

May 14, 2021
VIRTUAL
10:00 a.m.

Call to Order – Holly Tracy, LPC, LMFT, Committee Chairperson

- Welcome and Introductions
 - Mission of the Board
-

Approval of Agenda

Approval of Minutes

- Regulatory Committee Meeting – January 22, 2021*
-

Public Comment

The Committee will not receive comment on any pending regulation process for which a public comment period has closed or any pending or closed complaint or disciplinary matter.

Presentation: Recommendations for Telehealth Regulatory and Guidance Document

Amendments --- LoriAnn S. Stretch, PHD, LCMHC-S, NCC, ACS, BC-TMH, Clinical Associate Professor, Online Counseling Program Coordinator, William & Mary School of Education

Consideration of Counseling Compact – Jaime Hoyle, Executive Director, Boards of Counseling, Psychology, and Social Work

Legislative and Regulatory Actions - Elaine Yeatts, Department of Health Professions Sr. Policy Analyst

- Chart of Regulatory Actions
 - Update on Art Therapy Regulations
-

New Business

- Definition of Human Services Degree
 - Code Change for Agency Subordinate Authority to Conduct Credential Reviews*
-

Next Meeting – August 6, 2021

Meeting Adjournment

*Requires a Committee Vote. This information is in **DRAFT** form and is subject to change. The official agenda and packet will be approved by the public body at the meeting and will be available to the public pursuant to Virginia Code Section 2.2-3707(F).

Virginia Board of Counseling

Instructions for Accessing May 14, 2021 Virtual Regulatory Meeting and Providing Public Comment

- **Access:** Perimeter Center building access is closed to the public due to the COVID-19 pandemic. To observe this virtual meeting, use one of the options below. Participation capacity is limited and is on a first come, first serve basis due to the capacity of CISCO WebEx technology.
- **Public comment:** Comments will be received during the public comment period from those persons who have submitted an email to jaimе.һoуlе@dһp.virginia.gov **no later than 5:00 pm on May 13, 2021** indicating that they wish to offer comment. Comment may be offered by these individuals when their names are announced by the Chairperson. Comments must be restricted to 3-5 minutes each.
- Public participation connections will be muted following the public comment periods.
- Please call from a location without background noise and ensure your line is muted.
- Dial (804) 938-6243 to report an interruption during the broadcast.
- FOIA Council *Electronic Meetings Public Comment* form for submitting feedback on this electronic meeting may be accessed at <http://foiacouncil.dls.virginia.gov/sample%20letters/welcome.htm>

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<https://virginia-dhp.my.webex.com/virginia-dhp.my/j.php?MTID=mbc25ad0c4056d64beeebcbece970d72>

Meeting number (access code): 132 539 4944

Meeting password: hPxPSU2mK32 (47977826 from phones and video systems)

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Virginia Department of
Health Professions
Board of Counseling

MISSION STATEMENT

Our mission is to ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public.

**VIRGINIA BOARD OF COUNSELING
REGULATORY COMMITTEE MEETING**

DRAFT

Friday, January 22, 2021

- TIME AND PLACE:** Consistent with Amendment 28 to HB29 (the Budget Bill for 2018-2020) and the applicable provisions of § 2.2-3708.2 in the Freedom of Information Act, the Committee convened the meeting virtually to consider such regulatory and business matters as are presented on the agenda necessary for the committee to discharge its lawful purposes, duties, and responsibilities.
- PRESIDING:** Holly Tracy, LPC, LMFT, Chairperson
- COMMITTEE MEMBERS PRESENT:** Johnston Brendel, Ed.D, LPC, LMFT
Kevin Doyle, Ed.D, LPC, LSATP
Vivian Sanchez-Jones, Citizen Member
Terry Tinsley, PhD, LPC, LMFT, CSOTP
- STAFF PRESENT:** Sandie Cotman, Licensing Specialist
Victoria Cunningham, Licensing Specialist
Jaime Hoyle, JD, Executive Director
Jennifer Lang, Deputy Executive Director
Charlotte Lenart, Deputy Executive Director-Licensing
Jared McDonough, Administrative Assistant
Sharniece Vaughan, Licensing Specialist
Elaine Yeatts, DHP Senior Policy Analyst
- ADOPTION OF AGENDA:** Dr. Doyle suggested that the Board add a discussion of the National Board of Certified Counselors (NBCC) response to the Board related to their 90-day examination waiting period policy to the new business section of the agenda.
- APPROVAL OF MINUTES:** Dr. Brendel moved to approve the minutes of the July 31, 2020 meeting. Dr. Tinsley, seconded the motion, and it passed unanimously.
- PUBLIC COMMENT:** There were no public comments.
- NEW BUSINESS:** **Multi-Systemic Therapy & Functional Family Therapy**
Alyssa Ward, Ph.D., Behavioral Health Clinical Director, DMAS and Alexis Ablasca, MD, Chief Clinical Officer, DBHDS presented information on enhanced behavioral health services in Virginia. The Board appreciated the outreach and information provided by DBHDS and DMAS.
- Ms. Yeatts stated that for several months staff has had conversations with DMAS and DBHDS on the appropriate role of QMHPs. The information initially provided gave staff reason to

question the scope of practice as envisioned in these programs for QMHPs. Dr. Ward confirmed that only QMHP-Cs would be eligible to be a part of the collaboration team.

Ms. Tracy stated that this topic will be added as a new business action item later in the meeting.

Regulatory Actions – Elaine Yeatts

Ms. Yeatts reviewed the chart of regulatory actions listed in the agenda packet and provided information on the General Assembly. Ms. Yeatts indicate that the big themes of the General Assembly has been around who can provide COVID vaccinations, the Governor's bill to legalize marijuana, and the expansion of the role of nurse practitioners.

Adoption of Final Regulations on Unprofessional Conduct/ Conversion Therapy – Elaine Yeatts

Ms. Yeatts provided a summary of the public comments related to the proposed regulations on conversion therapy which are listed in the agenda packet. Ms. Yeatts provided information outlined in section 54.1-2409.5 of the Code of Virginia which states the prohibition against conversion therapy and a definition of conversation therapy.

Ms. Yeatts indicated that the definition of conversion therapy as listed in the propose regulations has been stricken and a new definition has been added to reference the definition of conversion therapy as listed in the Code of Virginia.

Dr. Brendel moved, which was properly seconded, to recommend to the full Board to adopt the draft language related to conversion therapy as presented. The motion carried with four votes in favor. Dr. Tinsley opposed the motion.

Adoption of Final Regulations on Resident Licenses – Elaine Yeatts

Ms. Yeatts provided information on the public comments, which all relate to allowing audio only to count toward residency hours during COVID, which are different from the requirements for the final regulations.

Dr. Brendel moved to recommend to the full board to recommend adopting final regulations as identical to the emergency regulations, and as written. The motion was seconded and carried unanimously.

Discussion of Reinstatement for Resident License

The Committee and staff discussed the need for and requirements for reinstatement of resident licenses. The Committee asked staff to research the industry standards and how other professions handle reinstatement of licenses after taking time off. Staff will provide their findings and suggestions at the next Committee meeting.

Ms. Yeatts indicated that the Board can operate from the general section related to reinstatement on a case by case basis while the Board considers reinstatement requirements for resident licenses.

Adoption of Final Regulations resulting from the Periodic Review of the Regulations Governing the Certification of Rehabilitation Counselors – Elaine Yeatts

Dr. Brendel moved to recommend to the full board to recommend adopting final regulations as identical to the proposed regulations and as written. The motion was seconded and carried unanimously.

Consideration of petition for Rulemaking – Elaine Yeatts

Ms. Yeatts presented Ms. Burnett's petition for rule making request asking the Board to modify the endorsement section. The petitioner is requesting the Board to change the 24 of the last 60 months of post-licensure active practice to allow licensees to bypass the education and experience requirements.

Ms. Yeatts indicated that the public comments were mostly related to CACREP and indicated that this petition is not related to CACREP. The Committee needs to determine if they want to modify the endorsement requirements as requested by the petitioner.

Dr. Brendel moved to recommend to the full board to deny the petitioners request. The motion was seconded and carried unanimously.

Review of Guidance Document 115-4.3, Hours in an internship applied toward residency – Elaine Yeatts

Ms. Yeatts advised the Committee that they are required to review guidance documents every four years.

Dr. Brendel moved to recommend to the full Board to reaffirm the continuance of guidance document 115-4.3. The motion was seconded and carried unanimously.

