

DRAFT Amendments adding Music Therapy to Chapter 38

CHAPTER 38 - PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, SOCIAL WORKERS AND CHEMICAL DEPENDENCY SPECIALISTS

33-38-101. Short title.

This act may be cited as the "Mental Health Professions Practice Act".

33-38-102. Definitions.

(a) As used in this act:

(i) "Board" means the mental health professions licensing board;

(ii) "Mental health procedures" means engaging in methods and techniques which include, but are not restricted to:

(A) "Counseling" means assisting clients through the counseling relationship, using a combination of mental health, psychotherapy and human development principles, methods and techniques, to achieve mental, emotional, physical, social, moral, educational, spiritual or career development and adjustment through the life span, but shall not include religious instruction;

(B) "Appraisal" means selecting, administering, scoring and interpreting instruments designed to assess an individual's attitudes, abilities, achievements, interests and personal characteristics and the use of methods and techniques for understanding human behavior in relation to coping with, adapting to, or changing life situations;

(C) "Consulting" means the application of scientific principles and procedures in counseling and human development to provide assistance in understanding and solving current or potential problems that the client may have in relation to a third party, be it an individual, a group or an organization;

(D) "Referral" means evaluating and identifying needs of a client to determine the advisability of referral to other specialists, informing the client of such judgment and communicating as requested or deemed appropriate to such referral sources;

(E) "Research" means systematic efforts to collect, evaluate, interpret and apply procedures related to improving the understanding and delivery of counseling services to clients.

(iii) "Licensed professional counselor, (LPC), licensed marriage and family therapist, (LMFT), licensed clinical social worker, (LCSW) and licensed addictions therapist, (LAT)," mean persons who represent themselves to the public by any title or description of psychotherapy services incorporating the words "professional counselor", "marriage and family therapist",

"clinical social worker", or "addictions therapist", who offer to render professional services in these fields to individuals, groups, organizations, corporations, institutions, government agencies, or the general public for compensation, implying that they are licensed and trained, experienced or expert in one (1) or more of these fields of practice and who hold a valid license to engage in the practice of one (1) or more of these specializations. These persons may practice independent of supervision;

(iv) "Practice of addictions therapy" means providing services based on theory and methods of counseling, psychotherapy, and addictionology to persons who are experiencing cognitive, affective or behavioral psychosocial dysfunction as a direct or indirect result of addiction, chemical dependency, abuse of chemical substances or related disorders. The practice of addictions therapy includes, but is not limited to, addiction prevention, crisis intervention, diagnosis, referral, direct treatment, and follow-up treatment which is rendered to individuals, families, groups, organizations, schools and communities who are adversely affected by addictions or related disorders;

(v) "Practice of clinical social work" means applying social work theory and methods to the diagnosis, treatment and prevention of psychosocial dysfunction, disability or impairment, including emotional and mental disorders. It is based on knowledge of one (1) or more theories of human development within a psychosocial context. The perspective of person in-situation is central to professional social work practice. Professional clinical social work includes but is not limited to interventions directed to interpersonal interactions, intrapsychic dynamics, and life support and management issues. Professional clinical social work services consist of assessment, diagnosis, treatment, including psychotherapy and counseling, client centered advocacy, consultation and evaluation with individuals, families, groups, communities and organizations;

(vi) "Practice of counseling" means rendering to individuals, couples, families, groups, organizations, corporations, institutions, government agencies or the general public a service that integrates a wellness, pathology and multicultural model of human behavior. This model applies a combination of mental health, psychotherapeutic, and human development principles and procedures to help clients achieve effective mental, emotional, physical, social, moral, educational, spiritual or career development and adjustment throughout the life span, and includes the diagnostic description and treatment of mental disorders or disabilities within the range of the professional's preparation;

(vii) "Practice of marriage and family therapy" means the rendering of professional marital and family therapy services and treatment to individuals, family groups and marital pairs, singly or in groups. Marital and family therapy includes but is not limited to the diagnosis and treatment, including psychotherapy, of nervous, emotional, and mental disorders, whether cognitive, affective or behavioral, within the context of marital and family systems. Marital and family therapy involves the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, marital pairs and families for the purpose of treating such diagnosed nervous and mental disorders;

(viii) "Psychotherapy" means the treatment, diagnosis, testing, assessment or counseling in a professional relationship to assist individuals or groups to alleviate mental disorders,

understand unconscious or conscious motivation, resolve emotional relationships, or attitudinal conflicts, or modify behaviors which interfere with effective emotional, social or intellectual functioning;

(ix) "Use of title or description of" means to hold oneself out to the public as having a particular status by means of stating on signs, mailboxes, address plates, stationery, announcements, calling cards or other instruments of professional identification;

(x) Certified addictions practitioner (CAP) means a person certified under this act to practice addictions treatment, prevention, intervention, diagnosis, referral and follow up under the supervision of a qualified clinical supervisor licensed in the state of Wyoming;

(xi) Certified social worker (CSW) means a person certified under this act to perform social work treatment, prevention, intervention, case management, referral and follow up with individuals diagnosed with mental illnesses or mental disorders under the supervision of a qualified clinical supervisor licensed in the state of Wyoming;

(xii) Certified mental health worker (CMHW) means a person certified under this act to perform the application of human services or psychological theory and methods to the assessment, treatment or prevention of psychosocial dysfunction, disability or impairment, including emotional or mental disorders, under the supervision of a qualified clinical supervisor licensed in the state of Wyoming. The practice of a CMHW shall not include assigning a diagnosis or acting as a primary treatment provider;

(xiii) "Qualified clinical supervisor" means a licensed professional counselor, licensed clinical social worker, licensed marriage and family therapist, licensed addictions therapist, licensed psychologist, a licensed psychiatrist, licensed physician with specialty in addictionology or a licensed advanced practitioner of nursing with psychiatric specialty;

(xiv) "This act" means W.S. 33-38-101 through 33-38-113;

(xv) "Domicile" means that place where a person has his true, fixed and permanent home to which whenever the person is absent the person has the intention of returning;

(xvi) "Certified addictions practitioner assistant" means a person certified under this act to assist in the practice of addictions treatment, prevention, intervention, referral and followup under the supervision of a qualified clinical supervisor licensed in the state of Wyoming;

(xvii) "Human behavioral discipline" refers to a degree in addictionology, chemical dependency, substance use disorder, counseling, psychology, social work, sociology or a related field.

