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Arizona Revised Statutes Title 32 – Professions and Occupations Chapter 33 – Behavioral Health Professionals

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ARTICLE 1 BOARD OF BEHAVIORAL HEALTH EXAMINERS

32-3251. Definitions

In this chapter, unless the context otherwise requires:

1. "Board" means the board of behavioral health examiners.
2. "Client" means a patient who receives behavioral health services from a person licensed pursuant to this chapter.
3. "Direct client contact" means the performance of therapeutic or clinical functions related to the applicant's professional practice level of psychotherapy that includes diagnosis, assessment and treatment and that may include psychoeducation for mental, emotional and behavioral disorders based primarily on verbal or nonverbal communications and intervention with, and in the presence of, one or more clients, including through the use of telehealth pursuant to title 36, chapter 36, article 1.
4. "Equivalent" means comparable in content and quality but not identical.
5. "Indirect client service":
 - (a) Means training for, and the performance of, functions of an applicant's professional practice level in preparation for or on behalf of a client for whom direct client contact functions are also performed, including case consultation and receipt of clinical supervision.
 - (b) Does not include the provision of psychoeducation.
6. "Letter of concern" means a nondisciplinary written document sent by the board to notify a licensee that, while there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.
7. "Licensee" means a person who is licensed pursuant to this chapter.
8. "Practice of addiction counseling":
 - (a) Means the professional application of general counseling theories, principles and techniques as specifically adapted, based on research and clinical experience, to the specialized needs and characteristics of persons who are experiencing an addiction that is a persistent, compulsive dependence on a behavior or substance, including mood-altering behaviors or activities known as process addictions, and related problems and to the families of those persons.
 - (b) Includes the following:
 - (i) Assessment, appraisal and diagnosis.
 - (ii) The use of psychotherapy for the purpose of evaluation, diagnosis and treatment of individuals, couples, families and groups.
9. "Practice of behavioral health" means the practice of marriage and family therapy, practice of professional counseling, practice of social work and practice of addiction counseling pursuant to this chapter.
10. "Practice of marriage and family therapy" means the professional application of family systems theories, principles and techniques to treat interpersonal relationship issues and nervous, mental and emotional disorders that are cognitive, affective or behavioral. The practice of marriage and family therapy includes:
 - (a) Assessment, appraisal and diagnosis.
 - (b) The use of psychotherapy for the purpose of evaluation, diagnosis and treatment of individuals, couples, families and groups.
11. "Practice of professional counseling" means the professional application of mental health, psychological and human development theories, principles and techniques to:
 - (a) Facilitate human development and adjustment throughout the human life span.
 - (b) Assess and facilitate career development.
 - (c) Treat interpersonal relationship issues and nervous, mental and emotional disorders that are cognitive, affective or behavioral.
 - (d) Manage symptoms of mental illness.
 - (e) Assess, appraise, evaluate, diagnose and treat individuals, couples, families and groups through the use of psychotherapy.
12. "Practice of social work" means the professional application of social work theories, principles, methods and techniques to:
 - (a) Treat mental, behavioral and emotional disorders.
 - (b) Assist individuals, families, groups and communities to enhance or restore the ability to function physically, socially, emotionally, mentally and economically.
 - (c) Assess, appraise, diagnose, evaluate and treat individuals, couples, families and groups through the use of psychotherapy.
13. "Psychoeducation" means the education of a client as part of a treatment process that provides the client with information regarding mental health, emotional disorders or behavioral health.
14. "Psychotherapy" means a variety of treatment methods developing out of generally accepted theories about human behavior and development.
15. "Telehealth" has the same meaning prescribed in section 36-3601.