Development of Guidance Document regarding Independent Practice of CSACs – Jaime Hoyle

Ms. Hoyle summarized the petitioners request in July 2020. The Board voted not to initiate rule making but referred the issue back to the regulatory committee to develop guidance to clarify the law and regulations in the form of a guidance document or FAQ.

Ms. Hoyle stated that she thinks the guidance document 115-11 and the Code of Virginia are clear that CSACs cannot practice autonomously.

Dr. Doyle stated this issue might be related to DMAS reimbursement of CSAC services. Dr. Doyle proposed that the

Committee recommend changing the regulations to add wording that specifically prohibits CSACs from billing directly for services, which may address the issue of autonomy.

Dr. Doyle moved to recommend to the full Board to initiate Fast-Track regulations to add language to the CSAC Regulations that prohibits CSACs from directly billing for services rendered. The motion was seconded and carried unanimously.

Staff will look at strengthening the guidance document and present their recommendations at the full Board meeting.

NBCC Responsiveness to the Board regarding their examination policy

The Committee discussed the Center for Credentialing & Education (CCE) and NBCCs responsiveness. Dr. Doyle recommended that a new letter be sent to Kylie Dotson-Blake, NBCC Chief Executive Officer with the Boards concerns related to applicants not being able to register for the examination until 90 days after they have failed the examination. Ms. Hoyle will draft a letter and work with Dr. Brendel on this issue.

Discussion on DMAS and DBHDS presentation on Multi-Systemic Therapy & Functional Family Therapy

The Committee discussed the presentation in detail.

The Regulatory Committee appreciated the information provided by DMAS and DBHDS. The two programs appear to be appropriate to the role of QMHP-Cs within a collaborated practice. The Code of Virginia defines a QMHP as working collaboratively, and these programs fit that definition. The Committee wanted to make sure that QMHP-Cs were not providing assessments or functioning as therapist, and that DMAS would develop differential rates based on education of the QMHP-C. Setting the rate does not prohibit bachelor's level QMHP-Cs to participate, but would encourage master level QMHP-Cs to participate.

Waiver for residents to be able to count telephonic/audio hours toward licensure

During a previous meeting, Ms. Hoyle notified the Committee that she planned to ask for waivers of some requirements for students and applicants during the pandemic when meeting these requirements has proved difficult. She asked the Committee for input, and the Committee previously asked for a waiver to allow up to 10% of the residency hours to be telephonic. Ms. Hoyle indicated that the waivers were approved by the Agency but appears to be in the Attorney General's Office for consideration.

After discussion of the public comments, the Committee asked Ms. Hoyle to contact the Attorney General's Office to advocate for additional hours beyond the 200 hours of telephonic/audio services previously requested.

NEXT SCHEDULED MEETING: The next Committee meeting is scheduled for April 23, 2021 at 10:00 a.m.

ADJOURNMENT: The meeting adjourned at 12:41 p.m.

Holly Tracy, LPC, LMFT
Chairperson

Date

Jaime Hoyle, JD
Executive Director

Date

DRAFT

Virginia Board of Counseling

Guidance on Technology-Assisted Counseling and Technology-Assisted Supervision

The Board's regulations for Standards of Practice (18VAC115-20-130) are prefaced by the following:

The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board. Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of counseling.

Therefore, the standards of practice set forth in section 130 of the regulations and in the Code of Virginia apply regardless of the method of delivery. The Board of Counseling recommends the following when a licensee uses technology-assisted counseling as the delivery method:

1. Counseling is most commonly offered in a face-to-face relationship. Counseling that from the outset is delivered in a technology-assisted manner may be problematic in that the counseling relationship, client identity and other issues may be compromised.
2. The counselor must take steps to protect client confidentiality and security.
3. The counselor should seek training or otherwise demonstrate expertise in the use of technology-assisted devices, especially in the matter of protecting confidentiality and security.
4. When working with a client who is not in Virginia, counselors are advised to check the regulations of the state board in which the client is located. It is important to be mindful that certain states prohibit counseling by an individual who is unlicensed by that state.
5. Counselors must follow the same code of ethics for technology-assisted counseling as they do in a traditional counseling setting.

Guidance for Technology-assisted Supervision

The Board of Counseling recommends the following in the use of technology-assisted supervision:

1. Supervision is most commonly offered in a face-to-face relationship. Supervision that from the outset is delivered in a technology-assisted manner may be problematic in that the supervisory relationship, client identity and other issues may be compromised. Face-to-face means the in-person delivery of clinical services. For the purposes of meeting the 2,000 hours of face-to-face client contact, in-person may include the use of secured technology that maintains client

confidentiality and provides real-time, visual contact between the resident and the client. Telephonic services may be used toward ancillary counseling service hours.

2. The supervisor must take steps to protect resident confidentiality and security.
3. The supervisor should seek training or otherwise demonstrate expertise in the use of technology-assisted devices, especially in the matter of protecting resident confidentiality and security.
4. Supervisors must follow the same code of ethics for technology assisted supervision as they do in a traditional counseling/supervision setting. Licensed residents in counseling, marriage and family therapy and substance abuse treatment are allowed to provide tele-assisted counseling to clients in Virginia. The resident must adhere to standards of practice, ensure confidentiality, and seek training as needed to be competent in the services they provide.
5. The Board of Counseling governs the practice of counseling in Virginia. Counselors who are working with a client who is not in Virginia are advised to check the regulations of the state board in which a supervisee/resident is located. It is important to be mindful that certain states may regulate or prohibit supervision by an individual who is unlicensed by that state.



FREQUENTLY ASKED QUESTIONS

What is an interstate compact?

An interstate compact is a contract between two or more states creating an agreement on a particular policy issue, adopting a certain standard or cooperating on regional or national matters. Compacts are the most powerful, durable and adaptive tools for ensuring cooperative action among states. Unlike the rigid and often unfunded mandates imposed by the federal government, interstate compacts provide a state-developed structure for collaborative action and consensus-building among states and federal partners.

How many professions use an interstate compact to facilitate interstate practice?

Currently, licensure compacts exist for nurses, physicians, physical therapists, psychologists, emergency management personnel, speech-language pathologists and audiologists. Licensure compacts for occupational therapists and occupational therapy assistants, physician assistants, and advanced practice nurses are under development.

Are all occupational licensure compacts the same?

Not exactly, but most are similar in form and function. There are two types of occupational licensure compacts – the *expedited licensure* model and the *mutual recognition* model. The Interstate Medical Licensure Compact is the only expedited licensure compact. The remaining licensure compacts utilize the mutual recognition model, in which a practitioner’s home state license is “mutually recognized” by other compact member states. Mutual recognition model compacts allow a practitioner to practice in the compact member states either using a multi-state license or by obtaining a “privilege to practice” (see below).

How does the Counseling Compact work?

The Counseling Compact is a mutual recognition model compact that is similar in form and function to occupational licensure compacts for nursing, physical therapy, psychology, and speech-language pathology and audiology. The Counseling Compact allows licensed professional counselors to practice in all other compact member states – either in-person or via telehealth – through a *privilege to practice*, which is equivalent to a license.

The Counseling Compact establishes an interstate commission, made up of delegates from compact member states, to administer the Compact. The Counseling Compact also creates a licensure data system for Compact member state boards to communicate and exchange information, including verification of licensure and disciplinary sanctions. An interstate commission and data system are standard features of all occupational licensure compacts.

What is a “privilege to practice”?

A privilege to practice is the authorization to practice in a compact member state other than your home state. To be eligible for a privilege to practice, you must hold an active professional counselor license in your home state (which must be a member of the compact) and meet other eligibility criteria, such as having no disciplinary action against your license for at least two years. When eligibility is verified, jurisprudence requirements are met, and all fees are paid, you receive the privilege to practice and may begin legally working in the new state.

What are the requirements for a privilege to practice?

A licensed professional counselor must notify the commission of their intent to seek the privilege to practice in another compact state, and meet the following criteria to get a privilege to practice:

- Have a Social Security Number or a National Provider Identifier
- Hold a valid license in their home state, which must be a member of the compact
- Have no encumbrances on any state license currently, and no adverse actions or restrictions against any license within the previous two years
- Pass an FBI Fingerprint-Based Criminal Background Check
- Meet any jurisprudence requirements for the member state in which they are seeking a privilege
- Complete any continuing education requirements required by their *home state* only
- Pay any fees for the privilege to practice

Privilege holders must adhere to the laws and regulations of the Compact member state in which they are practicing and report to the commission any adverse action taken by a non-member state within 30 days after the action is taken.

Does a privilege to practice allow the privilege holder to practice via telehealth in a remote state?