(xviii) "Licensed Professional Music Therapist" (LPMT) means a person who holds board certification from the Certification Board for Music Therapists and who represents

themselves to the public by any title or description of music therapy services incorporating the words "music therapy," "licensed professional music therapist," or similar title, who offer to render professional music therapy services, and who hold a valid license to engage in the practice of music therapy. **The practice of LPMT does not include the screening, diagnosis or assessment of any physical, mental, or communication disorder, or the rendering of counseling or psychotherapy services.** These persons may practice independent of supervision.

(xviii) "Practice of music therapy" means the clinical and evidence-based use of music interventions to accomplish individualized goals for people of all ages and ability levels within a therapeutic relationship by a music therapist. Professional music therapy includes accepting referrals, conducting a music therapy assessment, and developing, implementing, and evaluating music therapy treatment plans specific to the needs and strengths of the client who may be seen individually or in groups. Music therapy interventions may include, music improvisation, receptive music listening, song writing, lyric discussion, music and imagery, singing, music performance, learning through music, music combined with other arts, music-assisted relaxation, music-based patient education, electronic music technology, adapted music intervention and movement to music.

33-38-103. Exemptions.

(a) Nothing in this act or W.S. 33-38-202 shall be construed to apply to the activities and services of:

(i) Qualified members of other legally recognized professions who are otherwise licensed or certified by this state, such as physicians, psychologists or registered nurses, from performing services consistent with the laws of this state, their training and the code of ethics of their professions, provided they do not represent themselves to be practicing the professions regulated under this act and do not represent themselves to be professional counselors, clinical social workers, marriage and family therapists, addiction therapists, or **professional music therapists, or** certified social workers, certified addictions practitioners or certified mental health workers;

(ii) Repealed By Laws 1997, ch. 153, § 2.

(iii) A student pursuing a course of study in these professions in an accredited institution of higher education if these activities are performed under clinical supervision and constitute a part of the supervised course of study, provided that such a person be designated a "student";

(iv) Nonresidents who render services in this state for not more than thirty (30) days during any calendar year, provided that the persons are duly authorized to perform the activities and services under the laws of the state or county of the person's residency;

(v) A rabbi, priest, minister, clergy or any person acting as a lay religious counselor of any religious denomination or sect provided the activities and services are within the scope of the performance of regular or specialized ministerial duties, the counseling is clearly identified as

being based on religious principles and there is no fee for services regulated under this act. This paragraph does not preclude acceptance of donations of any kind;

(vi) Persons offering unpaid volunteer services for organizations or charities provided that these persons are approved by the organizations or agencies for whom the services are rendered;

(vii) School social workers and school counselors certified under the professional teaching standards board when employed by local school

districts. (b) Repealed by Laws 1993, ch. 181, § 3.

(c) Nothing in this act shall prevent a qualified person exempted by this section from being licensed or certified under this act.

(d) Nothing in this act shall prevent persons who are not licensed or certified under this act from providing nonclinical case management services to assist the client. Case management services include advocacy, crisis intervention, linkage, monitoring and followup and referral. For purposes of this subsection:

(i) "Advocacy" means advocacy on behalf of a specific client for the purpose of accessing needed services;

(ii) "Crisis intervention" means intervention and stabilization provided in situations requiring immediate action or resolution for a specific client. The case manager may provide the initial intervention in a crisis situation and assist the client in gaining access to other needed clinical crisis intervention;

(iii) "Linkage" means working with clients or service providers to secure access to services. Activities include making telephone calls to agencies to arrange appointments or services following the initial referral process and preparing clients for appointments;

(iv) "Monitoring and followup" means contacting the client or others to ensure that a client is following a prescribed service plan and monitoring the progress and impact of that plan;

(v) "Referral" means arranging initial appointments with service providers or informing clients of services available and addresses and telephone numbers of agencies providing services.

(e) Nothing in this act shall prevent persons who are not licensed or certified under this act from advising or directing an individual regarding the conduct and behavior required as a participant of a program or system.

(f) Nothing in this act shall prevent persons who are not licensed or certified under this act from providing facilitation, leadership or instruction in educational programs addressing behaviors or life skills. This subsection shall not apply to persons providing facilitation, leadership or instruction to persons in the custody of the department of corrections unless the

persons in custody have been subjected to mental health screening.

33-38-104. Board created; expenses.

(a) The board is created and shall consist of six (6) members, residents of the state of Wyoming for a minimum of one year, who shall be appointed by the governor by and with the consent of the senate.

(b) Four (4) board members shall be licensed under this act, one (1) from each discipline and two (2) members shall be from the public at large. The governor shall through appointments to the board ensure that appointees are adult citizens and that differences in gender, ethnic origin, and the various levels of graduate and professional degrees and specialties, are represented on the board, though not all such differences will necessarily be reflected at the same time in board membership. Board members representing the professional disciplines shall have at least four (4) years of experience in the discipline. When the term of each member of the board ends, the governor shall appoint a successor by and with the consent of the senate for a term of three (3) years. Any licensed member vacancy occurring on the board shall be filled by the governor from a list of eligible candidates submitted by that affiliated discipline whose position is vacant. Public at large vacancies shall be filled at the pleasure of the governor.

(c) The initial board shall be made up of persons engaged in full-time practice or teaching in the disciplines involved and who are eligible for licensure under this act. When the initial appointments are made to the board by the governor, two members shall serve a one (1) year term, two (2) members shall serve two (2) year terms and two (2) members shall serve three (3) year terms as designated by the governor.

(d) The members of the board shall be paid mileage and per diem as provided in W.S. 33-1-302(a)(vii) when engaged in performing their duties as members of the board.

(e) The board shall submit an annual report to the governor as required by W.S. 9-2-1014.

33-38-105. Powers and duties of the board; rules; meetings; fees.

(a) The board shall adopt rules not inconsistent with this act or the laws of this state that are reasonable and necessary to administer this act. A subcommittee from each discipline shall be requested to draft the recommended rules and regulations for that particular discipline and shall submit them to the full board for action. The rules shall be adopted in accordance with the provisions of the Wyoming Administrative Procedure Act.

(b) The board shall meet not later than thirty (30) days after its members are appointed by the governor. The board shall elect a chairperson and a vice-chairperson and a secretary-treasurer who shall hold office according to the rules adopted by the board.