16. "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere:
- (a) Being convicted of a felony. Conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the conviction.
 - (b) Using fraud or deceit in connection with rendering services as a licensee or in establishing qualifications pursuant to this chapter.
 - (c) Making any oral or written misrepresentation of a fact:
 - (i) To secure or attempt to secure the issuance or renewal of a license.
 - (ii) In any statements provided during an investigation or disciplinary proceeding by the board.
 - (iii) Regarding the licensee's skills or the value of any treatment provided or to be provided.
 - (d) Making any false, fraudulent or deceptive statement connected with the practice of behavioral health, including false or misleading advertising by the licensee or the licensee's staff or a representative compensated by the licensee.
 - (e) Securing or attempting to secure the issuance or renewal of a license by knowingly taking advantage of the mistake of another person or the board.
 - (f) Engaging in active habitual intemperance in the use of alcohol or active habitual substance abuse.
 - (g) Using a controlled substance that is not prescribed for use during a prescribed course of treatment.
 - (h) Obtaining a fee by fraud, deceit or misrepresentation.
 - (i) Aiding or abetting a person who is not licensed pursuant to this chapter to purport to be a licensed behavioral health professional in this state.
 - (j) Engaging in conduct that the board determines is gross negligence or repeated negligence in the licensee's profession.
 - (k) Engaging in any conduct or practice that is contrary to recognized standards of ethics in the behavioral health profession or that constitutes a danger to the health, welfare or safety of a client.
 - (l) Engaging in any conduct, practice or condition that impairs the ability of the licensee to safely and competently practice the licensee's profession.
 - (m) Engaging or offering to engage as a licensee in activities that are not congruent with the licensee's professional education, training or experience.
 - (n) Failing to comply with or violating, attempting to violate or assisting in or abetting the violation of any provision of this chapter, any rule adopted pursuant to this chapter, any lawful order of the board, or any formal order, consent agreement, term of probation or stipulated agreement issued under this chapter.
 - (o) Failing to furnish information within a specified time to the board or its investigators or representatives if legally requested by the board.
 - (p) Failing to conform to minimum practice standards as developed by the board.
 - (q) Failing or refusing to maintain adequate records of behavioral health services provided to a client.
 - (r) Providing behavioral health services that are clinically unjustified or unsafe or otherwise engaging in activities as a licensee that are unprofessional by current standards of practice.
 - (s) Terminating behavioral health services to a client without making an appropriate referral for continuation of care for the client if continuing behavioral health services are indicated.
 - (t) Disclosing a professional confidence or privileged communication except as may otherwise be required by law or allowed by a legally valid written release.
 - (u) Failing to allow the board or its investigators on demand to examine and have access to documents, reports and records in any format maintained by the licensee that relate to the licensee's practice of behavioral health.
 - (v) Engaging in any sexual conduct between a licensee and a client or former client.
 - (w) Providing behavioral health services to any person with whom the licensee has had sexual contact.
 - (x) Exploiting a client, former client or supervisee. For the purposes of this subdivision, "exploiting" means taking advantage of a professional relationship with a client, former client or supervisee for the benefit or profit of the licensee.
 - (y) Engaging in a dual relationship with a client that could impair the licensee's objectivity or professional judgment or create a risk of harm to the client. For the purposes of this subdivision, "dual relationship" means a licensee simultaneously engages in both a professional and nonprofessional relationship with a client that is avoidable and not incidental.
 - (z) Engaging in physical contact between a licensee and a client if there is a reasonable possibility of physical or psychological harm to the client as a result of that contact.
 - (aa) Sexually harassing a client, former client, research subject, supervisee or coworker. For the purposes of this subdivision, "sexually harassing" includes sexual advances, sexual solicitation, requests for sexual favors, unwelcome comments or gestures or any other verbal or physical conduct of a sexual nature.