A privilege to practice allows the holder to provide professional counseling services in another member state under the scope of practice of the state where the client is located, whether the practice is in person or via telehealth. Privilege holders should consult laws and rules of the state in which they wish to practice in order to determine the specific telehealth requirements.

Do professional counselors have to complete continuing education requirements in states where they are practicing via privilege to practice?

No. Professional counselors utilizing the compact are only responsible for completing continuing education requirements for their home state license.

Do professional counselors need a separate privilege to practice for each state in which they want to provide counseling services?

Yes. A privilege to practice is not a multi-state license. A practitioner will need to get a privilege to practice in *each* state in which they want to provide counseling services.

A practitioner may work legally in a *member* state via either a license or a privilege to practice. A practitioner will need to hold a state-specific license to practice in *non-member* states.

What are the advantages of the Counseling Compact?

The Counseling Compact allows eligible professional counselors to practice in all states that join the Compact. It removes the need for practitioners to get a license in each Compact state in which they want to practice. The goal of the Counseling Compact, like all licensure compacts, is to eliminate barriers to practice and to client care by ensuring cooperation among member-state regulatory boards.

Other benefits include:

- Preserving and strengthening state licensure systems
- Enhancing public safety
- Improving access to professional counseling services
- Increasing market opportunities for professional counselors by authorizing both in-person practice and telehealth
- Enhancing mobility of professional counselors
- Supporting relocating military spouses
- Improving continuity of care when clients travel or relocate
- Encouraging cooperation among Compact member states in regulating the practice of professional counseling

How can a state/jurisdiction become a member of the Counseling Compact?

Each state's legislature must enact the Counseling Compact language into law to become a member of the Compact.

Why is the Counseling Compact important to consumers?

Through the Counseling Compact, consumers have greater access to care. The Counseling Compact allows licensed professional counselors to ensure continuity of care when clients relocate. Professional counselors also will be able to reach populations that are currently underserved, geographically isolated or lack specialty care.

Additionally, states gain a supplementary layer of oversight of professional counselors who may enter their state to practice. The Counseling Compact data system will allow member states to verify instantaneously that professional counselors based in other states have met defined standards and competencies and are in good standing with other states' regulatory boards. The Counseling Compact data system will help states better protect the public.





FACT SHEET: PRACTITIONERS AND THE COUNSELING COMPACT

The **Counseling Compact** will allow professional counselors in good standing to practice in *all states that join the compact*. This will remove the hurdle of getting an individual license in each state where they want to practice. The broad goal is to eliminate barriers to practice for counselors and barriers to treatment for clients, by ensuring cooperation among member states in regulating the counseling profession.

THE BASICS

- The Counseling Compact is an *interstate compact*, which is a constitutionally authorized contract between states.
- The Counseling Compact is the same in form and function as other occupational licensure compacts like the Nurse Licensure Compact, the Physical Therapy Compact, and the Interstate Medical Licensure Compact.
- The Counseling Compact authorizes in-person practice and telepractice in other compact member states based on a valid, unrestricted home state license.
- The practice of professional counseling takes place in the state in which the client is located at the time of the counselor-client encounter. Counselors must observe the laws and rules of the state in which they are practicing.
- The Counseling Compact will take effect when 10 states have enacted authorizing legislation.
- The National Center for Interstate Compacts at the Council of State Governments facilitated the development of the Compact and is providing technical assistance.

BENEFITS

- Preserves and strengthens state licensure systems
- Enhances public safety through a shared interstate database of licensure and disciplinary information, allowing for rapid verification of license status
- Improves access to professional counseling services
- Increases market opportunities for professional counselors by authorizing practice in all member states (including via telehealth)
- Enhances mobility for professional counselors
- Supports relocating military spouses
- Improves continuity of care when counselors or clients travel or relocate
- Ensures cooperation among compact member states in regulating the practice of professional counseling

DISPELLING THE MYTHS

- The compact will have no impact on scope of practice; state counseling practice acts will not be affected.
- Professional counselors are licensed in all 50 states, with consistency in licensure requirements.
- The compact will not affect the authority of states to protect public health and safety or to regulate the counseling profession as they do currently.
- There is no financial beneficiary of the Counseling Compact, and it is not intended to generate profits. Any fees collected will offset basic administrative costs.

WHAT'S NEXT?

- Interstate compacts require a great deal of time to develop and implement.
- Each state must enact the Counseling Compact model legislation into its statutes in order to join the Compact.
- The goal is for this legislation to be introduced in several states during the 2021 legislative sessions, following a months-long stakeholder review and revision process (during fall 2020) of the draft legislation.
- The Counseling Compact will take effect when 10 states have enacted legislation. The goal is to begin state participation by 2024.





FACT SHEET: STATES AND THE COUNSELING COMPACT

The **Counseling Compact** will allow qualified professional counselors to practice in *all states that join the compact*. This will remove the need for counselors to obtain a separate license in each state in which they want to practice.

THE BASICS

- The Counseling Compact is an *interstate compact* – a constitutionally authorized, legally binding contract between states.
- The Counseling Compact is the same in form and function as other occupational licensure compacts like the Nurse Licensure Compact, the EMS Compact, the Physical Therapy Compact, and the Interstate Medical Licensure Compact.
- The Counseling Compact authorizes interstate practice, both in-person and through telehealth, by professional counselors who hold a valid, unrestricted home state license in a Compact member state.
- The practice of professional counseling takes place in the state in which the client is located at the time of the counselor-client encounter. Counselors must observe the laws and rules of the state in which they are practicing.
- The Counseling Compact takes effect upon its enactment by ten states.
- The National Center for Interstate Compacts at the Council of State Governments facilitated the development of the Counseling Compact and is providing technical assistance to states as they consider the Compact.

BENEFITS

- Preserves and strengthens state licensure systems
- Enhances public safety through a shared interstate database of licensure and disciplinary information, allowing for rapid verification of license status
- Improves access to professional counseling services
- Increases market opportunities for professional counselors by authorizing practice in member states, including via telehealth
- Enhances mobility for professional counselors
- Supports relocating military spouses
- Improves continuity of care when clients travel or relocate
- Ensures cooperation among compact member states in regulating the practice of professional counseling

DISPELLING THE MYTHS

- As with the existing licensure compacts, the Counseling Compact has no impact on a state's scope of practice – this is *not* a takeover of state regulatory authority.
- As with existing licensure compacts, the Counseling Compact leaves state-specific licensure requirements in place – this is *not* a takeover of state licensing systems.
- The Counseling Compact enhances states' authority to protect the public and regulate the counseling profession.
- The Counseling Compact will have no significant fiscal implications for states.



SUMMARY OF KEY PROVISIONS

SECTION 1: PURPOSE

The purpose of this compact is to facilitate interstate practice of licensed professional counseling with the goal of improving public access to professional counseling services.

The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

The compact is designed to:

- Provide for the mutual recognition of other member state licenses.
- Enhance states' abilities to protect the public's health and safety.
- Encourage the cooperation of member states in regulating multistate practice for licensed professional counselors.
- Support active duty military personnel and their spouses.
- Enhance the exchange of licensure, investigative, and disciplinary information among member states.
- Allow for the use of telehealth technology to increase access to counseling services.
- Support the uniformity of professional counseling licensure requirements throughout the states.
- Eliminate the necessity for licenses in multiple states.
- Facilitate interstate practice by licensed professional counselors who meet uniform requirements.

SECTION 2: DEFINITIONS

Establishes the definitions of key terms as used throughout the compact, to alleviate confusion on the part of practitioners and jurisdictions. Defined terms are capitalized throughout the document.

SECTION 3: STATE PARTICIPATION IN THE COMPACT

This section establishes the duties of the compact's member states.

A member state must:

- License and regulate licensed professional counselors.
- Require licensees to pass a nationally recognized exam.
- Require licensees to have a 60-hour master's degree in counseling or 60 hours of graduate coursework in relevant areas.
- Require licensees to complete a supervised postgraduate professional experience.

- Have a mechanism in place for receiving and investigating complaints about licensees.
- Participate fully in the compact commission's licensure data system.
- Notify the commission of any adverse action against or current significant investigative information regarding a licensee.
- Conduct criminal background checks of candidates for an initial privilege to practice.
- Comply with the rules of the commission, the governing body of the compact.
- Grant the privilege to practice professional counseling to a licensee holding a valid, unencumbered license in another member state.
- Provide for the state's commissioner to attend the meetings of the commission.

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

A licensed professional counselor may only utilize the compact if their *home state* joins the compact.