(c) The board shall hold at least one (1) regular meeting each year and any special meetings that are properly called as provided by the rules adopted by the board. Four (4) members constitute a quorum.

(d) The board shall conduct hearings on complaints concerning violations of this act and the rules adopted under this act. The initial inquiry will be conducted by a subcommittee, appointed by the board, composed of members of the discipline in question which will make recommendations to the board for action.

(e) The board may, in its own name, proceed in any court of competent jurisdiction to enjoin and restrain any unlicensed person from violating this act and may similarly act to bring suit to prevent or remedy any other violation of this act or of the rules adopted under this act. The action is in addition to any other proceeding or remedy authorized by law. The board shall be represented in all such actions by the attorney general or private counsel may be secured with approval of the attorney general.

(f) The board may charge an application fee and fees for examinations, licensing, certification, specialty examination designation, renewal and other services under this act or in accordance with the Interstate Compact for Licensed Professional Counselors, under W.S. 33-38-202, provided in amounts established by the board pursuant to W.S. 33-1-201. All money received, and the interest thereon, shall be deposited in the state treasury to the credit of a separate account and may be used only for the administration of this act except as provided by the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202.

(g) No member of the board is liable for any act performed in good faith for the performance of duties set forth in this act.

(h) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

(j) The board shall request criminal history background information as authorized under W.S. 7-19-106(a)(xxxiv) on license and certificate applicants for:

(i) All initial applicants; and

(ii) All renewal applicants once every four (4) years.

(k) The board shall administer the provisions of the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202, including factoring the annual assessment required under the compact into the board's biennium budget and promulgating any rules necessary for implementation of the compact.

(l) The Board may establish an ad hoc Music Therapy Advisory Group consisting of persons familiar with the practice of music therapy to provide the Board with expertise and assistance in carrying out its duties pursuant to this chapter. If a Music Therapy Advisory Group is established, the Board must determine the number of members, appoint the members, establish the terms of

the members; and determine the duties of the Music Therapy Advisory Group. Members of a Music Therapy Advisory Group serve without compensation.

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The members of the board shall be paid mileage and per diem as provided in W.S. 33-1-302(a)(vii) when engaged in performing their duties as members of the board.

33-38-106. Requirements for licensure and certification.

(a) The board shall issue a license as a professional counselor, marriage and family therapist, clinical social worker or addictions therapist to any applicant who files an application upon a form and in the manner prescribed by the board, accompanied by the appropriate fee and who furnishes satisfactory evidence to the board of the following:

(i) The applicant has reached the age of majority;

(ii) The applicant has no felony convictions and no misdemeanor convictions that relate adversely to the practice of counseling, marriage and family therapy, clinical social work or addictions therapy or to the ability to practice counseling, marriage and family therapy, clinical social work or addictions therapy, although exceptions to this requirement may be granted by the board if consistent with the public interest;

(iii) The applicant has received a master's or doctorate degree in one (1) of the disciplines identified from an accredited program and institution of higher education, which is professional in content and which meets the academic and training content standards established by the board. The board shall use the professional training and experience standards of the appropriate professional associations as established by the rules and regulations;

(iv) The applicant has demonstrated knowledge of one (1) of the fields of professional counseling, marriage and family therapy, clinical social work or addictions therapy in general by passing a standard examination which may be written or situational, as the board prescribes. The board may develop, adopt and administer appropriate examinations. The board shall establish specific provisions for examination of applicants for licensure in the specific discipline at reasonable times and places at least twice each year;

(v) The applicant has demonstrated that he has completed three thousand (3,000) hours of supervised clinical experience including a minimum of one hundred (100) hours of face-to-face individual clinical supervision from a qualified clinical supervisor.

(b) Certification under this subsection shall allow practice as a certified social worker only under the supervision of a qualified clinical supervisor and subject to any other restrictions which may be specified by the board. The board shall grant certification as a certified social worker to any applicant who files an application upon a form and in the manner prescribed by the board, accompanied by the appropriate fee and who furnishes satisfactory evidence to the board of the following:

(i) The applicant has reached the age of majority;

(ii) The applicant has no felony convictions and no misdemeanor convictions

that relate adversely to the practice of clinical social work or to the ability to practice clinical social work, although exceptions to this requirement may be granted by the board if consistent with the public interest;

(iii) The applicant has received a baccalaureate degree in social work from an accredited program and institution of higher education, which is professional in content and which meets the academic and training content standards established by the board. The board shall use the professional training and experience standards of the appropriate professional associations as established by the rules and regulations;

(iv) Repealed By Laws 2008, Ch. 51, § 2.

(v) The applicant has demonstrated knowledge in the field of social work in general by passing a standard examination which may be written or situational, as the board prescribes. The board may develop, adopt and administer appropriate examinations. The board shall establish specific provisions for examination of applicants for certification in the specific discipline at reasonable times and places at least twice each year;

(vi) Unless extended, the applicant has six (6) months from the date of employment to become certified. The board may, for good cause shown, grant an extension of this grace period.

(c) Certification under this subsection shall allow practice as a certified addictions practitioner only under the supervision of a qualified clinical supervisor and subject to any other restrictions which may be specified by the board. The board shall grant certification as a certified addictions practitioner to any applicant who files an application upon a form and in the manner prescribed by the board, accompanied by the appropriate fee and who furnishes satisfactory evidence to the board of the following:

(i) The applicant has reached the age of majority;

(ii) The applicant has no felony convictions and no misdemeanor convictions that relate adversely to the practice of addictions therapy or to the ability to practice addictions therapy, although exceptions to this requirement may be granted by the board if consistent with the public interest;

(iii) The applicant has received a baccalaureate degree in a human behavioral discipline from a regionally accredited institution of higher education, which is professional in content and which meets national standards for accreditation in the field of addiction therapy as accepted by the board, or has received a baccalaureate level equivalency in addiction therapy. In performing its duties under this paragraph, the board shall consult the professional training and experience standards of appropriate national professional associations or the standards of an appropriate federal agency;

(iv) Repealed By Laws 2008, Ch. 51, § 2.

