



January 27, 2023

SENATE BILL No. 160

DIGEST OF SB 160 (Updated January 25, 2023 9:30 am - DI 140)

Citations Affected: IC 25-23.6; IC 25-43; IC 34-30.

Synopsis: Professional counselors licensure compact. Requires the behavioral health and human services licensing board to administer the professional counselors licensure compact (compact). Adopts the compact. Sets forth requirements of a member state. Sets forth the duties and authority of the counseling compact commission (commission). Allows a counselor in a home state to practice via telehealth in a member state. Allows each member state to have one delegate on the commission. Establishes the procedure to withdraw from the compact. Makes conforming changes.

Effective: July 1, 2023.

**Crider, Walker K, Charbonneau,
Ford J.D., Niezgodski**

January 9, 2023, read first time and referred to Committee on Health and Provider Services.
January 26, 2023, reported favorably — Do Pass.

SB 160—LS 6465/DI 148



January 27, 2023

First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

SENATE BILL No. 160

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 25-23.6-2-8, AS AMENDED BY P.L.192-2017,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 8. (a) The board shall adopt rules under IC 4-22-2
4 establishing standards for the following:

5 (1) The competent practice of marriage and family therapy,
6 bachelor's degree social work, social work, clinical social work,
7 mental health counseling, addiction counseling, and clinical
8 addiction counseling.

9 (2) The renewal of licenses issued under this article.

10 (3) Standards for the administration of this article.

11 (4) Continuing education requirements for an individual seeking
12 renewal of licensure as a bachelor's degree social worker, social
13 worker, clinical social worker, or marriage and family therapist.

14 (5) The retention of patient records and reports by a counselor.

15 (6) The approval of continuing education providers, programs,
16 courses, fees, and proof of course completion.

17 (b) The board shall establish fees under IC 25-1-8-2.

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(c) The board shall do the following:

(1) Consider the qualifications of individuals who apply for a license under this article.

(2) Provide for examinations required under this article.

(3) Subject to IC 25-1-8-6, renew licenses under this article.

(4) Conduct proceedings under IC 25-1-9.

(5) Administer the professional counselors licensure compact under IC 25-43, including appointing members to the counseling compact commission and adopting any rules necessary to administer the compact.

SECTION 2. IC 25-43 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:

ARTICLE 43. PROFESSIONAL COUNSELORS LICENSURE COMPACT

Chapter 1. Purpose

Sec. 1. The purpose of this compact is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. The practice of professional counseling occurs in the state where the client is located at the time of the counseling services. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

Sec. 2. This compact is designed to achieve the following objectives:

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

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

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

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

(5) Enhance the exchange of licensure, investigative, and disciplinary information among member states.

(6) Allow for the use of telehealth technology to facilitate increased access to professional counseling services.

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

(8) Invest all member states with the authority to hold a



licensed professional counselor accountable for meeting all state practice laws in the state in which the client is located at the time care is rendered through the mutual recognition of member state licenses.

(9) Eliminate the necessity for licenses in multiple states.

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

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and reserve components of the armed forces of the United States on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.

Sec. 3. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws that is imposed by a licensing board or other authority against a licensed professional counselor, including actions against an individual's license or privilege to practice, such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a licensed professional counselor's authorization to practice, including issuance of a cease and desist action.

Sec. 4. "Alternative program" means a nondisciplinary monitoring or practice remediation process approved by a professional counseling licensing board to address impaired practitioners.

Sec. 5. "Continuing competence/education" means a requirement, as a condition of license renewal, to provide evidence of:

(1) participation in or completion of; or

(2) participation in and completion of;

educational and professional activities relevant to practice or area of work.

Sec. 6. "Counseling compact commission" or "commission" means the national administrative body created and established by IC 25-43-9-1, whose membership consists of all states that have enacted the compact.

Sec. 7. "Current significant investigative information" means:

(1) investigative information that a licensing board, after a



preliminary inquiry that includes notification and an opportunity for the licensed professional counselor to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(2) investigative information that indicates that the licensed professional counselor represents an immediate threat to public health and safety regardless of whether the licensed professional counselor has been notified and had an opportunity to respond.

Sec. 8. "Data system" means a repository of information about licensees, including, but not limited to, continuing education, examination, licensure, investigative, privilege to practice, and adverse action information.