SECTION 4: PRIVILEGE TO PRACTICE

To exercise the privilege to practice professional counseling in a remote state, a licensee must:

- Hold a license in their home state, which must be a member of the compact.
- Have had no encumbrance or restriction against on any license or privilege to practice within the previous two years.
- Meet any jurisprudence requirements of the remote state and pay all applicable fees.
- Report to the commission any adverse action, encumbrance, or restriction imposed on the licensee by a non-member state within 30 days from the date of the action.

A privilege to practice is valid until the expiration date of the practitioner's home state license.

If a licensee's home state license is revoked, the licensee loses the privilege to practice in *all* member states for the next two years.

If a licensee' privilege to practice is revoked by a member state, the licensee *may* lose the privilege to practice in other member states for the next two years.

SECTION 5: OBTAINING A NEW HOME STATE LICENSE BASED ON A PRIVILEGE TO PRACTICE

This section creates an alternative pathway to licensure for privilege holders who change their primary state of residence between compact member states.

A licensee who moves from one member state to another member state may obtain a new, expedited home state license in the new state of residence if they hold a privilege to practice in the new state.

The licensee will be required to complete a new FBI fingerprint based criminal background check, any required state-level background check, and any jurisprudence requirements of the new home state.

If a practitioner moves from a non-member state to a member state, or from a member state to a non-member state, the practitioner must apply for a single-state license in the new state, under the new state's licensure requirements.

A licensee may hold more than one single-state license concurrently, but only the license tied to the individual's primary state of residence may serve as the individual's "home state license" for the purposes of the compact.

Nothing in the compact affects a member state's requirements for issuance of a single-state license.

SECTION 6: ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

This section allows an active duty servicemember, or their spouse, to designate a home state where the individual has a current license in good standing. This state then serves as the individual's home state for the duration of the servicemember's active duty.

SECTION 7: COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

This section establishes that privilege to practice under the compact shall include provision of telehealth services to patients in remote states. Licensees providing telehealth services in a remote state must adhere to the laws and regulations, including scope of practice, of the remote state.

SECTION 8: ADVERSE ACTIONS

This section clarifies that *only* a practitioner's home state may take adverse action against a *home state* license.

However, remote states may take adverse action against a counselor's privilege to practice and may issue enforceable subpoenas for witnesses and evidence from other member states.

Home states must take reported adverse action from any member state into account, in accordance with the home state's laws.

Member states may initiate joint investigations of licensees and are required to share investigative materials in furtherance of any joint or single-state investigation of a licensee. Member states must report any adverse action to the compact data system, which then promptly alerts the home state of this adverse action. Any member state may take adverse action based on the factual findings of a remote state.

If a licensee changes their home state during an active investigation by their former home state, the former home state completes the investigation, takes appropriate action under its laws, and then reports its findings to the compact commission's data system.

Member states retain the right to require a licensee to participate in an alternative program for mental health-related concerns in lieu of adverse action.

SECTION 9: ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

This section outlines the composition and powers of the compact commission and executive committee. The compact is not a waiver of sovereign immunity.

- Each member state is entitled to exactly one delegate selected by that state's licensing board from among the board's members and/or employees.
- Each delegate has one (1) vote on commission affairs.
- The commission is directed to establish a term of office for delegates and may establish term limits.
- The commission may establish and maintain a code of ethics, bylaws, rules, a budget and financial records in order to carry out the compact.
- The commission shall elect an executive committee composed of up to eleven members: seven members of the commission and up to four ex-officio, nonvoting members from four recognized national professional counselor organizations.
- All commission meetings shall be open to the public unless confidential or privileged information must be discussed.
- Commission members and employees are immune from liability related to their positions except in cases of wanton misconduct.

SECTION 10: DATA SYSTEM

This section requires the sharing of licensure information by all compact states. A member state shall submit a uniform dataset to the data system on all counselors to whom this compact is applicable as required by the rules of the commission. This database will allow for the expedited sharing of adverse action or significant investigative information against professional counselors utilizing the compact.

Adverse action information pertaining to a licensee in any member state will be available to any other member state, except that any submitted information that subsequently must be expunged from the submitting state's records will also be removed from the data system.

Member states may designate information submitted to the data system that may not be shared with the public without the express permission of the state in question.

Investigative information pertaining to a licensee in a member state shall not be available to non-member states.

SECTION 11: RULEMAKING

- Rules carry the force of law in all member states.
- A simple majority of member state legislatures may veto a rule of the commission.
- Changes to the rules require a 30-day notice of proposed rulemaking, with an opportunity for a public hearing if one is requested by 25 people or by a government agency.
- If the commission issues a rule that exceeds its authority under the compact, such a rule shall be void and have no force or effect.

SECTION 12: OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

Ensures compliance with the compact by member states. The procedures to be followed in the event of a failure by a member state to comply with the compact include:

- A period of technical assistance in remedying the situation
- Dispute resolution processes; and
- Termination from the compact in the event no other means of compliance has been successful.

The commission shall attempt to resolve any compact-related disputes that may arise between states.

SECTION 13: DATE OF IMPLEMENTATION, WITHDRAWAL, AND AMENDMENT

The compact takes effect on the date of enactment by the tenth state.

States that join after this date are subject to the rules of the commission as they exist on the date when the compact becomes law in that state.

Member states may enact a law to repeal their membership in the compact. A state's withdrawal takes effect 6 months after enactment of such a law.

The member states may amend the compact, but changes do not take effect until enacted into the laws of all member states.

SECTION 14: CONSTRUCTION AND SEVERABILITY

The compact is to be liberally construed so as to effectuate its purposes.

The compact's provisions are severable, meaning that:

- If a provision of the compact is declared to conflict with the United States Constitution, all other provisions remain valid for all member states, and
- If a provision is held contrary to a member state's constitution, the compact retains its full force in all other states, and all other provisions remain valid in the affected state.

SECTION 15: BINDING EFFECT OF COMPACT AND OTHER LAWS

Reiterates that licensees must adhere to the laws and regulations, including scope of practice, of the state in which they are practicing.

Reiterates that all rules and bylaws of the commission are binding on member states.

According to legal precedent, in the event of a conflict between a law of a member state and the compact, the state law is superseded to the extent of the conflict.

COUNSELING COMPACT MODEL LEGISLATION

1 **SECTION 1: PURPOSE**

2 The purpose of this Compact is to facilitate interstate practice of Licensed Professional
3 Counselors with the goal of improving public access to Professional Counseling services.

4 The practice of Professional Counseling occurs in the State where the client is located at the
5 time of the counseling services. The Compact preserves the regulatory authority of States to
6 protect public health and safety through the current system of State licensure.

7 This Compact is designed to achieve the following objectives:

- 8 A. Increase public access to Professional Counseling services by providing for the
9 mutual recognition of other Member State licenses;
- 10 B. Enhance the States' ability to protect the public's health and safety;
- 11 C. Encourage the cooperation of Member States in regulating multistate practice for
12 Licensed Professional Counselors;
- 13 D. Support spouses of relocating Active Duty Military personnel;
- 14 E. Enhance the exchange of licensure, investigative, and disciplinary information among
15 Member States;
- 16 F. Allow for the use of Telehealth technology to facilitate increased access to
17 Professional Counseling services;
- 18 G. Support the uniformity of Professional Counseling licensure requirements throughout
19 the States to promote public safety and public health benefits;
- 20 H. Invest all Member States with the authority to hold a Licensed Professional Counselor
21 accountable for meeting all State practice laws in the State in which the client is
22 located at the time care is rendered through the mutual recognition of Member State
23 licenses;
- 24 I. Eliminate the necessity for licenses in multiple States; and
- 25 J. Provide opportunities for interstate practice by Licensed Professional Counselors who
26 meet uniform licensure requirements.

27 **SECTION 2. DEFINITIONS**

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

30 A. **“Active Duty Military”** means full-time duty status in the active uniformed service of the
31 United States, including members of the National Guard and Reserve on active duty orders
32 pursuant to 10 U.S.C. Chapters 1209 and 1211.

33 B. **“Adverse Action”** means any administrative, civil, equitable or criminal action permitted
34 by a State’s laws which is imposed by a licensing board or other authority against a
35 Licensed Professional Counselor, including actions against an individual’s license or
36 Privilege to Practice such as revocation, suspension, probation, monitoring of the licensee,
37 limitation on the licensee’s practice, or any other Encumbrance on licensure affecting a
38 Licensed Professional Counselor’s authorization to practice, including issuance of a cease
39 and desist action.

40 C. **“Alternative Program”** means a non-disciplinary monitoring or practice remediation
41 process approved by a Professional Counseling Licensing Board to address Impaired
42 Practitioners.