(v) The applicant has demonstrated knowledge in the field of addictions treatment in general by passing a standard examination which may be written or situational, as the board prescribes. The board may develop, adopt and administer appropriate examinations. The board shall establish specific provisions for examination of applicants for certification in the specific discipline at reasonable times and places at least twice each year;

(vi) Unless extended, the applicant has six (6) months from the date of employment to become certified. The board may, for good cause shown, grant an extension of this grace period;

(vii) Notwithstanding paragraphs (iii) and (vi) of this subsection, a person who has received a baccalaureate degree in a human behavioral discipline, other than a degree in addiction therapy, may be granted certification under this subsection after providing to the board satisfactory proof of completion of two thousand (2,000) hours of supervised work experience as a certified addictions practitioner assistant or equivalent in the field of addiction therapy.

(d) Provisional licensure is a means to continue progress towards satisfactory completion of all licensure requirements under this act. Upon review and approval by the designated board member or board, the board shall issue a provisional license to any applicant who files an application upon a form and in the manner prescribed by the board, accompanied by the appropriate fee and who furnishes satisfactory evidence to the board of the following:

(i) The applicant has reached the age of majority;

(ii) The applicant has no felony convictions and no misdemeanor convictions that relate adversely to the practice of counseling, marriage and family therapy, clinical social work or addictions therapy or to the ability to practice counseling, marriage and family therapy, clinical social work or addictions therapy, although exemptions to this requirement may be granted by the board if consistent with public interest;

(iii) The applicant meets any of the following educational requirements:

(A) Holds a master's or doctorate degree in one (1) of the disciplines identified from an accredited program and institution of higher education which is professional in content and which meets the academic and training content standards established by the board; or

(B) Holds a master's or doctorate degree which is clinical in content from a regionally accredited institution of higher education in one (1) of the disciplines identified. During the term of provisional licensure under this subsection, the applicant shall complete any program deficiencies required to meet the academic and training content standards established by the board; or

(C) Holds a license for independent clinical practice in good standing in the identified discipline for another licensing jurisdiction which does not meet the criteria for reciprocal licensure under this act. During the term of provisional licensure under this subsection, the applicant shall complete any program deficiencies required to meet the academic and training content standards established by the board.

(iv) The provisional licensed professional counselor, clinical social worker, marriage and family therapist and addictions therapist shall be allowed to practice only under the supervision of a qualified clinical supervisor and in accordance with any other restrictions specified by the board;

(v) Unless extended, the provisional license shall expire thirty-six (36) months after issuance or upon issuance of a license by the board under this act, whichever occurs first;

(vi) The board may, for good cause shown, grant an extension of a provisional license subject to any additional restrictions specified by the board.

(e) Repealed by Laws 2021, ch. 37, § 2.

(f) Repealed by Laws 2021, ch. 37, § 2.

(g) Repealed by Laws 2021, ch. 37, § 2.

(h) Repealed by Laws 2021, ch. 37, § 2.

(j) Repealed by Laws 2021, ch. 37, § 2.

(k) Repealed by Laws 2021, ch. 37, § 2.

(m) Repealed by Laws 2021, ch. 37, § 2.

(n) Certification under this subsection shall allow practice as a certified addictions practitioner assistant only under the supervision of a qualified clinical supervisor and subject to any other restrictions which may be specified by the board. Unless extended, an applicant has six (6) months from the date of employment to become certified. The board may for good cause grant an extension of this period. The board shall grant certification as a certified addictions practitioner assistant to any applicant who files an application upon a form and in the manner prescribed by the board, accompanied by the appropriate fee and who furnishes satisfactory evidence to the board of the following:

(i) The applicant has completed two hundred seventy (270) contact hours of education and training in alcoholism and drug abuse or related counseling subjects that meet the academic and training content standards established by the board. The board shall use the professional training standards of the appropriate professional association as established by the rules and regulation;

(ii) The applicant has reached the age of majority;

(iii) The applicant has no felony convictions and no misdemeanor convictions that relate adversely to the practice of addictions therapy or to the ability to practice as an addictions practitioner assistant, although exceptions to this requirement may be granted by the board if consistent with the public interest;

(iv) Repealed By Laws 2008, Ch. 51, § 2.

(v) The applicant has demonstrated knowledge in the field of addictions treatment in general by passing a standard examination which may be written and situational, as the board prescribes. The board may develop, adopt and administer appropriate examinations. The board shall establish specific provisions for examination of applicants for certification in the specific discipline at reasonable times and places at least twice each year.

(o) Upon examination of all credentials the board may consider the credentials adequate evidence of professional competence and recommend to the chairperson of the board that a license or certification be approved.

(p) Persons currently licensed in one (1) of these disciplines in this state as of July 1, 1997 in a discipline required to be licensed under this act, shall be presumed to have met all requirements for licensure under this act and shall be eligible for renewal of licensure in accordance with the provisions of this act.

(q) Certification under this subsection shall allow practice as a certified mental health worker only under the supervision of a qualified clinical supervisor and subject to any other restrictions which may be specified by the board. The board shall grant certification as a certified mental health worker to any applicant who files an application upon a form and in the manner prescribed by the board, accompanied by the appropriate fee and who furnishes satisfactory evidence to the board of the following:

(i) The applicant has reached the age of majority;

(ii) The applicant has no felony convictions and no misdemeanor convictions that relate adversely to the practice of clinical mental health work or to the ability to practice clinical mental health work, although exceptions to this requirement may be granted by the board if consistent with the public interest;

(iii) The applicant has received a baccalaureate degree in a human behavioral discipline from an accredited program and institution of higher education, which is professional in content and which meets the academic and training content standards established by the board. The board shall use the professional training and experience standards of the appropriate professional associations as established by the rules and regulations;

(iv) The applicant has demonstrated knowledge in the field of mental health work in general by passing a standard examination which may be written or situational, as the board prescribes. The board may develop, adopt and administer appropriate examinations. The board shall establish specific provisions for examination of applicants for certification in the specific discipline at reasonable times and places at least twice each year;

(v) Unless extended, the applicant has six (6) months from the date of employment to become certified. The board may, for good cause shown, grant an extension of this grace period.

(r) To the extent a license authorized under subsection (a) of this section for practice as a licensed professional counselor does not comply with the requirements for licensure under the

Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202, the license shall be considered a single-state license that does not include a privilege to practice in any other compact state.

(s) The board shall issue a privilege to practice as a professional counselor to an applicant who is licensed in a member state in accordance with the Interstate Compact for Licensed Professional Counselors provided that the applicant's license meets all the licensing requirements in other member states as provided in W.S. 33-38-202.