- (bb) Harassing, exploiting or retaliating against a client, former client, research subject, supervisee, coworker or witness or a complainant in a disciplinary investigation or proceeding involving a licensee.
- (cc) Failing to take reasonable steps to inform potential victims and appropriate authorities if the licensee becomes aware during the course of providing or supervising behavioral health services that a client's condition indicates a clear and imminent danger to the client or others.
- (dd) Failing to comply with the laws of the appropriate licensing or credentialing authority to provide behavioral health services by electronic means in all governmental jurisdictions where the client receiving these services resides.
- (ee) Giving or receiving a payment, kickback, rebate, bonus or other remuneration for a referral.
- (ff) Failing to report in writing to the board information that would cause a reasonable licensee to believe that another licensee is guilty of unprofessional conduct or is physically or mentally unable to provide behavioral health services competently or safely. This duty does not extend to information provided by a licensee that is protected by the behavioral health professional-client privilege unless the information indicates a clear and imminent danger to the client or others or is otherwise subject to mandatory reporting requirements pursuant to state or federal law.
- (gg) Failing to follow federal and state laws regarding the storage, use and release of confidential information regarding a client's personal identifiable information or care.
- (hh) Failing to retain records pursuant to section 12-2297.
- (ii) Violating any federal or state law, rule or regulation applicable to the practice of behavioral health.
- (jj) Failing to make client records in the licensee's possession available in a timely manner to another health professional or licensee on receipt of proper authorization to do so from the client, a minor client's parent, the client's legal guardian or the client's authorized representative.
- (kk) Failing to make client records in the licensee's possession promptly available to the client, a minor client's parent, the client's legal guardian or the client's authorized representative on receipt of proper authorization to do so from the client, the minor client's parent, the client's legal guardian or the client's authorized representative.
- (ll) Being the subject of the revocation, suspension, surrender or any other disciplinary sanction of a professional license, certificate or registration or other adverse action related to a professional license, certificate or registration in another jurisdiction or country, including the failure to report the adverse action to the board. The action taken may include refusing, denying, revoking or suspending a license or certificate, the surrendering of a license or certificate, otherwise limiting, restricting or monitoring a licensee or certificate holder or placing a licensee or certificate holder on probation.
- (mm) Engaging in any conduct that results in a sanction imposed by an agency of the federal government that involves restricting, suspending, limiting or removing the licensee's ability to obtain financial remuneration for behavioral health services.
- (nn) Violating the security of any licensure examination materials.
- (oo) Using fraud or deceit in connection with taking or assisting another person in taking a licensure examination.

32-3252. Board of behavioral health examiners; appointment; qualifications; terms; compensation; immunity; training program

- A. The board of behavioral health examiners is established consisting of the following members appointed by the governor:
 - 1. The following professional members:
 - (a) Two members who are licensed in social work pursuant to this chapter, at least one of whom is a licensed clinical social worker.
 - (b) Two members who are licensed in counseling pursuant to this chapter, at least one of whom is a licensed professional counselor.
 - (c) Two members who are licensed in marriage and family therapy pursuant to this chapter, at least one of whom is a licensed marriage and family therapist.
 - (d) Two members who are licensed in addiction counseling pursuant to this chapter, at least one of whom is a licensed independent addiction counselor.
 - 2. Four public members.
- B. Before appointment by the governor, a prospective member of the board shall submit a full set of fingerprints to the governor for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.
- C. Each professional board member shall:
 - 1. Be a resident of this state for at least one year before appointment.
 - 2. Be an active licensee in good standing.

3. Have at least five years of experience in an area of behavioral health licensed pursuant to this chapter.
- D. Each public board member shall:
1. Be a resident of this state for at least one year before appointment.
 2. Be at least twenty-one years of age.
 3. Not be licensed or eligible for licensure pursuant to this chapter unless the public member has been retired from active practice for at least five years.
 4. Not currently have a substantial financial interest in an entity that directly provides behavioral health services.
 5. Not have a household member who is licensed or eligible for licensure pursuant to this chapter unless the household member has been retired from active practice for at least five years.
- E. The term of office of board members is three years to begin and end on the third Monday in January. A member shall not serve more than two full consecutive terms.
- F. The board shall annually elect a chairman and secretary-treasurer from its membership.
- G. Board members are eligible to receive compensation of not more than \$85 for each day actually and necessarily spent in the performance of their duties.
- H. Board members and personnel are personally immune from suit with respect to all acts done and actions taken in good faith and in furtherance of the purposes of this chapter.
- I. Each board member must complete a twelve-hour training program that emphasizes responsibilities for administrative management, licensure, judicial processes and temperament within one year after appointment to the board.