43 D. **“Continuing Competence/Education”** means a requirement, as a condition of license
44 renewal, to provide evidence of participation in, and/or completion of, educational and
45 professional activities relevant to practice or area of work.

46 E. **“Counseling Compact Commission” or “Commission”** means the national
47 administrative body whose membership consists of all States that have enacted the
48 Compact.

49 F. **“Current Significant Investigative Information”** means:

50 1. Investigative Information that a Licensing Board, after a preliminary inquiry that
51 includes notification and an opportunity for the Licensed Professional Counselor
52 to respond, if required by State law, has reason to believe is not groundless and,
53 if proved true, would indicate more than a minor infraction; or

54 2. Investigative Information that indicates that the Licensed Professional Counselor
55 represents an immediate threat to public health and safety regardless of whether

56 the Licensed Professional Counselor has been notified and had an opportunity to
57 respond.

58 G. **“Data System”** means a repository of information about Licensees, including, but not
59 limited to, continuing education, examination, licensure, investigative, Privilege to Practice
60 and Adverse Action information.

61 H. **“Encumbered License”** means a license in which an Adverse Action restricts the
62 practice of licensed Professional Counseling by the Licensee and said Adverse Action has
63 been reported to the National Practitioners Data Bank (NPDB).

64 I. **“Encumbrance”** means a revocation or suspension of, or any limitation on, the full and
65 unrestricted practice of Licensed Professional Counseling by a Licensing Board.

66 J. **“Executive Committee”** means a group of directors elected or appointed to act on behalf
67 of, and within the powers granted to them by, the Commission.

68 K. **“Home State”** means the Member State that is the Licensee’s primary State of residence.

69 L. **“Impaired Practitioner”** means an individual who has a condition(s) that may impair their
70 ability to practice as a Licensed Professional Counselor without some type of intervention
71 and may include, but are not limited to, alcohol and drug dependence, mental health
72 impairment, and neurological or physical impairments.

73 M. **“Investigative Information”** means information, records, and documents received or
74 generated by a Professional Counseling Licensing Board pursuant to an investigation.

75 N. **“Jurisprudence Requirement”** if required by a Member State, means the assessment of
76 an individual’s knowledge of the laws and Rules governing the practice of Professional
77 Counseling in a State.

78 O. **“Licensed Professional Counselor”** means a counselor licensed by a Member State,
79 regardless of the title used by that State, to independently assess, diagnose, and treat
80 behavioral health conditions.

81 P. **“Licensee”** means an individual who currently holds an authorization from the State to
82 practice as a Licensed Professional Counselor.

83 Q. **“Licensing Board”** means the agency of a State, or equivalent, that is responsible for the
84 licensing and regulation of Licensed Professional Counselors.

- 85 R. **“Member State”** means a State that has enacted the Compact.
- 86 S. **“Privilege to Practice”** means a legal authorization, which is equivalent to a license,
87 permitting the practice of Professional Counseling in a Remote State.
- 88 T. **“Professional Counseling”** means the assessment, diagnosis, and treatment of
89 behavioral health conditions by a Licensed Professional Counselor.
- 90 U. **“Remote State”** means a Member State other than the Home State, where a Licensee is
91 exercising or seeking to exercise the Privilege to Practice.
- 92 V. **“Rule”** means a regulation promulgated by the Commission that has the force of law.
- 93 W. **“Single State License”** means a Licensed Professional Counselor license issued by a
94 Member State that authorizes practice only within the issuing State and does not include a
95 Privilege to Practice in any other Member State.
- 96 X. **“State”** means any state, commonwealth, district, or territory of the United States of
97 America that regulates the practice of Professional Counseling.
- 98 Y. **“Telehealth”** means the application of telecommunication technology to deliver
99 Professional Counseling services remotely to assess, diagnose, and treat behavioral
100 health conditions.
- 101 Z. **“Unencumbered License”** means a license that authorizes a Licensed Professional
102 Counselor to engage in the full and unrestricted practice of Professional Counseling.

103 **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

- 104 A. To Participate in the Compact, a State must currently:
- 105 1. License and regulate Licensed Professional Counselors;
- 106 2. Require Licensees to pass a nationally recognized exam approved by the
107 Commission;
- 108 3. Require Licensees to have a 60 semester-hour (or 90 quarter-hour) master’s
109 degree in counseling or 60 semester-hours (or 90 quarter-hours) of graduate
110 course work including the following topic areas:
- 111 a. Professional Counseling Orientation and Ethical Practice;

- 112 b. Social and Cultural Diversity;
- 113 c. Human Growth and Development;
- 114 d. Career Development;
- 115 e. Counseling and Helping Relationships;
- 116 f. Group Counseling and Group Work;
- 117 g. Diagnosis and Treatment; Assessment and Testing;
- 118 h. Research and Program Evaluation; and
- 119 i. Other areas as determined by the Commission.
- 120 4. Require Licensees to complete a supervised postgraduate professional experience
- 121 as defined by the Commission;
- 122 5. Have a mechanism in place for receiving and investigating complaints about
- 123 Licensees.
- 124 B. A Member State shall:
- 125 1. Participate fully in the Commission's Data System, including using the
- 126 Commission's unique identifier as defined in Rules;
- 127 2. Notify the Commission, in compliance with the terms of the Compact and Rules, of
- 128 any Adverse Action or the availability of Investigative Information regarding a
- 129 Licensee;
- 130 3. Implement or utilize procedures for considering the criminal history records of
- 131 applicants for an initial Privilege to Practice. These procedures shall include the
- 132 submission of fingerprints or other biometric-based information by applicants for
- 133 the purpose of obtaining an applicant's criminal history record information from the
- 134 Federal Bureau of Investigation and the agency responsible for retaining that
- 135 State's criminal records;
- 136 a. A member state must fully implement a criminal background check
- 137 requirement, within a time frame established by rule, by receiving the
- 138 results of the Federal Bureau of Investigation record search and shall use

- 139 the results in making licensure decisions.
- 140 b. Communication between a Member State, the Commission and among
141 Member States regarding the verification of eligibility for licensure through
142 the Compact shall not include any information received from the Federal
143 Bureau of Investigation relating to a federal criminal records check
144 performed by a Member State under Public Law 92-544.
- 145 4. Comply with the Rules of the Commission;
- 146 5. Require an applicant to obtain or retain a license in the Home State and meet
147 the Home State's qualifications for licensure or renewal of licensure, as well as
148 all other applicable State laws;
- 149 6. Grant the Privilege to Practice to a Licensee holding a valid Unencumbered
150 License in another Member State in accordance with the terms of the Compact
151 and Rules; and
- 152 7. Provide for the attendance of the State's commissioner to the Counseling
153 Compact Commission meetings.
- 154 C. Member States may charge a fee for granting the Privilege to Practice.
- 155 D. Individuals not residing in a Member State shall continue to be able to apply for a Member
156 State's Single State License as provided under the laws of each Member State. However,
157 the Single State License granted to these individuals shall not be recognized as granting a
158 Privilege to Practice Professional Counseling in any other Member State.
- 159 E. Nothing in this Compact shall affect the requirements established by a Member State for the
160 issuance of a Single State License.
- 161 F. A license issued to a Licensed Professional Counselor by a Home State to a resident in
162 that State shall be recognized by each Member State as authorizing a Licensed
163 Professional Counselor to practice Professional Counseling, under a Privilege to Practice,
164 in each Member State.

165 **SECTION 4. PRIVILEGE TO PRACTICE**

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

- 168 1. Hold a license in the Home State;
- 169 2. Have a valid United States Social Security Number or National Practitioner
170 Identifier;
- 171 3. Be eligible for a Privilege to Practice in any Member State in accordance with
172 Section 4(D), (G) and (H);
- 173 4. Have not had any Encumbrance or restriction against any license or Privilege to
174 Practice within the previous two (2) years;
- 175 5. Notify the Commission that the Licensee is seeking the Privilege to Practice within
176 a Remote State(s);
- 177 6. Pay any applicable fees, including any State fee, for the Privilege to Practice;
- 178 7. Meet any Continuing Competence/Education requirements established by the
179 Home State;
- 180 8. Meet any Jurisprudence Requirements established by the Remote State(s) in
181 which the Licensee is seeking a Privilege to Practice; and
- 182 9. Report to the Commission any Adverse Action, Encumbrance, or restriction on
183 license taken by any non-Member State within 30 days from the date the action is
184 taken.