(t) The board shall issue a license as a music therapist to an applicant who files an application upon a form and in the manner prescribed by the board, accompanied by the appropriate fee and who furnishes satisfactory evidence to the board of the following:

(i) The applicant has reached the age of majority;

(ii) The applicant has no felony convictions and no misdemeanor convictions that relate adversely to the practice of music therapy or to the ability to practice music therapy, although exceptions to this requirement may be granted by the board if consistent with the public interest;

(iii) The applicant holds a bachelor's degree or higher in music therapy, or its equivalent, including clinical training hours, from a music therapy program within an accredited college or university; The board shall use the professional training and experience standards of the appropriate professional association as established by the rules and regulations;

(iv) The applicant provides proof of passing the examination for board certification offered by the Certification Board for Music Therapists or any successor organization or provides proof of being transitioned into board certification, and provides proof that the applicant is currently a board certified music therapist.

33-38-107. Renewal of license and continuing education.

Persons licensed or certified under this act shall submit biennially the appropriate renewal fee at a time specified by the board. The renewal request shall be accompanied by evidence satisfactory to the board of compliance with this act and participation in continuing education activities as established by rules and regulations of the board.

33-38-108. Reciprocity.

(a) Any individual holding a license in good standing to engage in the practice of professional counseling, clinical social work, marriage and family therapy, addictions therapy, or music therapy under the laws of another state having licensure requirements substantially similar to those required by this act may, upon approval of the board, be issued a license to practice in this state. The authority provided to the board under this section to issue a privilege to practice in this state as a licensed professional counselor shall be separate from and in addition to the authority provided to the board in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202.

(b) Any individual holding a certification in good standing to engage in the practice of

social work, addictions therapy or mental health work under the laws of another state having certification requirements substantially similar to those required by this act may, upon approval of the board, be issued certification to practice in this state.

(c) The board shall promulgate rules and regulations setting forth the manner in which credentials shall be reviewed by the board.

(d) For good cause shown the board shall issue a license or certification to practice in this state to an individual seeking reciprocity as a social worker, addictions practitioner, addictions practitioner assistant or mental health worker who does not otherwise meet the reciprocity requirements under subsection (a) or (b) of this section.

33-38-109. Disclosure of information.

(a) A person licensed or certified under this act or in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202 shall not disclose without consent of the client any communication made by the client to the licensed or certified professional in the course of professional practice, nor may any employee of the licensed or certified professional reveal the information without the consent of the employer or client except as indicated by law.

(b) Repealed by Laws 1993, ch. 181, § 3.

(c) A person licensed or certified under this act or in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202 shall not reveal without the consent of the client or the client's legal advisor his advice given in the course of professional employment; nor shall a secretary, stenographer, clerk or other employee of any person licensed or certified under this act reveal, without the consent of his employer or the client, any facts, the knowledge of which he has acquired in such capacity.

33-38-110. Prohibited acts; penalties.

(a) No person shall:

(i) Engage in the practice of professional counseling, clinical social work, marriage and family therapy, addictions therapy, or music therapy unless licensed or certified to so practice under this act or to represent himself to the public as being licensed as a professional counselor, a clinical social worker, a marriage and family therapist, addiction therapist, or as a professional music therapist, or certified as a certified social worker or certified addictions practitioner, certified mental health worker, or to represent himself to the public as a professional counselor, a clinical social worker, a social worker, mental health worker, a marriage and family therapist, an addictions therapist, an addictions practitioner, or a professional music therapist without having first complied with this act;

(ii) Engage in the professional practice of counseling, clinical social work, marriage and family therapy, addictions therapy, or music therapy and fail to provide a professional disclosure statement as provided in W.S. 33-38-111 except as exempted by W.S. 33-38-103 or other law.

(b) Repealed by Laws 1993, ch. 181, § 3.

(c) The board may refuse to renew, or may deny, suspend, revoke or otherwise restrict licensure or certification under this act for any of the following causes:

(i) Conviction of a felony or misdemeanor that relates adversely to the practice of counseling, marriage and family therapy, clinical social work, addictions therapy, or music therapy or to the ability to practice counseling, marriage and family therapy, clinical social work addictions therapy, or music therapy including pleas of nolo contendere. A certified copy of the conviction shall be conclusive evidence of the conviction;

(ii) Renting or lending the license or certificate issued pursuant to this act to any person planning to use that license or certificate;

(iii) Unprofessional or unethical conduct;

(iv) Gross incompetence and malpractice;

(v) Mental incompetency;

(vi) Knowingly submitting false or misleading information to the board in any application for examination, licensure or certification;

(vii) Habitual intemperate use of alcohol or a controlled substance;

(viii) Violation and conviction of a charge under the Wyoming Controlled Substances Act;

(ix) Willful violation of any provisions of this act;

(x) Sexual exploitation of a patient, defined as:

(A) Any verbal behavior by a licensee or certificate holder under this chapter which involves offers of exchange of professional services for some form of sexual gratification; or

(B) Unlawful or unprofessional sexual contact with a client.

(xi) Failure to make timely application for licensure, certification or renewal thereof or to meet the continuing education requirements prior to the license or certificate expiration date.

(d) Proceedings under this section may be taken by the board from matters within its knowledge or upon information from another. If the informant is a member of the board, the other members of the board shall judge the accused. All complaints shall be in writing, verified by some party familiar with the facts alleged, and shall be filed with the board. Upon receiving

the complaint the board, if it deems the complaint sufficient, shall proceed as in a contested case under the Wyoming Administrative Procedure Act. Upon revocation of any license or certification, the fact shall be noted upon the records of the board and the license or certification shall be marked cancelled upon the date of its revocation. Any suspension issued by the board pursuant to this section shall be for a period not greater than one (1) year and any licensee or certificate holder sanctioned shall not be allowed to practice in this state until completion of the suspension period and timely review by the board. The sanction of revocation upon order of the board shall be for a stated period not to exceed three (3) years, and a person whose license or certification has been revoked may not apply for reinstatement until thirty (30) days before the end of the stated period of revocation.

(e) Persons violating this act are guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00), by imprisonment for not more than six (6) months, or both. A third or subsequent conviction for violation of this section during a thirty-six (36) month period shall constitute a felony punishable by imprisonment for not more than two (2) years, a fine of not more than two thousand dollars (\$2,000.00), or both. Each violation shall constitute a separate offense.