Sec. 9. "Encumbered license" means a license in which an adverse action restricts the practice of licensed professional counseling by the licensee and the adverse action has been reported to the National Practitioner Data Bank (NPDB).

Sec. 10. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of licensed professional counseling by a licensing board.

Sec. 11. "Executive committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

Sec. 12. "Home state" means the member state that is the licensee's primary state of residence.

Sec. 13. "Impaired practitioner" means an individual who has one (1) or more conditions that may impair the practitioner's ability to practice as a licensed professional counselor without some type of intervention and may include, but are not limited to, alcohol and drug dependence, mental health impairment, and neurological or physical impairments.

Sec. 14. "Investigative information" means information, records, and documents received or generated by a professional counseling licensing board pursuant to an investigation.

Sec. 15. "Jurisprudence requirement", if required by a member state, means the assessment of an individual's knowledge of the laws and rules governing the practice of professional counseling in a state.

Sec. 16. "Licensed professional counselor" means a counselor licensed by a member state, regardless of the title used by that state, to independently assess, diagnose, and treat behavioral health



conditions.

Sec. 17. "Licensee" means an individual who currently holds an authorization from the state to practice as a licensed professional counselor.

Sec. 18. "Licensing board" means the agency of a state, or equivalent, that is responsible for the licensing and regulation of licensed professional counselors.

Sec. 19. "Member state" means a state that has enacted the compact.

Sec. 20. "Privilege to practice" means a legal authorization, which is equivalent to a license, permitting the practice of professional counseling in a remote state.

Sec. 21. "Professional counseling" means the assessment, diagnosis, and treatment of behavioral health conditions by a licensed professional counselor.

Sec. 22. "Remote state" means a member state other than the home state, where a licensee is exercising or seeking to exercise the privilege to practice.

Sec. 23. "Rule" means a regulation promulgated by the commission that has the force of law.

Sec. 24. "Single state license" means a licensed professional counselor license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.

Sec. 25. "State" means any state, commonwealth, district, or territory of the United States that regulates the practice of professional counseling.

Sec. 26. "Telehealth" means the application of telecommunication technology to deliver professional counseling services remotely to assess, diagnose, and treat behavioral health conditions.

Sec. 27. "Unencumbered license" means a license that authorizes a licensed professional counselor to engage in the full and unrestricted practice of professional counseling.

Chapter 3. State Participation in the Compact

Sec. 1. To participate in the compact, a state must currently meet the following requirements:

- (1) License and regulate licensed professional counselors.
- (2) Require licensees to pass a nationally recognized exam approved by the commission.
- (3) Require licensees to have a sixty (60) semester hour or ninety (90) quarter hour master's degree in counseling or



sixty (60) semester hours or ninety (90) quarter hours of graduate course work, including the following topic areas:

- (A) Professional counseling orientation and ethical practice.
- (B) Social and cultural diversity.
- (C) Human growth and development.
- (D) Career development.
- (E) Counseling and helping relationships.
- (F) Group counseling and group work.
- (G) Diagnosis and treatment.
- (H) Assessment and testing.
- (I) Research and program evaluation.
- (J) Other areas as determined by the commission.

(4) Require licensees to complete a supervised postgraduate professional experience as defined by the commission.

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

Sec. 2. A member state shall comply with the following:

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

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

(3) Implement or utilize procedures for considering the criminal history records of applicants for an initial privilege to practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records. The following requirements must be met:

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

(B) Communication between a member state, the commission, and among member states regarding the verification of eligibility for licensure through the compact shall not include any information received from the



Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under federal Public Law 92-544.

(4) Comply with the rules of the commission.

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

(6) Grant the privilege to practice to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules.

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

Sec. 3. Member states may charge a fee for granting the privilege to practice.

Sec. 4. Individuals not residing in a member state shall continue to be able to apply for a member state's single state license as provided under the laws of each member state. However, the single state license granted to these individuals shall not be recognized as granting a privilege to practice professional counseling in any other member state.

Sec. 5. Nothing in this compact shall affect the requirements established by a member state for the issuance of a single state license.

Sec. 6. A license issued to a licensed professional counselor by a home state to a resident in that state shall be recognized by each member state as authorizing a licensed professional counselor to practice professional counseling, under a privilege to practice, in each member state.

