2) A member state shall do all of the following:
 299 (a) Participate fully in the commission's data system,
 300 including using the commission's unique identifier as defined in

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301 rules adopted by the commission.

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

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

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

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

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

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

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

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

336 (3) Individuals not residing in a member state may
337 continue to apply for a member state's single state license as
338 provided under the laws of each member state. However, the
339 single state license granted to these individuals may not be
340 recognized as granting a privilege to practice professional
341 counseling under the compact in any other member state.

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

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

350

ARTICLE IV

PRIVILEGE TO PRACTICE

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

(a) Hold a license in the home state.

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

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

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

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

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

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

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

(2) The privilege to practice is valid until the expiration date of the home state license. The licensee must

376 continue to meet the criteria specified in subsection (1) to
377 renew the privilege to practice in the remote state.

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

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

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

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

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

399 (b) The licensee has not had any encumbrance or
400 restriction against any license or privilege to practice within

401 the preceding 2 years.

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

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

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

412 (b) The licensee has paid all fines imposed.

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

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

419

420 ARTICLE V
 421 OBTAINING A NEW HOME STATE LICENSE BASED ON A
 422 PRIVILEGE TO PRACTICE

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

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

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

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

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

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

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

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

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

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

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

468 ARTICLE VI

469 ACTIVE DUTY MILITARY PERSONNEL AND THEIR SPOUSES

470 Active duty military personnel, or their spouse, shall
471 designate a home state where the individual has a current
472 license in good standing. The individual may retain the home
473 state license designation during the period the service member
474 is on active duty. Subsequent to designating a home state, the
475 individual may change his or her home state only through

476 application for licensure in the new state or through the
477 process outlined in article V.

478

479 ARTICLE VII480 COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

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

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

490

491 ARTICLE VIII492 ADVERSE ACTIONS

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

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

498 (b) Issue subpoenas for both hearings and investigations
499 that require the attendance and testimony of witnesses or the
500 production of evidence. Subpoenas issued by a licensing board in

501 a member state for the attendance and testimony of witnesses or
502 the production of evidence from another member state must be
503 enforced in the latter state by any court of competent
504 jurisdiction, according to the practice and procedure of that
505 court applicable to subpoenas issued in proceedings pending
506 before it. The issuing authority shall pay any witness fees,
507 travel expenses, mileage, and other fees required by the service
508 statutes of the state in which the witnesses or evidence is
509 located.

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

513 (3) For purposes of taking adverse action, the home state
514 shall give the same priority and effect to reported conduct
515 received from a member state as it would if the conduct had
516 occurred within the home state. The home state shall apply its
517 own state laws to determine appropriate action in such cases.

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

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

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

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

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

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

551 effect.

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

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

559
560 ARTICLE IX

561 ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

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

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

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

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

575 (2) MEMBERSHIP.—

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

580 (b) The delegate must be either:

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

584 2. An administrator of the licensing board.

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

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

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

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

597 (3) MEETINGS OF THE COMMISSION.—

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

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

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

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

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

614 3. Current, threatened, or reasonably anticipated
615 litigation.

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

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

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

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

625 8. Disclosure of investigative records compiled for law

626 enforcement purposes.

627 9. Disclosure of information related to any investigative
628 reports prepared by or on behalf of or for use of the commission
629 or other committee charged with responsibility of investigation
630 or determination of compliance issues pursuant to the compact.

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

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

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

646 (4) POWERS.—The commission may do any of the following:

647 (a) Establish the fiscal year of the commission.

648 (b) Establish bylaws.

649 (c) Maintain its financial records in accordance with the
650 bylaws.

651 (d) Meet and take actions that are consistent with the
652 compact and bylaws.

653 (e) Adopt rules that are binding to the extent and in the
654 manner provided for in the compact.

655 (f) Initiate and prosecute legal proceedings or actions in
656 the name of the commission, provided that the standing of any
657 state licensing board to sue or be sued under applicable law is
658 not affected.