32-3253. Powers and duties

- A. The board shall:
1. Adopt rules consistent with and necessary or proper to carry out the purposes of this chapter.
 2. Administer and enforce this chapter, rules adopted pursuant to this chapter and orders of the board.
 3. Issue a license by examination, endorsement or temporary recognition to, and renew the license of, each person who is qualified to be licensed pursuant to this chapter. The board must issue or deny a license within one hundred eighty days after the applicant submits a completed application.
 4. Establish fees by rule, except that the board is exempt from the rulemaking requirements of title 41, chapter 6 for the purposes of reducing or eliminating fees.
 5. Collect fees and spend monies.
 6. Keep a record of all persons who are licensed pursuant to this chapter, actions taken on all applications for licensure, actions involving renewal, suspension, revocation or denial of a license or probation of licensees and the receipt and disbursal of monies.
 7. Adopt an official seal for attestation of licensure and other official papers and documents.
 8. Conduct investigations and determine on its own motion whether a licensee or an applicant has engaged in unprofessional conduct, is incompetent or is mentally or physically unable to engage in the practice of behavioral health.
 9. Conduct disciplinary actions pursuant to this chapter and board rules.
 10. Establish and enforce standards or criteria of programs or other mechanisms to ensure the continuing competence of licensees.
 11. Establish and enforce compliance with professional standards and rules of conduct for licensees.
 12. Engage in a full exchange of information with the licensing and disciplinary boards and professional associations for behavioral health professionals in this state and other jurisdictions.
 13. Subject to section 35-149, accept, expend and account for gifts, grants, devises and other contributions, money or property from any public or private source, including the federal government. Monies received under this paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in special funds for the purpose specified, which are exempt from the provisions of section 35-190 relating to lapsing of appropriations.
 14. Adopt rules regarding the application for and approval of educational curricula of regionally accredited colleges or universities with a program not otherwise accredited by an organization or entity recognized by the board that are consistent with the requirements of this chapter and maintain a list of those programs. Approvals are valid for a period of five years if no changes of curricula are made that are inconsistent with the requirements of this chapter or board rule.
 15. Maintain a registry of licensees who have met the educational requirements to provide supervision as required pursuant to this chapter to applicants in the same profession.
 16. Adopt rules to allow approval of persons who wish to provide supervision pursuant to this chapter and who are not licensed by the board and who are licensed in a profession other than the profession in which the applicant is seeking licensure.

17. Recognize not more than four hundred hours of psychoeducation for work experience required pursuant to sections 32-3293, 32-3301, 32-3311 and 32-3321.
 18. Adopt rules regarding the use of telepractice.
 19. If an applicant is required to pass an examination for licensure, allow the applicant to take the examination three times during a twelve-month period.
- B. The board may join professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of behavioral health, protect the health and welfare of the public or assist and facilitate the work of the board.
- C. The board may enter into stipulated agreements with a licensee for the confidential treatment, rehabilitation and monitoring of chemical dependency or psychiatric, psychological or behavioral health disorders in a program provided pursuant to subsection D of this section. A licensee who materially fails to comply with a program shall be terminated from the confidential program. Any records of the licensee who is terminated from a confidential program are no longer confidential or exempt from the public records law, notwithstanding any law to the contrary. Stipulated agreements are not public records if the following conditions are met:
1. The licensee voluntarily agrees to participate in the confidential program.
 2. The licensee complies with all treatment requirements or recommendations, including participation in approved programs.
 3. The licensee refrains from professional practice until the return to practice has been approved by the treatment program and the board.
 4. The licensee complies with all monitoring requirements of the stipulated agreement, including random bodily fluid testing.
 5. The licensee's professional employer is notified of the licensee's chemical dependency or medical, psychiatric, psychological or behavioral health disorders and participation in the confidential program and is provided a copy of the stipulated agreement.
- D. The board shall establish a confidential program for the monitoring of licensees who are chemically dependent or who have psychiatric, psychological or behavioral health disorders that may impact their ability to safely practice and who enroll in a rehabilitation program that meets the criteria prescribed by the board. The licensee is responsible for the costs associated with rehabilitative services and monitoring. The board may take further action if a licensee refuses to enter into a stipulated agreement or fails to comply with the terms of a stipulated agreement. In order to protect the public health and safety, the confidentiality requirements of this subsection do not apply if a licensee does not comply with the stipulated agreement.
- E. The board shall audio record all meetings and maintain all audio and video recordings or stenographic records of interviews and meetings for a period of three years from when the record was created.

32-3254. Board of behavioral health examiners fund

(L24, Ch. 222, sec. 41. Eff. until 7/1/28)

- A. The board of behavioral health examiners fund is established. Pursuant to sections 35-146 and 35-147, the board shall deposit fifteen percent of all monies received by the board in the state general fund and deposit the remaining eighty-five percent in the board of behavioral health examiners fund.
- B. All monies deposited in the board of behavioral health examiners fund are subject to section 35-143.01.

32-3254. Board of behavioral health examiners fund

(L24, Ch. 222, sec. 42. Eff. 7/1/28)

- A. The board of behavioral health examiners fund is established. Pursuant to sections 35-146 and 35-147, the board shall deposit ten percent of all monies received by the board in the state general fund and deposit the remaining ninety percent in the board of behavioral health examiners fund.
- B. All monies deposited in the board of behavioral health examiners fund are subject to section 35-143.01.