Chapter 4. Privilege to Practice

Sec. 1. To exercise the privilege to practice under the terms and provisions of the compact, the licensee shall meet the following requirements:

(1) Hold a license in the home state.

(2) Have a valid United States Social Security number or National Practitioner Identifier (NPI).

(3) Be eligible for a privilege to practice in any member state in accordance with sections 4, 7, and 8 of this chapter.

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

(5) Notify the commission that the licensee is seeking the



privilege to practice within a remote state.

(6) Pay any applicable fees, including any state fee, for the privilege to practice.

(7) Meet any continuing competence/education requirements established by the home state.

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

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

Sec. 2. The privilege to practice is valid until the expiration date of the home state license. The licensee must comply with the requirements of section 1 of this chapter to maintain the privilege to practice in the remote state.

Sec. 3. A licensee providing professional counseling in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state.

Sec. 4. A licensee providing professional counseling services in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, take any or all of the following actions:

(1) Remove a licensee's privilege to practice in the remote state for a specific period of time.

(2) Impose fines.

(3) Any other necessary actions to protect the health and safety of its citizens.

The licensee may be ineligible for a privilege to practice in any member state until the specific time for removal has passed and all fines are paid.

Sec. 5. If a home state license is encumbered, the licensee shall lose the privilege to practice in any remote state until all the following occur:

(1) The home state license is no longer encumbered.

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

Sec. 6. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of section 1 of this chapter to obtain a privilege to practice in any remote state.



1 **Sec. 7. If a licensee's privilege to practice in any remote state is**
 2 **removed, the individual may lose the privilege to practice in all**
 3 **other remote states until all the following occur:**

- 4 **(1) The specific period of time for which the privilege to**
 5 **practice was removed has ended.**
 6 **(2) All fines have been paid.**
 7 **(3) Have not had any encumbrance or restriction against any**
 8 **license or privilege to practice within the previous two (2)**
 9 **years.**

10 **Sec. 8. Once the requirements of section 7 of this chapter have**
 11 **been met, the licensee must meet the requirements of section 1 of**
 12 **this chapter to obtain a privilege to practice in a remote state.**

13 **Chapter 5. Obtaining a New Home State License Based on a**
 14 **Privilege to Practice**

15 **Sec. 1. A licensed professional counselor may hold a home state**
 16 **license, which allows for a privilege to practice in other member**
 17 **states, in only one (1) member state at a time.**

18 **Sec. 2. If a licensed professional counselor changes primary**
 19 **state of residence by moving between two (2) member states, the**
 20 **following conditions must be met:**

- 21 **(1) The licensed professional counselor shall file an**
 22 **application for obtaining a new home state license based on a**
 23 **privilege to practice, pay all applicable fees, and notify the**
 24 **current and new home state in accordance with applicable**
 25 **rules adopted by the commission.**
 26 **(2) Upon receipt of an application for obtaining a new home**
 27 **state license by virtue of a privilege to practice, the new home**
 28 **state shall verify that the licensed professional counselor**
 29 **meets the pertinent criteria outlined in IC 25-43-4 via the data**
 30 **system, without need for primary source verification except**
 31 **for:**

- 32 **(A) a Federal Bureau of Investigation fingerprint based**
 33 **criminal background check if not previously performed or**
 34 **updated pursuant to applicable rules adopted by the**
 35 **commission in accordance with federal Public Law 92-544;**
 36 **(B) other criminal background checks as required by the**
 37 **new home state; and**
 38 **(C) completion of any requisite jurisprudence**
 39 **requirements of the new home state.**

- 40 **(3) The former home state shall convert the former home state**
 41 **license into a privilege to practice once the new home state has**
 42 **activated the new home state license in accordance with**



1 applicable rules adopted by the commission.

2 (4) Notwithstanding any other provision of this compact, if the
3 licensed professional counselor cannot meet the criteria in
4 IC 25-43-4, the new home state may apply its requirements
5 for issuing a new single state license.

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

9 Sec. 3. If a licensed professional counselor changes primary
10 state of residence by moving from a member state to a nonmember
11 state, or from a nonmember state to a member state, the state
12 criteria shall apply for issuance of a single state license in the new
13 state.

14 Sec. 4. Nothing in this compact shall interfere with a licensee's
15 ability to hold a single state license in multiple states. However, for
16 the purposes of this compact, a licensee shall have only one (1)
17 home state license.