659 (g) Purchase and maintain insurance and bonds.

660 (h) Borrow, accept, or contract for services of personnel,
661 including, but not limited to, employees of a member state.

662 (i) Hire employees and elect or appoint officers; fix
663 compensation for, define duties of, and grant appropriate
664 authority to such employees and officers to carry out the
665 purposes of the compact; and establish the commission's
666 personnel policies and programs relating to conflicts of
667 interest, qualifications of personnel, and other related
668 personnel matters.

669 (j) Accept any and all appropriate donations and grants of
670 money, equipment, supplies, materials, and services, and
671 receive, utilize, and dispose of the same, provided that at all
672 times the commission avoids any appearance of impropriety or
673 conflict of interest.

674 (k) Lease, purchase, accept appropriate gifts or donations
675 of, or otherwise own, hold, improve, or use, any property, real,

676 personal, or mixed, provided that at all times the commission
677 avoids any appearance of impropriety or conflict of interest.

678 (l) Sell, convey, mortgage, pledge, lease, exchange,
679 abandon, or otherwise dispose of any property, real, personal,
680 or mixed.

681 (m) Establish a budget and make expenditures.

682 (n) Borrow money.

683 (o) Appoint committees, including standing committees
684 consisting of commission members, state regulators, state
685 legislators or their representatives, and consumer
686 representatives, and such other interested persons as may be
687 designated in the compact and bylaws.

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

690 (q) Establish and elect an executive committee.

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

695 (5) THE EXECUTIVE COMMITTEE.—

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

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

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

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

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

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

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

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

713 3. Prepare and recommend the budget.

714 4. Maintain financial records on behalf of the commission.

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

717 6. Establish additional committees as necessary.

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

720 (6) FINANCING OF THE COMMISSION.—

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

724 (b) The commission may accept any appropriate revenue
 725 sources, donations, or grants of money, equipment, supplies,

726 materials, or services.

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

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

739 (7) QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.—

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

751 willful or wanton misconduct of that person.

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

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

774 ARTICLE X
 775 DATA SYSTEM

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

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

786 (a) Identifying information.

787 (b) Licensure data.

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

790 (d) Nonconfidential information related to alternative
791 program participation.

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

794 (f) Current significant investigative information.

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

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

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

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

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

813
814 ARTICLE XI

815 RULEMAKING

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

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

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

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

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

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

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

843 (6) The notice of proposed rulemaking must include:

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

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

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

850 (d) The manner in which interested persons may submit

851 notice to the commission of their intention to attend the public
852 hearing and any written comments.

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

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

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

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

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

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

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

874 (b) Hearings must be conducted in a manner providing each
875 person who wishes to comment a fair and reasonable opportunity

876 to comment orally or in writing.

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

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

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

886 (11) Following the scheduled hearing date, or by the close
887 of business on the scheduled hearing date if the hearing was not
888 held, the commission shall consider all written and oral
889 comments received.

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

894 (13) Upon determination that an emergency exists, the
895 commission may consider and adopt an emergency rule without
896 prior notice, opportunity for comment, or hearing, provided that
897 the usual rulemaking procedures provided in the compact and in
898 this section are retroactively applied to the rule as soon as
899 reasonably possible, but no later than 90 days after the
900 effective date of the rule. For purposes of this subsection, an

901 emergency rule is one that must be adopted immediately in order
 902 to:

903 (a) Meet an imminent threat to public health, safety, or
 904 welfare;

905 (b) Prevent a loss of commission or member state funds;

906 (c) Meet a deadline for the adoption of an administrative
 907 rule established by federal law or rule; or

908 (d) Protect public health and safety.