(f) The board may seek an injunction in the district court to enjoin any person from violating this act.

(g) Notwithstanding the prohibitions imposed under paragraph (a)(i) of this section, a person shall be authorized to engage in the practice of professional counseling and represent himself to the public as being a licensed professional counselor if authorized to practice in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202.

33-38-111. Protection of the public; professional disclosure.

Any individual licensed or certified under this act or in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202 is required to conspicuously display a professional disclosure statement at his place of business or at the principal location where his services are performed and to provide a copy of the statement to each adult client, or in the case of a minor to the minor's parent or guardian, before or during the first session and upon request. The professional disclosure statement shall contain the licensee's or certificate holder's name, title, business address and telephone number, listing of formal professional education with name of institution attended and specific degrees received, licensure status or certificates currently held, statement of confidentiality, a statement that the professional ethical code of the discipline will be followed, including a statement that sexual intimacy with a client is never appropriate and a statement that the disclosure statement is required by the Mental Health Professions Licensing Act. The disclosure statement may also contain a listing of areas of specialization, including major course of study.

33-38-112. Limitation of practice.

All licensees and certificate holders under this act and all professional counselors authorized to practice under the Interstate Compact for Licensed Professional Counselors in accordance with

W.S. 33-38-202 shall adhere to the ethical standards of their discipline, and according to those promulgated in the rules and regulations of the board.

33-38-113. Privileged communication.

(a) In judicial proceedings, whether civil, criminal, or juvenile, in administrative proceedings, and in proceedings preliminary and ancillary thereto, a patient or client, or his guardian or personal representative, may refuse to disclose and may prevent the disclosure of confidential information, including information contained in administrative records, communicated to a person licensed or otherwise authorized to practice under this act or in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202, and their agents, for the purpose of diagnosis, evaluation or treatment of any mental or emotional condition or disorder. A person licensed or otherwise authorized to practice under this act or in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202 shall not disclose any information communicated as described above in the absence of an express waiver of the privilege except in the following circumstances:

(i) Where abuse or harmful neglect of children, the elderly or disabled or incompetent individuals is known or reasonably suspected;

(ii) Where the validity of a will of a former patient or client is contested;

(iii) Where such information is necessary to defend against a malpractice action brought by the patient or client;

(iv) Where an immediate threat of physical violence against a readily identifiable victim is disclosed to the person licensed or otherwise authorized to practice under this act or in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202;

(v) In the context of civil commitment proceedings, where an immediate threat of self-inflicted damage is disclosed to the person licensed or otherwise authorized to practice under this act or in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202;

(vi) Where the patient or client alleges mental or emotional damages in civil litigation or otherwise places his mental or emotional state in issue in any judicial or administrative proceeding concerning child custody or visitation;

(vii) Where the patient or client is examined pursuant to court order; or

(viii) In the context of investigations and hearings brought by the patient or client and conducted by the board where violations of this act or in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202 are at issue. Information that is deemed to be of sensitive nature shall be inspected by the board in camera and the board shall determine whether or not the information shall become a part of the record and subject to public disclosure.

33-38-201. Short title.

This article shall be known and may be cited as the "Interstate Compact for Licensed Professional Counselors."

33-38-202. Interstate compact for licensed professional counselors.

The Interstate Compact for Licensed Professional Counselors as contained herein is hereby enacted into law and entered into on behalf of this state with any and all other states legally joining therein in a form substantially as follows:

SECTION 1.
PURPOSE

The purpose of this Compact is to facilitate the 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. This Compact is designed to achieve the following objectives:

- A. Increase public access to Professional Counseling services by providing for the mutual recognition of other Member State licenses;
- B. Enhance the States' ability to protect the public's health and safety;
- C. Encourage the cooperation of Member States in regulating multistate practice for Licensed Professional Counselors;
- D. Support spouses of relocating Active Duty Military personnel;
- E. Enhance the exchange of licensure, investigative and disciplinary information among Member States;
- F. Allow for the use of Telehealth technology to facilitate increased access to Professional Counseling services;
- G. Support the uniformity of Professional Counseling licensure requirements throughout the States to promote public safety and public health benefits;
- H. 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;
- I. Eliminate the necessity for licenses in multiple States; and
- J. Provide opportunities for interstate practice by Licensed Professional Counselors who

meet uniform licensure requirements.

SECTION 2. DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

A. "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 on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211;

B. "Adverse Action" means any administrative, civil, equitable or criminal action permitted by a State's laws which 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;

C. "Alternative Program" means a non-disciplinary monitoring or practice remediation process approved by a Professional Counseling Licensing Board to address Impaired Practitioners;

D. "Continuing Competence/Education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to a practice or area of work;

E. "Counseling Compact Commission" or "Commission" means the national administrative body whose membership consists of all States that have enacted the Compact;

F. "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.

G. "Data System" means a repository of information about Licensees, including, but not limited to, continuing education and examination, licensure, investigative, Privilege to Practice and Adverse Action information;

H. "Encumbered License" means a license upon which an Adverse Action restricts the practice of licensed Professional Counseling by the Licensee and which Adverse Action has been reported to the National Practitioners Data Bank (NPDB);

I. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and

unrestricted practice of Licensed Professional Counseling by a Licensing Board;

J. "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;

K. "Home State" means the Member State that is the Licensee's primary State of residence;

L. "Impaired Practitioner" means an individual who has a condition(s) that may impair their 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;

M. "Investigative Information" means information, records and documents received or generated by a Professional Counseling Licensing Board pursuant to an investigation;

N. "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;

O. "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;

P. "Licensee" means an individual who currently holds an authorization from the Member State to practice as a Licensed Professional Counselor;

Q. "Licensing Board" means the agency of a State, or equivalent, that is responsible for the licensing and regulation of Licensed Professional Counselors;

R. "Member State" means a State that has enacted the Compact;

S. "Privilege to Practice" means a legal authorization, which is equivalent to a license, permitting the practice of Professional Counseling in a Remote State;

T. "Professional Counseling" means the assessment, diagnosis and treatment of behavioral health conditions by a Licensed Professional Counselor;

U. "Remote State" means a Member State other than the Home State, where a Licensee is exercising or seeking to exercise the Privilege to Practice;

V. "Rule" means a regulation promulgated by the Commission that has the force of law;

W. "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;

X. "State" means any state, commonwealth, district or territory of the United States of America that regulates the practice of Professional Counseling;

Y. "Telehealth" means the application of telecommunication technology to deliver Professional Counseling services remotely to assess, diagnose and treat behavioral health conditions;

Z. "Unencumbered License" means a license that authorizes a Licensed Professional Counselor to engage in the full and unrestricted practice of Professional Counseling.