18 Sec. 5. Nothing in this compact shall affect the requirements
19 established by a member state for the issuance of a single state
20 license.

21 Chapter 6. Active Duty Military Personnel or Their Spouses

22 Sec. 1. Active duty military personnel or their spouses shall
23 designate a home state where the individual has a current license
24 in good standing. The individual may retain the home state
25 designation during the period the service member is on active duty.
26 Subsequent to designating a home state, the individual shall only
27 change their home state through application for licensure in the
28 new state or through the process outlined in IC 25-43-5.

29 Chapter 7. Compact Privilege to Practice Telehealth

30 Sec. 1. Member states shall recognize the right of a licensed
31 professional counselor, licensed by a home state in accordance with
32 IC 25-43-3 and under rules promulgated by the commission, to
33 practice professional counseling in any member state via telehealth
34 under a privilege to practice as provided in the compact and rules
35 promulgated by the commission.

36 Sec. 2. A licensee providing professional counseling services in
37 a remote state under the privilege to practice shall adhere to the
38 laws and regulations of the remote state.

39 Chapter 8. Adverse Actions

40 Sec. 1. In addition to the other powers conferred by state law, a
41 remote state shall have the authority, in accordance with existing
42 state due process law, to do the following:



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

3 (2) Issue subpoenas for both hearings and investigations that
4 require the attendance and testimony of witnesses as well as
5 the production of evidence. Subpoenas issued by a licensing
6 board in a member state for the attendance and testimony of
7 witnesses or the production of evidence from another member
8 state shall be enforced in the latter state by any court of
9 competent jurisdiction, according to the practice and
10 procedure of that court applicable to subpoenas issued in
11 proceedings pending before it. The issuing authority shall pay
12 any witness fees, travel expenses, mileage, and other fees
13 required by the service statutes of the state in which the
14 witnesses or evidence are located.

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

18 Sec. 2. For purposes of taking adverse action, the home state
19 shall give the same priority and effect to reported conduct received
20 from a member state as it would if the conduct had occurred within
21 the home state. In so doing, the home state shall apply its own state
22 laws to determine appropriate action.

23 Sec. 3. The home state shall complete any pending investigations
24 of a licensed professional counselor who changes primary state of
25 residence during the course of the investigations. The home state
26 shall also have the authority to take all appropriate actions and
27 shall promptly report the conclusions of the investigations to the
28 administrator of the data system. The administrator of the
29 coordinated licensure information system shall promptly notify the
30 new home state of any adverse actions.

31 Sec. 4. A member state, if otherwise permitted by state law, may
32 recover from the affected licensed professional counselor the costs
33 of investigations and dispositions of cases resulting from any
34 adverse action taken against that licensed professional counselor.

35 Sec. 5. A member state may take adverse action based on the
36 factual findings of the remote state, provided that the member state
37 follows its own procedures for taking the adverse action.

38 Sec. 6. (a) In addition to the authority granted to a member state
39 by its respective professional counseling practice act or other
40 applicable state law, any member state may participate with other
41 member states in joint investigations of licensees.

42 (b) Member states shall share any investigative, litigation, or



1 compliance materials in furtherance of any joint or individual
2 investigation initiated under the compact.

3 Sec. 7. If adverse action is taken by the home state against the
4 license of a licensed professional counselor, the licensed
5 professional counselor's privilege to practice in all other member
6 states shall be deactivated until all encumbrances have been
7 removed from the state license. All home state disciplinary orders
8 that impose adverse action against the license of a licensed
9 professional counselor shall include a statement that the licensed
10 professional counselor's privilege to practice is deactivated in all
11 member states during the pendency of the order.

12 Sec. 8. If a member state takes adverse action, it shall promptly
13 notify the administrator of the data system. The administrator of
14 the data system shall promptly notify the home state of any adverse
15 actions by remote states.

16 Sec. 9. Nothing in this compact shall override a member state's
17 decision that participation in an alternative program may be used
18 in lieu of adverse action.

19 Chapter 9. Establishment of Counseling Compact Commission

20 Sec. 1. (a) The compact member states hereby create and
21 establish a joint public agency known as the counseling compact
22 commission.