909 (14) The commission or an authorized committee of the
 910 commission may direct revisions to a previously adopted rule or
 911 amendment for purposes of correcting typographical errors,
 912 errors in format, errors in consistency, or grammatical errors.
 913 Public notice of any revision must be posted on the website of
 914 the commission. Revisions are subject to challenge by any person
 915 for a period of 30 days after posting. A revision may be
 916 challenged only on grounds that the revision results in a
 917 material change to a rule. A challenge must be made in writing
 918 and delivered to the chair of the commission before the end of
 919 the notice period. If a challenge is not made, the revision
 920 takes effect without further action. If a revision is
 921 challenged, the revision may not take effect without the
 922 approval of the commission.

923
 924 ARTICLE XII

925 OVERSIGHT; DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION;

DISPUTE RESOLUTION; AND ENFORCEMENT

(1) OVERSIGHT.—

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

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

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

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

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

1. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed

951 means of curing the default, and any other action to be taken by
952 the commission; and

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

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

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

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

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

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

982 (3) DISPUTE RESOLUTION.—

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

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

989 (4) ENFORCEMENT.—

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

993 (b) By majority vote, the commission may initiate legal
994 action in the United States District Court for the District of
995 Columbia or the federal district where the commission has its
996 principal offices against a member state in default to enforce
997 compliance with the compact and its adopted rules and bylaws.
998 The relief sought may include both injunctive relief and
999 damages. If judicial enforcement is necessary, the prevailing
1000 party must be awarded all costs of such litigation, including

1001 reasonable attorney fees.

1002 (c) The remedies under this article are not the exclusive
 1003 remedies to the commission. The commission may pursue any other
 1004 remedies available under federal or state law.

1006 ARTICLE XIII

1007 DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT COMMISSION AND
 1008 ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

1009 (1) The compact becomes effective on the date on which the
 1010 compact is enacted into law in the 10th member state. The
 1011 provisions that become effective at that time are limited to the
 1012 powers granted to the commission relating to assembly and the
 1013 adoption of rules. Thereafter, the commission shall meet and
 1014 exercise rulemaking powers necessary for implementation and
 1015 administration of the compact.

1016 (2) Any state that joins the compact subsequent to the
 1017 commission's initial adoption of the rules is subject to the
 1018 rules as they exist on the date on which the compact becomes law
 1019 in that state. Any rule that has been previously adopted by the
 1020 commission has the full force and effect of law on the day the
 1021 compact becomes law in that state.

1022 (3) Any member state may withdraw from the compact by
 1023 enacting a statute repealing the compact.

1024 (a) A member state's withdrawal does not take effect until
 1025 6 months after enactment of the repealing statute.

1076 affected as to all severable matters.

1077 Section 2. Subsection (10) of section 456.073, Florida
 1078 Statutes, is amended to read:

1079 456.073 Disciplinary proceedings.—Disciplinary proceedings
 1080 for each board shall be within the jurisdiction of the
 1081 department.

1082 (10) The complaint and all information obtained pursuant
 1083 to the investigation by the department are confidential and
 1084 exempt from s. 119.07(1) until 10 days after probable cause has
 1085 been found to exist by the probable cause panel or by the
 1086 department, or until the regulated professional or subject of
 1087 the investigation waives his or her privilege of
 1088 confidentiality, whichever occurs first. The department shall
 1089 report any significant investigation information relating to a
 1090 nurse holding a multistate license to the coordinated licensure
 1091 information system pursuant to s. 464.0095, and any significant
 1092 investigatory information relating to a health care practitioner
 1093 practicing under the Professional Counselors Licensure Compact
 1094 to the data system pursuant to s. 491.017. Upon completion of
 1095 the investigation and a recommendation by the department to find
 1096 probable cause, and pursuant to a written request by the subject
 1097 or the subject's attorney, the department shall provide the
 1098 subject an opportunity to inspect the investigative file or, at
 1099 the subject's expense, forward to the subject a copy of the
 1100 investigative file. Notwithstanding s. 456.057, the subject may

1101 inspect or receive a copy of any expert witness report or
 1102 patient record connected with the investigation if the subject
 1103 agrees in writing to maintain the confidentiality of any
 1104 information received under this subsection until 10 days after
 1105 probable cause is found and to maintain the confidentiality of
 1106 patient records pursuant to s. 456.057. The subject may file a
 1107 written response to the information contained in the
 1108 investigative file. Such response must be filed within 20 days
 1109 of mailing by the department, unless an extension of time has
 1110 been granted by the department. This subsection does not
 1111 prohibit the department from providing such information to any
 1112 law enforcement agency or to any other regulatory agency.