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

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

190 D. A Licensee providing Professional Counseling services in a Remote State is subject to
191 that State's regulatory authority. A Remote State may, in accordance with due process
192 and that State's laws, remove a Licensee's Privilege to Practice in the Remote State for a

193 specific period of time, impose fines, and/or take any other necessary actions to protect
194 the health and safety of its citizens. The Licensee may be ineligible for a Privilege to
195 Practice in any Member State until the specific time for removal has passed and all fines
196 are paid.

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

199 1. The Home State license is no longer encumbered; and

200 2. Have not had any Encumbrance or restriction against any license or Privilege to
201 Practice within the previous two (2) years.

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

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

207 1. The specific period of time for which the Privilege to Practice was removed has
208 ended;

209 2. All fines have been paid; and

210 3. Have not had any Encumbrance or restriction against any license or Privilege to
211 Practice within the previous two (2) years.

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

214 **SECTION 5: OBTAINING A NEW HOME STATE LICENSE BASED ON A**
215 **PRIVILEGE TO PRACTICE**

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

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

- 220 1. The Licensed Professional Counselor shall file an application for obtaining a new
221 Home State license based on a Privilege to Practice, pay all applicable fees, and
222 notify the current and new Home State in accordance with applicable Rules adopted
223 by the Commission.
- 224 2. Upon receipt of an application for obtaining a new Home State license by virtue of a
225 Privilege to Practice, the new Home State shall verify that the Licensed Professional
226 Counselor meets the pertinent criteria outlined in Section 4 via the Data System,
227 without need for primary source verification except for:
- 228 a. a Federal Bureau of Investigation fingerprint based criminal background
229 check if not previously performed or updated pursuant to applicable rules
230 adopted by the Commission in accordance with Public Law 92-544;
- 231 b. other criminal background check as required by the new Home State; and
- 232 c. completion of any requisite Jurisprudence Requirements of the new Home
233 State.
- 234 3. The former Home State shall convert the former Home State license into a Privilege
235 to Practice once the new Home State has activated the new Home State license in
236 accordance with applicable Rules adopted by the Commission.
- 237 4. Notwithstanding any other provision of this Compact, if the Licensed Professional
238 Counselor cannot meet the criteria in Section 4, the new Home State may apply its
239 requirements for issuing a new Single State License.
- 240 5. The Licensed Professional Counselor shall pay all applicable fees to the new Home
241 State in order to be issued a new Home State license.
- 242 C. If a Licensed Professional Counselor changes Primary State of Residence by moving from a
243 Member State to a non-Member State, or from a non-Member State to a Member State, the
244 State criteria shall apply for issuance of a Single State License in the new State.
- 245 D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State
246 License in multiple States, however for the purposes of this Compact, a Licensee shall have
247 only one Home State license.
- 248 E. Nothing in this Compact shall affect the requirements established by a Member State for the
249 issuance of a Single State License.

250 **SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

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

256 **SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH**

- 257 A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a
258 Home State in accordance with Section 3 and under Rules promulgated by the Commission,
259 to practice Professional Counseling in any Member State via Telehealth under a Privilege to
260 Practice as provided in the Compact and Rules promulgated by the Commission.
- 261 B. A Licensee providing Professional Counseling services in a Remote State under the
262 Privilege to Practice shall adhere to the laws and regulations of the Remote State.

263 **SECTION 8. ADVERSE ACTIONS**

- 264 A. In addition to the other powers conferred by State law, a Remote State shall have the
265 authority, in accordance with existing State due process law, to:
- 266 1. Take Adverse Action against a Licensed Professional Counselor's Privilege to
267 Practice within that Member State, and
 - 268 2. Issue subpoenas for both hearings and investigations that require the attendance
269 and testimony of witnesses as well as the production of evidence. Subpoenas
270 issued by a Licensing Board in a Member State for the attendance and testimony of
271 witnesses or the production of evidence from another Member State shall be
272 enforced in the latter State by any court of competent jurisdiction, according to the
273 practice and procedure of that court applicable to subpoenas issued in proceedings
274 pending before it. The issuing authority shall pay any witness fees, travel expenses,
275 mileage, and other fees required by the service statutes of the State in which the
276 witnesses or evidence are located.
 - 277 3. Only the Home State shall have the power to take Adverse Action against a
278 Licensed Professional Counselor's license issued by the Home State.

- 279 B. For purposes of taking Adverse Action, the Home State shall give the same priority and
280 effect to reported conduct received from a Member State as it would if the conduct had
281 occurred within the Home State. In so doing, the Home State shall apply its own State
282 laws to determine appropriate action.
- 283 C. The Home State shall complete any pending investigations of a Licensed Professional
284 Counselor who changes primary State of residence during the course of the investigations.
285 The Home State shall also have the authority to take appropriate action(s) and shall
286 promptly report the conclusions of the investigations to the administrator of the Data
287 System. The administrator of the coordinated licensure information system shall promptly
288 notify the new Home State of any Adverse Actions.
- 289 D. A Member State, if otherwise permitted by State law, may recover from the affected
290 Licensed Professional Counselor the costs of investigations and dispositions of cases
291 resulting from any Adverse Action taken against that Licensed Professional Counselor.
- 292 E. A Member State may take Adverse Action based on the factual findings of the Remote
293 State, provided that the Member State follows its own procedures for taking the Adverse
294 Action.
- 295 F. Joint Investigations:
- 296 1. In addition to the authority granted to a Member State by its respective Professional
297 Counseling practice act or other applicable State law, any Member State may
298 participate with other Member States in joint investigations of Licensees.
- 299 2. Member States shall share any investigative, litigation, or compliance materials
300 in furtherance of any joint or individual investigation initiated under the
301 Compact.
- 302 G. If Adverse Action is taken by the Home State against the license of a Licensed
303 Professional Counselor, the Licensed Professional Counselor's Privilege to Practice in all
304 other Member States shall be deactivated until all Encumbrances have been removed from
305 the State license. All Home State disciplinary orders that impose Adverse Action against
306 the license of a Licensed Professional Counselor shall include a Statement that the
307 Licensed Professional Counselor's Privilege to Practice is deactivated in all Member States
308 during the pendency of the order.

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

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

314 **SECTION 9. ESTABLISHMENT OF COUNSELING COMPACT COMMISSION**

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

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

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

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

324 B. Membership, Voting, and Meetings

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

327 2. The delegate shall be either:

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

330 b. An administrator of the Licensing Board.

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

333 4. The Member State Licensing Board shall fill any vacancy occurring on the
334 Commission within 60 days.

335 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of

336 Rules and creation of bylaws and shall otherwise have an opportunity to participate
337 in the business and affairs of the Commission.

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

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

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

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

346 1. Establish the fiscal year of the Commission;

347 2. Establish bylaws;

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

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

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

353 6. Bring and prosecute legal proceedings or actions in the name of the Commission,
354 provided that the standing of any State Licensing Board to sue or be sued under
355 applicable law shall not be affected;

356 7. Purchase and maintain insurance and bonds;

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

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

- 363 10. Accept any and all appropriate donations and grants of money, equipment, supplies,
364 materials, and services, and to receive, utilize, and dispose of the same; provided
365 that at all times the Commission shall avoid any appearance of impropriety and/or
366 conflict of interest;
- 367 11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold,
368 improve or use, any property, real, personal or mixed; provided that at all times the
369 Commission shall avoid any appearance of impropriety;
- 370 12. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
371 any property real, personal, or mixed;
- 372 13. Establish a budget and make expenditures;
- 373 14. Borrow money;
- 374 15. Appoint committees, including standing committees composed of members, State
375 regulators, State legislators or their representatives, and consumer representatives,
376 and such other interested persons as may be designated in this Compact and the
377 bylaws;
- 378 16. Provide and receive information from, and cooperate with, law enforcement
379 agencies;
- 380 17. Establish and elect an Executive Committee; and
- 381 18. Perform such other functions as may be necessary or appropriate to achieve the
382 purposes of this Compact consistent with the State regulation of Professional
383 Counseling licensure and practice.

384 D. The Executive Committee

- 385 1. The Executive Committee shall have the power to act on behalf of the Commission
386 according to the terms of this Compact.
- 387 2. The Executive Committee shall be composed of up to eleven (11) members:
- 388 a. Seven voting members who are elected by the Commission from the current
389 membership of the Commission; and
- 390 b. Up to four (4) ex-officio, nonvoting members from four (4) recognized national

- 391 professional counselor organizations.
- 392 c. The ex-officio members will be selected by their respective organizations.
- 393 3. The Commission may remove any member of the Executive Committee as provided
394 in bylaws.
- 395 4. The Executive Committee shall meet at least annually.
- 396 5. The Executive Committee shall have the following duties and responsibilities:
- 397 a. Recommend to the entire Commission changes to the Rules or bylaws,
398 changes to this Compact legislation, fees paid by Compact Member States
399 such as annual dues, and any Commission Compact fee charged to
400 Licensees for the Privilege to Practice;
- 401 b. Ensure Compact administration services are appropriately provided,
402 contractual or otherwise;
- 403 c. Prepare and recommend the budget;
- 404 d. Maintain financial records on behalf of the Commission;
- 405 e. Monitor Compact compliance of Member States and provide compliance
406 reports to the Commission;
- 407 f. Establish additional committees as necessary; and
- 408 g. Other duties as provided in Rules or bylaws.