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

24 (c) Venue is proper and judicial proceedings by or against the
25 commission shall be brought solely and exclusively in a court of
26 competent jurisdiction where the principal office of the commission
27 is located. The commission may waive venue and jurisdictional
28 defenses to the extent it adopts or consents to participate in
29 alternative dispute resolution proceedings.

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

32 Sec. 2. (a) Each member state shall have and be limited to one
33 (1) delegate selected by that member state's licensing board.

34 (b) The delegate shall be either:

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

38 (2) an administrator of the licensing board.

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

42 (d) The member state licensing board shall fill any vacancy



1 occurring on the commission within sixty (60) days.

2 (e) Each delegate shall be entitled to one (1) vote with regard to
3 the promulgation of rules and creation of bylaws and shall
4 otherwise have an opportunity to participate in the business and
5 affairs of the commission.

6 (f) A delegate shall vote in person or by such other means as
7 provided in the bylaws. The bylaws may provide for delegates'
8 participation in meetings by telephone or other means of
9 communication.

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

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

15 Sec. 3. The commission shall have the following powers and
16 duties:

17 (1) Establish the fiscal year of the commission.

18 (2) Establish bylaws.

19 (3) Maintain its financial records in accordance with the
20 bylaws.

21 (4) Meet and take such actions as are consistent with the
22 provisions of this compact and the bylaws.

23 (5) Promulgate rules that shall be binding to the extent and in
24 the manner provided for in the compact.

25 (6) Bring and prosecute legal proceedings or actions in the
26 name of the commission, provided that the standing of any
27 state licensing board to sue or be sued under applicable law
28 shall not be affected.

29 (7) Purchase and maintain insurance and bonds.

30 (8) Borrow, accept, or contract for services of personnel,
31 including, but not limited to, employees of a member state.

32 (9) Hire employees, elect or appoint officers, fix
33 compensation, define duties, grant such individuals
34 appropriate authority to carry out the purposes of the
35 compact, and establish the commission's personnel policies
36 and programs relating to conflicts of interest, qualifications
37 of personnel, and other related personnel matters.

38 (10) Accept any and all appropriate donations and grants of
39 money, equipment, supplies, materials, and services, and to
40 receive, utilize, and dispose of the same, provided that at all
41 times, the commission shall avoid any appearance of
42 impropriety or conflict of interest.



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

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

(13) Establish a budget and make expenditures.

(14) Borrow money.

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

(16) Provide and receive information from, and cooperate with, law enforcement agencies.

(17) Establish and elect an executive committee.

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

Sec. 4. (a) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact.

(b) The executive committee shall be composed of up to eleven (11) members subject to the following:

(1) Seven (7) voting members who are elected by the commission from the current membership of the commission.

(2) Up to four (4) ex officio, nonvoting members from four (4) recognized national professional counselor organizations.

(3) The ex officio members will be selected by their respective organizations.

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

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

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

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

(2) Ensure compact administration services are appropriately provided, contractual or otherwise.



- (3) Prepare and recommend the budget.
- (4) Maintain financial records on behalf of the commission.
- (5) Monitor compact compliance of member states and provide compliance reports to the commission.
- (6) Establish additional committees as necessary.
- (7) Other duties as provided in rules or bylaws.

Sec. 5. (a) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in IC 25-43-11.

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

- (1) Noncompliance of a member state with its obligations under the compact.
- (2) The employment, compensation, discipline or other matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures.
- (3) Current, threatened, or reasonably anticipated litigation.
- (4) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate.
- (5) Accusing any person of a crime or formally censuring any person.
- (6) Disclosure of trade secrets or commercial or financial information that is privileged or confidential.
- (7) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.
- (8) Disclosure of investigative records compiled for law enforcement purposes.
- (9) Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact.
- (10) Matters specifically exempted from disclosure by federal or member state statute.

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



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

9 Sec. 6. (a) The commission shall pay, or provide for the payment
10 of, the reasonable expenses of the commission's establishment,
11 organization, and ongoing activities.

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

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

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

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

36 Sec. 7. (a) The members, officers, executive director, employees
37 and representatives of the commission shall be immune from suit
38 and liability, either personally or in their official capacity, for any
39 claim for damage to or loss of property or personal injury or other
40 civil liability caused by or arising out of any actual or alleged act,
41 error, or omission that occurred, or that the person against whom
42 the claim is made had a reasonable basis for believing occurred



1 within the scope of commission employment, duties, or
 2 responsibilities. However, nothing in this section shall be construed
 3 to protect any such person from suit or liability for any damage,
 4 loss, injury, or liability caused by the intentional or willful or
 5 wanton misconduct of that person.