32-3255. Executive director; compensation; duties

- A. On or after January 31, 2014 and subject to title 41, chapter 4, article 4, the board shall appoint an executive director who shall serve at the pleasure of the board. The executive director is eligible to receive compensation set by the board within the range determined under section 38-611.
- B. The executive director shall:
 1. Perform the administrative duties of the board.
 2. Subject to title 41, chapter 4, article 4, employ personnel as the executive director deems necessary, including professional consultants and agents necessary to conduct investigations. An investigator must complete a nationally recognized investigator training program within one year after the date of hire. Until the investigator completes this training program, the investigator must work under the supervision of an investigator who has completed a training program.

32-3256. Executive director; complaints; dismissal; review

- A. If delegated by the board, the executive director may dismiss a complaint if the investigative staff's review indicates that the complaint is without merit and that dismissal is appropriate.
- B. At each regularly scheduled board meeting, the executive director shall provide to the board a list of each complaint the executive director dismissed pursuant to subsection A of this section since the last board meeting.
- C. A person who is aggrieved by an action taken by the executive director pursuant to subsection A of this section may file a written request that the board review that action. The request must be filed within thirty-five days after that person is provided written notification of the executive director's action. At the next regular board meeting, the board shall review the executive director's action and, on review, shall approve, modify or reject the executive director's action.

32-3257. Written notifications and communications; methods of transmission

For the purposes of this chapter, notifications or communications required to be written or in writing may be transmitted or received by mail, electronic transmission, facsimile transmission or hand delivery and shall not be transmitted or received orally.

ARTICLE 2 ACADEMIC REVIEW COMMITTEES

32-3261. Academic review committees; members; appointment; qualifications; terms; compensation; immunity; training

- A. The board shall establish an academic review committee for each professional area licensed pursuant to this chapter to do the following:
 - 1. Review applications referred to the committee by the board or the executive director to determine whether an applicant, whose curriculum has not been approved pursuant to section 32-3253, subsection A, paragraph 14 or whose program is not accredited by an organization or entity approved by the board, has met the educational requirements of this chapter or board rules.
 - 2. On referral by the executive director, make recommendations to the board regarding whether an applicant has met the requirements of supervised work experience required for licensure pursuant to this chapter or board rules.
 - 3. Make specific findings concerning an application's deficiencies.
 - 4. Review applications and make recommendations to the board for curriculum approval applications made pursuant to section 32-3253, subsection A, paragraph 14.
 - 5. At the request of the board, make recommendations regarding examinations required pursuant to this chapter.
 - 6. Review applications for and make determinations regarding exemptions related to clinical supervision requirements.
- B. If an application is referred to an academic review committee for review and the academic review committee finds that additional information is needed from the applicant, the academic review committee shall provide a comprehensive written request for additional information to the applicant.
- C. An academic review committee shall be composed of three members who have been residents of this state for at least one year before appointment, at least one of whom is licensed in the professional area pursuant to this chapter and have five years of experience in the applicable profession. At least one member must have served within the previous ten years as core or full-time faculty at a regionally accredited college or university in a program related to the applicable profession and have experience in the design and development of the curriculum of a related program. If qualified, a faculty member may serve on more than one academic review committee. A board member may not be appointed to serve on an academic review committee.
- D. Committee members shall initially be appointed by the board. From and after January 1, 2016, the governor shall appoint the committee members. A committee member who is initially appointed by the board may be reappointed by the governor. A committee member who is initially appointed by the board shall continue to serve until appointed or replaced by the governor.
- E. Committee members serve at the pleasure of the governor for terms of three years. A member shall not serve more than two full consecutive terms.
- F. Committee members are eligible to receive compensation of not more than eighty-five dollars for each day actually and necessarily spent in the performance of their duties.
- G. An academic review committee shall annually elect a chairman and secretary from its membership.
- H. Committee members are personally immune from suit with respect to all acts done and actions taken in good faith and in furtherance of the purposes of this chapter.

- I. Committee members shall receive at least five hours of training as prescribed by the board within one year after the member is initially appointed and that includes instruction in ethics and open meeting requirements.