409 E. Meetings of the Commission

- 410 1. All meetings shall be open to the public, and public notice of meetings shall be given
411 in the same manner as required under the Rulemaking provisions in Section 11.
- 412 2. The Commission or the Executive Committee or other committees of the
413 Commission may convene in a closed, non-public meeting if the Commission or
414 Executive Committee or other committees of the Commission must discuss:
- 415 a. Non-compliance of a Member State with its obligations under the Compact;

- 416 b. The employment, compensation, discipline or other matters, practices or
417 procedures related to specific employees or other matters related to the
418 Commission’s internal personnel practices and procedures;
- 419 c. Current, threatened, or reasonably anticipated litigation;
- 420 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or
421 real estate;
- 422 e. Accusing any person of a crime or formally censuring any person;
- 423 f. Disclosure of trade secrets or commercial or financial information that is
424 privileged or confidential;
- 425 g. Disclosure of information of a personal nature where disclosure would
426 constitute a clearly unwarranted invasion of personal privacy;
- 427 h. Disclosure of investigative records compiled for law enforcement purposes;
- 428 i. Disclosure of information related to any investigative reports prepared by or
429 on behalf of or for use of the Commission or other committee charged with
430 responsibility of investigation or determination of compliance issues pursuant
431 to the Compact; or
- 432 j. Matters specifically exempted from disclosure by federal or Member State
433 statute.

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

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

444 F. Financing of the Commission

- 445 1. The Commission shall pay, or provide for the payment of, the reasonable expenses
446 of its establishment, organization, and ongoing activities.
- 447 2. The Commission may accept any and all appropriate revenue sources, donations,
448 and grants of money, equipment, supplies, materials, and services.
- 449 3. The Commission may levy on and collect an annual assessment from each Member
450 State or impose fees on other parties to cover the cost of the operations and
451 activities of the Commission and its staff, which must be in a total amount sufficient
452 to cover its annual budget as approved each year for which revenue is not provided
453 by other sources. The aggregate annual assessment amount shall be allocated
454 based upon a formula to be determined by the Commission, which shall promulgate
455 a Rule binding upon all Member States.
- 456 4. The Commission shall not incur obligations of any kind prior to securing the funds
457 adequate to meet the same; nor shall the Commission pledge the credit of any of the
458 Member States, except by and with the authority of the Member State.
- 459 5. The Commission shall keep accurate accounts of all receipts and disbursements.
460 The receipts and disbursements of the Commission shall be subject to the audit and
461 accounting procedures established under its bylaws. However, all receipts and
462 disbursements of funds handled by the Commission shall be audited yearly by a
463 certified or licensed public accountant, and the report of the audit shall be included in
464 and become part of the annual report of the Commission.

465 G. Qualified Immunity, Defense, and Indemnification

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

- 476 2. The Commission shall defend any member, officer, executive director, employee or
477 representative of the Commission in any civil action seeking to impose liability arising
478 out of any actual or alleged act, error, or omission that occurred within the scope of
479 Commission employment, duties, or responsibilities, or that the person against whom
480 the claim is made had a reasonable basis for believing occurred within the scope of
481 Commission employment, duties, or responsibilities; provided that nothing herein
482 shall be construed to prohibit that person from retaining his or her own counsel; and
483 provided further, that the actual or alleged act, error, or omission did not result from
484 that person's intentional or willful or wanton misconduct.
- 485 3. The Commission shall indemnify and hold harmless any member, officer, executive
486 director, employee, or representative of the Commission for the amount of any
487 settlement or judgment obtained against that person arising out of any actual or
488 alleged act, error, or omission that occurred within the scope of Commission
489 employment, duties, or responsibilities, or that such person had a reasonable basis
490 for believing occurred within the scope of Commission employment, duties, or
491 responsibilities, provided that the actual or alleged act, error, or omission did not
492 result from the intentional or willful or wanton misconduct of that person.

493 **SECTION 10. DATA SYSTEM**

- 494 A. The Commission shall provide for the development, maintenance, operation, and utilization
495 of a coordinated database and reporting system containing licensure, Adverse Action, and
496 Investigative Information on all licensed individuals in Member States.
- 497 B. Notwithstanding any other provision of State law to the contrary, a Member State shall
498 submit a uniform data set to the Data System on all individuals to whom this Compact is
499 applicable as required by the Rules of the Commission, including:
- 500 1. Identifying information;
- 501 2. Licensure data;
- 502 3. Adverse Actions against a license or Privilege to Practice;
- 503 4. Non-confidential information related to Alternative Program participation;
- 504 5. Any denial of application for licensure, and the reason(s) for such denial;

- 505 6. Current Significant Investigative Information; and
- 506 7. Other information that may facilitate the administration of this Compact, as
- 507 determined by the Rules of the Commission.
- 508 C. Investigative Information pertaining to a Licensee in any Member State will only be available
- 509 to other Member States.
- 510 D. The Commission shall promptly notify all Member States of any Adverse Action taken
- 511 against a Licensee or an individual applying for a license. Adverse Action information
- 512 pertaining to a Licensee in any Member State will be available to any other Member State.
- 513 E. Member States contributing information to the Data System may designate information that
- 514 may not be shared with the public without the express permission of the contributing State.
- 515 F. Any information submitted to the Data System that is subsequently required to be expunged
- 516 by the laws of the Member State contributing the information shall be removed from the
- 517 Data System.

518 **SECTION 11. RULEMAKING**

- 519 A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently
- 520 achieve the purpose of the Compact. Notwithstanding the foregoing, in the event the
- 521 Commission exercises its Rulemaking authority in a manner that is beyond the scope of the
- 522 purposes of the Compact, or the powers granted hereunder, then such an action by the
- 523 Commission shall be invalid and have no force or effect.
- 524 B. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in
- 525 this Section and the Rules adopted thereunder. Rules and amendments shall become
- 526 binding as of the date specified in each Rule or amendment.
- 527 C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a
- 528 statute or resolution in the same manner used to adopt the Compact within four (4) years of
- 529 the date of adoption of the Rule, then such Rule shall have no further force and effect in any
- 530 Member State.
- 531 D. Rules or amendments to the Rules shall be adopted at a regular or special meeting of the
- 532 Commission.

533 E. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least
534 thirty (30) days in advance of the meeting at which the Rule will be considered and voted
535 upon, the Commission shall file a Notice of Proposed Rulemaking:

- 536 1. On the website of the Commission or other publicly accessible platform; and
- 537 2. On the website of each Member State Professional Counseling Licensing Board or
538 other publicly accessible platform or the publication in which each State would
539 otherwise publish proposed Rules.

540 F. The Notice of Proposed Rulemaking shall include:

- 541 1. The proposed time, date, and location of the meeting in which the Rule will be
542 considered and voted upon;
- 543 2. The text of the proposed Rule or amendment and the reason for the proposed Rule;
- 544 3. A request for comments on the proposed Rule from any interested person; and
- 545 4. The manner in which interested persons may submit notice to the Commission of
546 their intention to attend the public hearing and any written comments.

547 G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written
548 data, facts, opinions, and arguments, which shall be made available to the public.

549 H. The Commission shall grant an opportunity for a public hearing before it adopts a Rule or
550 amendment if a hearing is requested by:

- 551 1. At least twenty-five (25) persons;
- 552 2. A State or federal governmental subdivision or agency; or
- 553 3. An association having at least twenty-five (25) members.

554 I. If a hearing is held on the proposed Rule or amendment, the Commission shall publish the
555 place, time, and date of the scheduled public hearing. If the hearing is held via electronic
556 means, the Commission shall publish the mechanism for access to the electronic hearing.

- 557 1. All persons wishing to be heard at the hearing shall notify the executive director of
558 the Commission or other designated member in writing of their desire to appear and

559 testify at the hearing not less than five (5) business days before the scheduled date
560 of the hearing.

561 2. Hearings shall be conducted in a manner providing each person who wishes to
562 comment a fair and reasonable opportunity to comment orally or in writing.

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

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

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

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

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

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

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

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

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

586 4. Protect public health and safety.