6 (b) The commission shall defend any member, officer, executive
 7 director, employee, or representative of the commission in any civil
 8 action seeking to impose liability arising out of any actual or
 9 alleged act, error, or omission that occurred within the scope of
 10 commission employment, duties, or responsibilities, or that the
 11 person against whom the claim is made had a reasonable basis for
 12 believing occurred within the scope of commission employment,
 13 duties, or responsibilities. However, nothing herein shall be
 14 construed to prohibit that person from retaining his or her own
 15 counsel, and provided further, that the actual or alleged act, error,
 16 or omission did not result from that person's intentional, willful, or
 17 wanton misconduct.

18 (c) The commission shall indemnify and hold harmless any
 19 member, officer, executive director, employee, or representative of
 20 the commission for the amount of any settlement or judgment
 21 obtained against that person arising out of any actual or alleged
 22 act, error, or omission that occurred within the scope of
 23 commission employment, duties, or responsibilities, or that such
 24 person had a reasonable basis for believing occurred within the
 25 scope of commission employment, duties, or responsibilities,
 26 provided that the actual or alleged act, error, or omission did not
 27 result from the intentional or willful or wanton misconduct of that
 28 person.

29 Chapter 10. Data System

30 Sec. 1. The commission shall provide for the development,
 31 maintenance, operation, and utilization of a coordinated data base
 32 and reporting system containing licensure, adverse action, and
 33 investigative information on all licensed individuals in member
 34 states.

35 Sec. 2. Notwithstanding any other provision of state law to the
 36 contrary, a member state shall submit a uniform data set to the
 37 data system on all individuals to whom this compact is applicable
 38 as required by the rules of the commission, including the following:

- 39 (1) Identifying information.
- 40 (2) Licensure data.
- 41 (3) Adverse actions against a license or privilege to practice.
- 42 (4) Nonconfidential information related to alternative



1 program participation.

2 (5) Any denial of application for licensure, and the reasons for
3 the denial.

4 (6) Current significant investigative information.

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

7 Sec. 3. Investigative information pertaining to a licensee in any
8 member state will only be available to other member states.

9 Sec. 4. The commission shall promptly notify all member states
10 of any adverse action taken against a licensee or an individual
11 applying for a license. Adverse action information pertaining to a
12 licensee in any member state will be available to any other member
13 state.

14 Sec. 5. Member states contributing information to the data
15 system may designate information that may not be shared with the
16 public without the express permission of the contributing state.

17 Sec. 6. Any information submitted to the data system that is
18 subsequently required to be expunged by the laws of the member
19 state contributing the information shall be removed from the data
20 system.

21 Chapter 11. Rulemaking

22 Sec. 1. (a) The commission shall promulgate reasonable rules in
23 order to effectively and efficiently achieve the purpose of the
24 compact.

25 (b) Notwithstanding subsection (a), in the event the commission
26 exercises its rulemaking authority in a manner that is beyond the
27 scope of the purposes of the compact, or the powers granted
28 hereunder, then the action by the commission shall be invalid and
29 have no force or effect.

30 Sec. 2. The commission shall exercise its rulemaking powers
31 pursuant to the criteria set forth in this section and the rules
32 adopted thereunder. Rules and amendments shall become binding
33 as of the date specified in each rule or amendment.

34 Sec. 3. If a majority of the legislatures of the member states
35 rejects a rule, by enactment of a statute or resolution in the same
36 manner used to adopt the compact within four (4) years of the date
37 of adoption of the rule, then such rule shall have no further force
38 and effect in any member state.

39 Sec. 4. Rules or amendments to the rules shall be adopted at a
40 regular or special meeting of the commission.

41 Sec. 5. Prior to promulgation and adoption of a final rule or
42 rules by the commission, and at least thirty (30) days in advance of



the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

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

Sec. 6. The notice of proposed rulemaking shall include the following:

- (1) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon.
- (2) The text of the proposed rule or amendment and the reason for the proposed rule.
- (3) A request for comments on the proposed rule from any interested person.
- (4) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

Sec. 7. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

Sec. 8. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

- (1) at least twenty-five (25) persons;
- (2) a state or federal governmental subdivision or agency; or
- (3) an association having at least twenty-five (25) members.