1113 Section 3. Subsection (5) of section 456.076, Florida
 1114 Statutes, is amended to read:

1115 456.076 Impaired practitioner programs.—

1116 (5) A consultant shall enter into a participant contract
 1117 with an impaired practitioner and shall establish the terms of
 1118 monitoring and shall include the terms in a participant
 1119 contract. In establishing the terms of monitoring, the
 1120 consultant may consider the recommendations of one or more
 1121 approved evaluators, treatment programs, or treatment providers.
 1122 A consultant may modify the terms of monitoring if the
 1123 consultant concludes, through the course of monitoring, that
 1124 extended, additional, or amended terms of monitoring are
 1125 required for the protection of the health, safety, and welfare

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1126 of the public. If the impaired practitioner is a health care
1127 practitioner practicing under the Professional Counselors
1128 Licensure Compact pursuant to s. 491.017, the terms of the
1129 monitoring contract must include the impaired practitioner's
1130 withdrawal from all practice under the compact.

1131 Section 4. Subsection (8) is added to section 491.004,
1132 Florida Statutes, to read:

1133 491.004 Board of Clinical Social Work, Marriage and Family
1134 Therapy, and Mental Health Counseling.—

1135 (8) The board shall appoint an individual to serve as the
1136 state's delegate on the Counseling Compact Commission, as
1137 required under s. 491.017.

1138 Section 5. Subsection (6) is added to section 491.005,
1139 Florida Statutes, to read:

1140 491.005 Licensure by examination.—

1141 (6) EXEMPTION.—A person licensed as a clinical social
1142 worker, marriage and family therapist, or mental health
1143 counselor in another state who is practicing under the
1144 Professional Counselors Licensure Compact pursuant to s.
1145 491.017, and only within the scope provided therein, is exempt
1146 from the licensure requirements of this section, as applicable.

1147 Section 6. Subsection (3) is added to section 491.006,
1148 Florida Statutes, to read:

1149 491.006 Licensure or certification by endorsement.—

1150 (3) A person licensed as a clinical social worker,

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1151 marriage and family therapist, or mental health counselor in
1152 another state who is practicing under the Professional
1153 Counselors Licensure Compact pursuant to s. 491.017, and only
1154 within the scope provided therein, is exempt from the licensure
1155 requirements of this section, as applicable.

1156 Section 7. Section 491.009, Florida Statutes, is amended
1157 to read:

1158 491.009 Discipline.—

1159 (1) The following acts constitute grounds for denial of a
1160 license or disciplinary action, as specified in s. 456.072(2) or
1161 s. 491.017:

1162 (a) Attempting to obtain, obtaining, or renewing a
1163 license, registration, or certificate under this chapter by
1164 bribery or fraudulent misrepresentation or through an error of
1165 the board or the department.

1166 (b) Having a license, registration, or certificate to
1167 practice a comparable profession revoked, suspended, or
1168 otherwise acted against, including the denial of certification
1169 or licensure by another state, territory, or country.

1170 (c) Being convicted or found guilty of, regardless of
1171 adjudication, or having entered a plea of nolo contendere to, a
1172 crime in any jurisdiction which directly relates to the practice
1173 of his or her profession or the ability to practice his or her
1174 profession. However, in the case of a plea of nolo contendere,
1175 the board shall allow the person who is the subject of the

1176 disciplinary proceeding to present evidence in mitigation
1177 relevant to the underlying charges and circumstances surrounding
1178 the plea.