SECTION 3.
STATE PARTICIPATION IN THE COMPACT

A. To participate in the Compact, a State must currently:

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 60 semester-hour (or 90 quarter-hour) master's degree in counseling or 60 semester-hours (or 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; and
 - 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.

B. A Member State shall:

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:

a. A member state must fully implement a criminal background check requirement, within a time frame established by Rule, by receiving results of Federal Bureau of Investigation record searches 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 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; and

7. Provide for the attendance of the State's commissioner at Counseling Compact Commission meetings.

C. Member States may charge a fee for granting the Privilege to Practice.

D. 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.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

F. 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.

SECTION 4.
PRIVILEGE TO PRACTICE

A. To exercise the Privilege to Practice under the terms and provisions of the Compact, the Licensee shall:

1. Hold a license in the Home State;
2. Have a valid United States Social Security Number or National Practitioner Identifier;
3. Be eligible for a Privilege to Practice in any Member State in accordance with Section 4(D), (G) and (H);
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(s);
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 the Remote State(s) in which the Licensee is seeking a Privilege to Practice; and
9. Report to the Commission any Adverse Action, Encumbrance or restriction on the licensee's license taken by any non-Member State within 30 days from the date the action is taken.

B. The Privilege to Practice is valid until the expiration date of the Home State license. The Licensee must comply with the requirements of Section 4(A) to maintain the Privilege to Practice in the Remote State.

C. 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.

D. 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, remove a Licensee's Privilege to Practice in the Remote State for a specific period of time, impose fines and/or take 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.

E. If a Home State license is encumbered, the Licensee shall lose the Privilege to Practice in any Remote State until the following occur:

1. The Home State license is no longer encumbered; and
2. The licensee has not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years.

F. Once an Encumbered License in the Home State is restored to good standing, the Licensee must meet the requirements of Section 4(A) to obtain a Privilege to Practice in any Remote State.

G. If a Licensee's Privilege to Practice in any Remote State is removed, the individual may lose the Privilege to Practice in all other Remote States until the following occur:

1. The specific period of time for which the Privilege to Practice was removed has ended;
2. All fines have been paid; and
3. The licensee has not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years.

H. Once the requirements of Section 4(G) have been met, the Licensee must meet the requirements in Section 4(A) to obtain a Privilege to Practice in a Remote State.

SECTION 5.

OBTAINING A NEW HOME STATE LICENSE BASED ON A PRIVILEGE TO PRACTICE

A. A Licensed Professional Counselor may hold a Home State license, which allows for a Privilege to Practice in other Member States, in only one Member State at a time.

B. If a Licensed Professional Counselor changes primary State of residence by moving between two Member States:

1. The Licensed Professional Counselor shall file an application for obtaining a new Home State license based on a Privilege to Practice, pay all applicable fees and notify the current and new Home State in accordance with applicable Rules adopted by the Commission;

2. Upon receipt of an application for obtaining a new Home State license by virtue of a Privilege to Practice, the new Home State shall verify that the Licensed Professional Counselor meets the pertinent criteria outlined in Section 4 via the Data System, without need for primary source verification except for:

a. A Federal Bureau of Investigation fingerprint based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the Commission in accordance with Public Law 92-544;

b. Other criminal background check as required by the new Home State; and

c. Completion of any requisite Jurisprudence Requirements of the new Home State.

3. The former Home State shall convert the former Home State license into a Privilege to Practice once the new Home State has activated the new Home State license in accordance with applicable Rules adopted by the Commission;

4. Notwithstanding any other provision of this Compact, if the Licensed Professional Counselor cannot meet the criteria in Section 4, the new Home State may apply its requirements for issuing a new Single State License;

5. The Licensed Professional Counselor shall pay all applicable fees to the new Home State in order to be issued a new Home State license.

C. If a Licensed Professional Counselor changes Primary State of Residence by moving from a Member State to a non-Member State, or from a non-Member State to a Member State, the State criteria shall apply for issuance of a Single State License in the new State.

D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State License in multiple States, however for the purposes of this Compact, a Licensee shall have only one Home State license.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

Active Duty Military personnel, or their spouse, shall designate a Home State where the individual has a current license in good standing. The individual may retain the Home State designation during the period the service member is on active duty. Subsequent to designating a Home State, the individual shall only change their Home State through application for licensure in a new State, or through the process outlined in Section 5.

SECTION 7.
COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Section 3 and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission.

B. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State.

SECTION 8.
ADVERSE ACTIONS

A. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to:

1. Take Adverse Action against a Licensed Professional Counselor's Privilege to Practice within that Member State; and
2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Board in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the State in which the witnesses or evidence are located;
3. Have the power to take Adverse Action against a Licensed Professional Counselor's license if the license is issued by the Home State.

B. For purposes of taking Adverse Action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own state laws to determine appropriate action.

C. The Home State shall complete any pending investigations of a Licensed Professional Counselor who changes primary State of residence during the course of an investigation. The Home State shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the Data System. The administrator of the coordinated licensure information system shall promptly notify the new Home State of any Adverse Actions.

D. A Member State, if otherwise permitted by State law, may recover from the affected Licensed Professional Counselor the costs of investigations and dispositions of cases resulting from any Adverse Action taken against that Licensed Professional Counselor.

E. A Member State may take Adverse Action based on the factual findings of the Remote State, provided that the Member State follows its own procedures for taking the Adverse Action.

F. Joint Investigations:

1. In addition to the authority granted to a Member State by its respective Professional Counseling practice act or other applicable State law, any Member State may participate with other Member States in joint investigations of Licensees;

2. Member States shall share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

G. If Adverse Action is taken by the Home State against the license of a Licensed Professional Counselor, the Licensed Professional Counselor's Privilege to Practice in all other Member States shall be deactivated until all Encumbrances have been removed from the State license.

All Home State disciplinary orders that impose Adverse Action against the license of a Licensed Professional Counselor shall include a Statement that the Licensed Professional Counselor's Privilege to Practice is deactivated in all Member States during the pendency of the order.