Sec. 9. (a) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

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

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

(d) All hearings will be recorded. A copy of the recording will be



1 made available on request.

2 (e) Nothing in this section shall be construed as requiring a
3 separate hearing on each rule. Rules may be grouped for the
4 convenience of the commission at hearings required by this section.

5 Sec. 10. Following the scheduled hearing date, or by the close of
6 business on the scheduled hearing date if the hearing was not held,
7 the commission shall consider all written and oral comments
8 received.

9 Sec. 11. If no written notice of intent to attend the public
10 hearing by interested parties is received, the commission may
11 proceed with promulgation of the proposed rule without a public
12 hearing.

13 Sec. 12. The commission shall, by majority vote of all members,
14 take final action on the proposed rule and shall determine the
15 effective date of the rule, if any, based on the rulemaking record
16 and the full text of the rule.

17 Sec. 13. Upon determination that an emergency exists, the
18 commission may consider and adopt an emergency rule without
19 prior notice, opportunity for comment, or hearing, provided that
20 the usual rulemaking procedures provided in the compact and in
21 this section shall be retroactively applied to the rule as soon as
22 reasonably possible, in no event later than ninety (90) days after
23 the effective date of the rule. For the purposes of this section, an
24 emergency rule is a rule that must be adopted immediately in order
25 to:

- 26 (1) meet an imminent threat to public health, safety, or
27 welfare;
28 (2) prevent a loss of commission or member state funds;
29 (3) meet a deadline for the promulgation of an administrative
30 rule that is established by federal law or rule; or
31 (4) protect public health and safety.

32 Sec. 14. The commission or an authorized committee of the
33 commission may direct revisions to a previously adopted rule or
34 amendment for purposes of correcting typographical errors, errors
35 in format, errors in consistency, or grammatical errors. Public
36 notice of any revisions shall be posted on the website of the
37 commission. The revision shall be subject to challenge by any
38 person for a period of thirty (30) days after posting. The revision
39 may be challenged only on grounds that the revision results in a
40 material change to a rule. A challenge shall be made in writing and
41 delivered to the chair of the commission prior to the end of the
42 notice period. If no challenge is made, the revision will take effect



1 without further action. If the revision is challenged, the revision
2 may not take effect without the approval of the commission.

3 **Chapter 12. Oversight, Dispute Resolution, and Enforcement**

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

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

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

19 **Sec. 2.** If the commission determines that a member state has
20 defaulted in the performance of its obligations or responsibilities
21 under this compact or the promulgated rules, the commission shall:

22 **(1)** provide written notice to the defaulting state and other
23 member states of the nature of the default, the proposed
24 means of curing the default and any other action to be taken
25 by the commission; and

26 **(2)** provide remedial training and specific technical assistance
27 regarding the default.

28 **Sec. 3.** If a state in default fails to cure the default, the defaulting
29 state may be terminated from the compact upon an affirmative
30 vote of a majority of the member states, and all rights, privileges
31 and benefits conferred by this compact may be terminated on the
32 effective date of termination. A cure of the default does not relieve
33 the offending state of obligations or liabilities incurred during the
34 period of default.

35 **Sec. 4.** Termination of membership in the compact shall be
36 imposed only after all other means of securing compliance have
37 been exhausted. Notice of intent to suspend or terminate shall be
38 given by the commission to the governor, the majority and
39 minority leaders of the defaulting state's legislature, and each of
40 the member states.

41 **Sec. 5.** A state that has been terminated is responsible for all
42 assessments, obligations, and liabilities incurred through the



1 effective date of termination, including obligations that extend
2 beyond the effective date of termination.

3 Sec. 6. The commission shall not bear any costs related to a state
4 that is found to be in default or that has been terminated from the
5 compact, unless agreed upon in writing between the commission
6 and the defaulting state.

7 Sec. 7. The defaulting state may appeal the action of the
8 commission by petitioning the United States District Court for the
9 District of Columbia or the federal district where the commission
10 has its principal offices. The prevailing member shall be awarded
11 all costs of such litigation, including reasonable attorney's fees.