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

597 **SECTION 12. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

598 A. Oversight

- 599 1. The executive, legislative, and judicial branches of State government in each
600 Member State shall enforce this Compact and take all actions necessary and
601 appropriate to effectuate the Compact's purposes and intent. The provisions of this
602 Compact and the Rules promulgated hereunder shall have standing as statutory law.
- 603 2. All courts shall take judicial notice of the Compact and the Rules in any judicial or
604 administrative proceeding in a Member State pertaining to the subject matter of this
605 Compact which may affect the powers, responsibilities, or actions of the
606 Commission.
- 607 3. The Commission shall be entitled to receive service of process in any such
608 proceeding and shall have standing to intervene in such a proceeding for all
609 purposes. Failure to provide service of process to the Commission shall render a
610 judgment or order void as to the Commission, this Compact, or promulgated Rules.

611 B. Default, Technical Assistance, and Termination

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

- 615 a. Provide written notice to the defaulting State and other Member States of the
616 nature of the default, the proposed means of curing the default and/or any
617 other action to be taken by the Commission; and
- 618 b. Provide remedial training and specific technical assistance regarding the
619 default.
- 620 C. If a State in default fails to cure the default, the defaulting State may be terminated from the
621 Compact upon an affirmative vote of a majority of the Member States, and all rights,
622 privileges and benefits conferred by this Compact may be terminated on the effective date of
623 termination. A cure of the default does not relieve the offending State of obligations or
624 liabilities incurred during the period of default.
- 625 D. Termination of membership in the Compact shall be imposed only after all other means of
626 securing compliance have been exhausted. Notice of intent to suspend or terminate shall be
627 given by the Commission to the governor, the majority and minority leaders of the defaulting
628 State's legislature, and each of the Member States.
- 629 E. A State that has been terminated is responsible for all assessments, obligations, and
630 liabilities incurred through the effective date of termination, including obligations that extend
631 beyond the effective date of termination.
- 632 F. The Commission shall not bear any costs related to a State that is found to be in default or
633 that has been terminated from the Compact, unless agreed upon in writing between the
634 Commission and the defaulting State.
- 635 G. The defaulting State may appeal the action of the Commission by petitioning the U.S.
636 District Court for the District of Columbia or the federal district where the Commission has its
637 principal offices. The prevailing member shall be awarded all costs of such litigation,
638 including reasonable attorney's fees.
- 639 H. Dispute Resolution
- 640 1. Upon request by a Member State, the Commission shall attempt to resolve disputes
641 related to the Compact that arise among Member States and between member and
642 non-Member States.

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

645 I. Enforcement

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

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

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

657 **SECTION 13. DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT**
658 **COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT**

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

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

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

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

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

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

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

683 **SECTION 14. CONSTRUCTION AND SEVERABILITY**

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

693 **SECTION 15. BINDING EFFECT OF COMPACT AND OTHER LAWS**

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

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

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

- 701 D. Any lawful actions of the Commission, including all Rules and bylaws properly
702 promulgated by the Commission, are binding upon the Member States.
- 703 E. All permissible agreements between the Commission and the Member States are
704 binding in accordance with their terms.
- 705 F. In the event any provision of the Compact exceeds the constitutional limits imposed on the
706 legislature of any Member State, the provision shall be ineffective to the extent of the conflict
707 with the constitutional provision in question in that Member State.

Board of Counseling

Approved Degrees in Human Services and Related Fields for QMHP Registration

Regulations for the Virginia Board of Counseling provide in 18VAC115-80-40 that a person may qualify as a QMHP-A with a “master’s or bachelor’s degree in human services or a related field from an accredited college.” Section 18VAC115-80-50 provides that “a person may qualify as a QMHP-C with a “master’s or bachelor’s degree in human services or in special education from an accredited college.”

The Board recognizes the following degrees as “human services or related fields:”

Art Therapy
Behavioral Sciences
Child Development
Child and Family Studies/Services
Cognitive Sciences
Community Mental Health
Counseling (Mental health, Vocational, Pastoral, etc.)
Counselor Education
Early Childhood Development
Education (with a focus in psychology and/or special education)
Educational Psychology
Family Development/Relations
Gerontology
Health and Human Services
Human Development
Human Services
Marriage and Family Therapy
Music Therapy
Nursing
Psychiatric Rehabilitation
Psychology
Rehabilitation Counseling
School Counseling
Social Work
Special Education
Therapeutic Recreation
Vocational Rehabilitation
Sociology – (accepted until May 31, 2021)

The Board may consider other degrees in human services or in fields related to the provision of mental health services.

§ 54.1-2400. General powers and duties of health regulatory boards.

The general powers and duties of health regulatory boards shall be:

1. To establish the qualifications for registration, certification, licensure, permit, or the issuance of a multistate licensure privilege in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.
2. To examine or cause to be examined applicants for certification, licensure, or registration. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.
3. To register, certify, license, or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.
4. To establish schedules for renewals of registration, certification, licensure, permit, and the issuance of a multistate licensure privilege.
5. To levy and collect fees for application processing, examination, registration, certification, permitting, or licensure or the issuance of a multistate licensure privilege and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions, and the health regulatory boards.
6. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system, which shall include provisions for the satisfaction of board-required continuing education for individuals registered, certified, licensed, or issued a multistate licensure privilege by a health regulatory board through delivery of health care services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those health services. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.).
7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate, license, permit, or multistate licensure privilege which such board has authority to issue for causes enumerated in applicable law and regulations.
8. To appoint designees from their membership or immediate staff to coordinate with the Director and the Health Practitioners' Monitoring Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.). Each health regulatory board shall appoint one such designee.
9. To take appropriate disciplinary action for violations of applicable law and regulations, and to accept, in their discretion, the surrender of a license, certificate, registration, permit, or multistate licensure privilege in lieu of disciplinary action. 4
10. To appoint a special conference committee, composed of not less than two members of a health regulatory board or, when required for special conference committees of the Board of Medicine, not less than two members of the Board and one member of the relevant advisory board, or, when required for special conference committees of the Board of Nursing, not less than one member of the Board and one member of the relevant advisory board, to act in accordance with § 2.2-4019 upon receipt of information that a practitioner or permit holder of the appropriate board may be subject to disciplinary action or to consider an application for a license, certification, registration, permit or multistate licensure privilege in nursing. The special conference committee may (i) exonerate; (ii) reinstate; (iii) place the practitioner or permit holder on probation with such terms as it may deem appropriate; (iv) reprimand; (v) modify a previous order; (vi) impose a monetary penalty pursuant to § 54.1-2401, (vii) deny or grant an application for licensure, certification, registration, permit, or multistate licensure privilege; and (viii) issue a restricted

license, certification, registration, permit or multistate licensure privilege subject to terms and conditions. The order of the special conference committee shall become final 30 days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the 30-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 2.2-4020, and the action of the committee shall be vacated. This subdivision shall not be construed to limit the authority of a board to delegate to an appropriately qualified agency subordinate, as defined in § 2.2-4001, the authority to conduct informal fact-finding proceedings in accordance with § 2.2-4019, upon receipt of information that a practitioner may be subject to a disciplinary action. The recommendation of such subordinate may be considered by a panel consisting of at least five board members, or, if a quorum of the board is less than five members, consisting of a quorum of the members, convened for the purpose of issuing a case decision. Criteria for the appointment of an agency subordinate shall be set forth in regulations adopted by the board.

Commonwealth of Virginia



REGULATIONS
GOVERNING DELEGATION TO AN
AGENCY SUBORDINATE

VIRGINIA BOARD OF COUNSELING

Title of Regulations: 18 VAC 115-15-10 et seq.

**Statutory Authority: §§ 54.1-2400 and Chapter 35 of Title 54.1
of the *Code of Virginia***

Revised Date: December 12, 2019

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18VAC115-15-10. Decision to delegate.

In accordance with § 54.1-2400 (10) of the Code of Virginia, the board may delegate an informal fact-finding proceeding to an agency subordinate upon determination that probable cause exists that a practitioner may be subject to a disciplinary action.

18VAC115-15-20. Criteria for delegation.

Cases that may not be delegated to an agency subordinate include violations of standards of practice as set forth in regulations governing each profession registered, certified, or licensed by the board, except as may otherwise be determined by the executive director in consultation with the board chair.

18VAC115-15-30. Criteria for an agency subordinate.

1. An agency subordinate authorized by the board to conduct an informal fact-finding proceeding may include board members and professional staff or other persons deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals.
2. The executive director shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated.
3. The board may delegate to the executive director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being heard.