H. If a Member State takes Adverse Action, it shall promptly notify the administrator of the Data System. The administrator of the Data System shall promptly notify the Home State of any Adverse Actions by Remote States.

I. Nothing in this Compact shall override a Member State's decision that participation in an Alternative Program may be used in lieu of Adverse Action.

SECTION 9.
ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

A. The Compact Member States hereby create and establish a joint public agency known as the Counseling Compact Commission:

1. The Commission is an instrumentality of the Compact States;

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings;

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting and Meetings:

1. Each Member State shall have and be limited to one (1) delegate selected by that Member State's Licensing Board;

2. The delegate shall be either:

a. A current member of the Licensing Board at the time of appointment, who is a Licensed Professional Counselor or public member;

or b. An administrator of the Licensing Board.

3. Any delegate may be removed or suspended from office as provided by the law of the State from which the delegate is appointed;

4. The Member State Licensing Board shall fill any vacancy occurring on the Commission within sixty (60) days;

5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of Rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission;

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

7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws;

8. The Commission shall by Rule establish a term of office for delegates and may by Rule establish term limits.

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

3. Maintain its financial records in accordance with the bylaws;

4. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

5. Promulgate Rules which shall be binding to the extent and in the manner provided for in the Compact;

6. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Board to sue or be sued under

applicable law shall not be affected;

7. Purchase and maintain insurance and bonds;

8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;

9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to 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; and

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.

D. The Executive Committee:

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact;

2. The Executive Committee shall be composed of up to eleven (11)

members:

a. Seven (7) voting members who are elected by the Commission from the current membership of the Commission; and

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

c. The ex-officio members will be selected by their respective organizations.

3. The Commission may remove any member of the Executive Committee as provided in bylaws;

4. The Executive Committee shall meet at least annually;

5. The Executive Committee shall have the following duties and responsibilities:

a. 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;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of Member States and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in Rules or bylaws.

E. Meetings of the Commission:

1. 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 Section 11;

2. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

- Compact;
- a. Non-compliance of a Member State with its obligations under the Compact;
 - b. 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;
 - c. Current, threatened or reasonably anticipated litigation;
 - d. Negotiation of contracts for the purchase, lease or sale of goods, services, or real estate;
 - e. Accusing any person of a crime or formally censuring any person; f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
 - g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - h. Disclosure of investigative records compiled for law enforcement purposes;
 - i. 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; or
 - j. Matters specifically exempted from disclosure by federal or Member State statute.

3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision;

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

F. Financing of the Commission:

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities;

2. The Commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services;

3. The Commission may levy on and collect an annual assessment from each Member State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a Rule binding upon all Member States;

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State;

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified Immunity, Defense and Indemnification:

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person;

2. The Commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct;

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the

scope of Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 10. DATA SYSTEM

A. The Commission shall provide for the development, maintenance, operation and utilization of a coordinated database and reporting system containing licensure, Adverse Action and Investigative Information on all licensed individuals in Member States.

B. Notwithstanding any other provisions of state law to the contrary, a Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse Actions against a license or Privilege to Practice;
4. Non-confidential information related to Alternative Program participation;
5. Any denial of application for licensure, and the reason(s) for such denial;
6. Current Significant Investigative Information; and

7. Other information that may facilitate the administration of this Compact, as determined by the Rules of the Commission.

C. Investigative Information pertaining to a Licensee in any Member State will only be available to other Member States.

D. The Commission shall promptly notify all Member States of any Adverse Action taken against a Licensee or an individual applying for a license. Adverse Action information pertaining to a Licensee in any Member State will be available to any other Member State.

E. Member States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.

F. Any information submitted to the Data System that is subsequently required to be expunged by the laws of the Member State contributing the information shall be removed from the Data System.

SECTION 11. RULEMAKING

A. The Commission shall promulgate reasonable Rules in order to effectively and

efficiently achieve the purpose of the Compact. Notwithstanding the foregoing, in the event the Commission exercises its Rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force or effect.

B. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this Section and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each Rule or amendment.

C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State.

D. Rules or amendments to the Rules shall be adopted at a regular or special meeting of the Commission.

E. Prior to promulgation and adoption of a final Rule or 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.

F. The Notice of Proposed Rulemaking shall include:

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; and
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.

G. 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.

H. 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 members.

I. If a hearing will be 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:

1. 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;

2. 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;

3. All hearings will be recorded. A copy of the recording will be made available on request;

4. Nothing in this section shall be construed as requiring a separate hearing on each Rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

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

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

L. The Commission shall, by majority vote of all members, take final action on the proposed Rule and shall determine the effective date of the Rule, if any, based on the Rulemaking record and the full text of the Rule.

M. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule without prior notice, opportunity for comment or hearing, provided that the usual Rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

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

2. Prevent a loss of Commission or Member State funds;

3. Meet a deadline for the promulgation of an administrative Rule that is established by federal law or Rule; or

4. Protect public health and safety.

N. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 12.
OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

A. Oversight:

1. The executive, legislative and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the Rules promulgated hereunder shall have standing as statutory law;

2. 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 this Compact which may affect the powers, responsibilities or actions of the Commission;

3. The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. Default, Technical Assistance and Termination:

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall:

a. Provide written notice to the defaulting State and other Member States of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

C. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Member States, and all rights,

privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

D. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, and each of the Member States.

E. A State that has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

F. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

G. The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

H. Dispute Resolution:

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between member and non Member States;

2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

I. Enforcement:

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact;

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a Member State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees;

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

SECTION 13.

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

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth Member State. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking powers necessary to the implementation and administration of the Compact.

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

C. Any Member State may withdraw from this Compact by enacting a statute repealing the same:

1. A Member State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute;

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Professional Counseling Licensing Board to comply with the investigative and Adverse Action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any Professional Counseling licensure agreement or other cooperative arrangement between a Member State and a non-Member State that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.

SECTION 14.

CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any Member State or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

SECTION 15.

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations, including scope of practice, of the Remote State.

B. Nothing herein prevents the enforcement of any other law of a Member State that is not inconsistent with the Compact.

C. Any laws in a Member State in conflict with the Compact are superseded to the extent of the conflict.

D. Any lawful actions of the Commission, including all Rules and bylaws properly promulgated by the Commission, are binding upon the Member States.

E. All permissible agreements between the Commission and the Member States are binding in accordance with their terms.

F. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any Member State, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that Member State.