12 Sec. 8. (a) Upon request by a member state, the commission
13 shall attempt to resolve disputes related to the compact that arise
14 among member states and between member and nonmember
15 states.

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

19 Sec. 9. (a) The commission, in the reasonable exercise of its
20 discretion, shall enforce the provisions and rules of this compact.

21 (b) By majority vote, the commission may initiate legal action
22 in the United States District Court for the District of Columbia or
23 the federal district where the commission has its principal offices
24 against a member state in default to enforce compliance with the
25 provisions of the compact and its promulgated rules and bylaws.
26 The relief sought may include both injunctive relief and damages.
27 In the event judicial enforcement is necessary, the prevailing
28 member shall be awarded all costs of such litigation, including
29 reasonable attorney's fees.

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

33 **Chapter 13. Date of Implementation of the Counseling Compact**
34 **Commission and Associated Rules, Withdrawal, and Amendment**

35 Sec. 1. The compact shall come into effect on the date on which
36 the compact statute is enacted into law in the tenth member state.
37 The provisions, which become effective at that time, shall be
38 limited to the powers granted to the commission relating to
39 assembly and the promulgation of rules. Thereafter, the
40 commission shall meet and exercise rulemaking powers necessary
41 to the implementation and administration of the compact.

42 Sec. 2. Any state that joins the compact subsequent to the



1 commission's initial adoption of the rules shall be subject to the
 2 rules as they exist on the date on which the compact becomes law
 3 in that state. Any rule that has been previously adopted by the
 4 commission shall have the full force and effect of law on the day the
 5 compact becomes law in that state.

6 Sec. 3. (a) Any member state may withdraw from this compact
 7 by enacting a statute repealing the same.

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

10 (c) Withdrawal shall not affect the continuing requirement of
 11 the withdrawing state's professional counseling licensing board to
 12 comply with the investigative and adverse action reporting
 13 requirements of this act prior to the effective date of withdrawal.

14 Sec. 4. Nothing contained in this compact shall be construed to
 15 invalidate or prevent any professional counseling licensure
 16 agreement or other cooperative arrangement between a member
 17 state and a nonmember state that does not conflict with the
 18 provisions of this compact.

19 Sec. 5. This compact may be amended by the member states. No
 20 amendment to this compact shall become effective and binding
 21 upon any member state until it is enacted into the laws of all
 22 member states.

23 Chapter 14. Construction and Severability

24 Sec. 1. This compact shall be liberally construed so as to
 25 effectuate the purposes thereof. The provisions of this compact
 26 shall be severable and if any phrase, clause, sentence, or provision
 27 of this compact is declared to be contrary to the constitution of any
 28 member state or of the United States or the applicability thereof to
 29 any government, agency, person, or circumstance is held invalid,
 30 the validity of the remainder of this compact and the applicability
 31 thereof to any government, agency, person, or circumstance shall
 32 not be affected thereby. If this compact shall be held contrary to
 33 the constitution of any member state, the compact shall remain in
 34 full force and effect as to the remaining member states and in full
 35 force and effect as to the member state affected as to all severable
 36 matters.

37 Chapter 15. Binding Effect of Compact and Other Laws

38 Sec. 1. A licensee providing professional counseling services in
 39 a remote state under the privilege to practice shall adhere to the
 40 laws and regulations, including scope of practice, of the remote
 41 state.

42 Sec. 2. Nothing herein prevents the enforcement of any other



1 law of a member state that is not inconsistent with the compact.

2 Sec. 3. Any laws in a member state in conflict with the compact
3 are superseded to the extent of the conflict.

4 Sec. 4. Any lawful actions of the commission, including all rules
5 and bylaws properly promulgated by the commission, are binding
6 upon the member states.

7 Sec. 5. All permissible agreements between the commission and
8 the member states are binding in accordance with their terms.

9 Sec. 6. In the event any provision of the compact exceeds the
10 constitutional limits imposed on the legislature of any member
11 state, the provision shall be ineffective to the extent of the conflict
12 with the constitutional provision in question in that member state.

13 SECTION 3. IC 34-30-2.1-391.5 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2023]: Sec. 391.5. IC 25-43-9-7 (Concerning
16 officers, employees, and representatives of the counseling compact
17 commission under the professional counselors licensure compact).



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 160, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 160 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 11, Nays 0

SB 160—LS 6465/DI 148