1179 (d) False, deceptive, or misleading advertising or
1180 obtaining a fee or other thing of value on the representation
1181 that beneficial results from any treatment will be guaranteed.

1182 (e) Advertising, practicing, or attempting to practice
1183 under a name other than one's own.

1184 (f) Maintaining a professional association with any person
1185 who the applicant, licensee, registered intern, or
1186 certificateholder knows, or has reason to believe, is in
1187 violation of this chapter or of a rule of the department or the
1188 board.

1189 (g) Knowingly aiding, assisting, procuring, or advising
1190 any nonlicensed, nonregistered, or noncertified person to hold
1191 himself or herself out as licensed, registered, or certified
1192 under this chapter.

1193 (h) Failing to perform any statutory or legal obligation
1194 placed upon a person licensed, registered, or certified under
1195 this chapter.

1196 (i) Willfully making or filing a false report or record;
1197 failing to file a report or record required by state or federal
1198 law; willfully impeding or obstructing the filing of a report or
1199 record; or inducing another person to make or file a false
1200 report or record or to impede or obstruct the filing of a report

1201 or record. Such report or record includes only a report or
 1202 record which requires the signature of a person licensed,
 1203 registered, or certified under this chapter.

1204 (j) Paying a kickback, rebate, bonus, or other
 1205 remuneration for receiving a patient or client, or receiving a
 1206 kickback, rebate, bonus, or other remuneration for referring a
 1207 patient or client to another provider of mental health care
 1208 services or to a provider of health care services or goods;
 1209 referring a patient or client to oneself for services on a fee-
 1210 paid basis when those services are already being paid for by
 1211 some other public or private entity; or entering into a
 1212 reciprocal referral agreement.

1213 (k) Committing any act upon a patient or client which
 1214 would constitute sexual battery or which would constitute sexual
 1215 misconduct as defined pursuant to s. 491.0111.

1216 (l) Making misleading, deceptive, untrue, or fraudulent
 1217 representations in the practice of any profession licensed,
 1218 registered, or certified under this chapter.

1219 (m) Soliciting patients or clients personally, or through
 1220 an agent, through the use of fraud, intimidation, undue
 1221 influence, or a form of overreaching or vexatious conduct.

1222 (n) Failing to make available to a patient or client, upon
 1223 written request, copies of tests, reports, or documents in the
 1224 possession or under the control of the licensee, registered
 1225 intern, or certificateholder which have been prepared for and

1226 | paid for by the patient or client.

1227 | (o) Failing to respond within 30 days to a written
1228 | communication from the department or the board concerning any
1229 | investigation by the department or the board, or failing to make
1230 | available any relevant records with respect to any investigation
1231 | about the licensee's, registered intern's, or
1232 | certificateholder's conduct or background.

1233 | (p) Being unable to practice the profession for which he
1234 | or she is licensed, registered, or certified under this chapter
1235 | with reasonable skill or competence as a result of any mental or
1236 | physical condition or by reason of illness; drunkenness; or
1237 | excessive use of drugs, narcotics, chemicals, or any other
1238 | substance. In enforcing this paragraph, upon a finding by the
1239 | State Surgeon General, the State Surgeon General's designee, or
1240 | the board that probable cause exists to believe that the
1241 | licensee, registered intern, or certificateholder is unable to
1242 | practice the profession because of the reasons stated in this
1243 | paragraph, the department shall have the authority to compel a
1244 | licensee, registered intern, or certificateholder to submit to a
1245 | mental or physical examination by psychologists, physicians, or
1246 | other licensees under this chapter, designated by the department
1247 | or board. If the licensee, registered intern, or
1248 | certificateholder refuses to comply with such order, the
1249 | department's order directing the examination may be enforced by
1250 | filing a petition for enforcement in the circuit court in the

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1251 circuit in which the licensee, registered intern, or
1252 certificateholder resides or does business. The licensee,
1253 registered intern, or certificateholder against whom the
1254 petition is filed may ~~shall~~ not be named or identified by
1255 initials in any public court records or documents, and the
1256 proceedings shall be closed to the public. The department shall
1257 be entitled to the summary procedure provided in s. 51.011. A
1258 licensee, registered intern, or certificateholder affected under
1259 this paragraph shall at reasonable intervals be afforded an
1260 opportunity to demonstrate that he or she can resume the
1261 competent practice for which he or she is licensed, registered,
1262 or certified with reasonable skill and safety to patients.

1263 (q) Performing any treatment or prescribing any therapy
1264 which, by the prevailing standards of the mental health
1265 professions in the community, would constitute experimentation
1266 on human subjects, without first obtaining full, informed, and
1267 written consent.

1268 (r) Failing to meet the minimum standards of performance
1269 in professional activities when measured against generally
1270 prevailing peer performance, including the undertaking of
1271 activities for which the licensee, registered intern, or
1272 certificateholder is not qualified by training or experience.

1273 (s) Delegating professional responsibilities to a person
1274 whom the licensee, registered intern, or certificateholder knows
1275 or has reason to know is not qualified by training or experience

1276 | to perform such responsibilities.

1277 | (t) Violating a rule relating to the regulation of the
1278 | profession or a lawful order of the department or the board
1279 | previously entered in a disciplinary hearing.

1280 | (u) Failure of the licensee, registered intern, or
1281 | certificateholder to maintain in confidence a communication made
1282 | by a patient or client in the context of such services, except
1283 | as provided in s. 491.0147.

1284 | (v) Making public statements which are derived from test
1285 | data, client contacts, or behavioral research and which identify
1286 | or damage research subjects or clients.

1287 | (w) Violating any provision of this chapter or chapter
1288 | 456, or any rules adopted pursuant thereto.

1289 | (2) (a) The board or, in the case of certified master
1290 | social workers, the department may enter an order denying
1291 | licensure or imposing any of the penalties authorized in s.
1292 | 456.072(2) against any applicant for licensure or any licensee
1293 | who violates subsection (1) or s. 456.072(1).

1294 | (b) The board may take adverse action against a clinical
1295 | social worker's, a marriage and family therapist's, or a mental
1296 | health counselor's privilege to practice under the Professional
1297 | Counselors Licensure Compact pursuant to s. 491.017 and may
1298 | impose any of the penalties in s. 456.072(2) if the clinical
1299 | social worker, marriage and family therapist, or mental health
1300 | counselor commits an act specified in subsection (1) or s.

1301 456.072(1).

1302 Section 8. Paragraph (h) is added to subsection (10) of
 1303 section 768.28, Florida Statutes, to read:

1304 768.28 Waiver of sovereign immunity in tort actions;
 1305 recovery limits; civil liability for damages caused during a
 1306 riot; limitation on attorney fees; statute of limitations;
 1307 exclusions; indemnification; risk management programs.—

1308 (10)

1309 (h) For purposes of this section, the individual appointed
 1310 under s. 491.004(8) as the state's delegate on the Counseling
 1311 Compact Commission, when serving in that capacity pursuant to s.
 1312 491.017, and any administrator, officer, executive director,
 1313 employee, or representative of the commission, when acting
 1314 within the scope of his or her employment, duties, or
 1315 responsibilities in this state, is considered an agent of the
 1316 state. The commission shall pay any claims or judgments pursuant
 1317 to this section and may maintain insurance coverage to pay any
 1318 such claims or judgments.

1319 Section 9. The Department of Health shall notify the
 1320 Division of Law Revision upon enactment of the Professional
 1321 Counselors Licensure Compact into law by 10 states.

1322 Section 10. This act shall take effect upon enactment of
 1323 the Professional Counselors Licensure Compact into law by 10
 1324 states.