ARTICLE 3 LICENSURE

32-3271. Exceptions to licensure; jurisdiction

- A. This chapter does not apply to:
 1. A person who is currently licensed, certified or regulated pursuant to another chapter of this title and who provides services within the person's scope of practice if the person does not claim to be licensed pursuant to this chapter.
 2. A person who is not a resident of this state if the person:
 - (a) Performs behavioral health services in this state for not more than ninety days in any one calendar year as prescribed by board rule.
 - (b) Is authorized to perform these services pursuant to the laws of the state or country in which the person resides or pursuant to the laws of a federally recognized Indian tribe.
 - (c) Informs the client of the limited nature of these services and that the person is not licensed in this state.
 3. A rabbi, priest, minister or member of the clergy of any religious denomination or sect if the activities and services that person performs are within the scope of the performance of the regular or specialized ministerial duties of an established and legally recognizable church, denomination or sect and the person performing the services remains accountable to the established authority of the church, denomination or sect.
 4. A member-run self-help or self-growth group if no member of the group receives direct or indirect financial compensation.
 5. A behavioral health technician or behavioral health paraprofessional who is employed by an agency licensed by the department of health services.
 6. A person contracting with the supreme court or a person employed by or contracting with an agency under contract with the supreme court who is otherwise ineligible to be licensed or who is in the process of applying to be licensed under this chapter as long as that person is in compliance with the supreme court contract conditions regarding professional counseling services and practices only under supervision.
 7. A person who is employed by the department of economic security or the department of child safety and who practices social work, marriage and family therapy, addiction counseling, counseling and case management within the scope of the person's job duties and under direct supervision by the employer department.
 8. A student, intern or trainee who is pursuing a course of study in social work, counseling, marriage and family therapy, addiction counseling or case management in a regionally accredited institution of higher education or training institution if the person's activities are performed under qualified supervision and are part of the person's supervised course of study.
 9. A person who is practicing social work, counseling and case management and who is employed by an agency licensed by the department of economic security or the department of child safety.
 10. A paraprofessional who is employed by the department of economic security or by an agency licensed by the department of economic security.
 11. A Christian Science practitioner if all of the following are true:
 - (a) The person is not providing psychotherapy.
 - (b) The activities and services the person performs are within the scope of the performance of the regular or specialized duties of a Christian Science practitioner.
 - (c) The person remains accountable to the established authority of the practitioner's church.
 12. A person who is not providing psychotherapy.
- B. A person who provides services pursuant to subsection A, paragraph 2 of this section is deemed to have agreed to the jurisdiction of the board and to be bound by the laws of this state.

32-3272. Fees

- A. For issuance of a license pursuant to this chapter, including application fees, the board shall establish and charge reasonable fees not to exceed \$500.
- B. For renewal of a license pursuant to this chapter, the board shall establish and charge reasonable fees not to exceed \$500. The board shall not increase fees pursuant to this subsection more than \$25 each year.
- C. The board by rule may adopt a fee for applications for approval of educational curricula pursuant to section 32-3253, subsection A, paragraph 14.
- D. The board shall establish fees to produce monies that approximate the cost of maintaining the board.

- E. The board shall waive the application fee for an independent level license if an applicant has paid the fee for an initial or renewal associate level license in this state and within ninety days after payment of the fee the applicant applies for an independent level license.
- F. The board shall waive the renewal fee for an associate level license if the licensee has submitted the renewal application and the licensee's application for independent licensure is pending at the time of renewal.

32-3273. License renewal; continuing education

- A. Except as provided in section 32-4301, a license issued pursuant to this chapter is renewable every two years by paying the renewal fee prescribed by the board and submitting documentation prescribed by the board by rule of completion of relevant continuing education experience as determined by the board during the previous twenty-four-month period.
- B. The board shall send notice in writing of required relevant continuing education experience to each licensee at least ninety days before the renewal date.
- C. A licensee must satisfy the continuing education requirements that are prescribed by the board by rule and that are designed to provide the necessary understanding of ethics, cultural competency, current developments, skills, procedures and treatments related to behavioral health and to ensure the continuing competence of licensees. The board shall adopt rules to prescribe the manner of documenting compliance with this subsection.
- D. At the request of a licensee who has been issued two or more licenses, the board shall establish the same renewal dates for those licenses. The board may prorate any fees due as necessary to synchronize the dates.

32-3274. Licensure by endorsement

- A. The board may issue a license by endorsement to a person in that person's behavioral health discipline if the person is licensed or certified by the regulatory agency of one or more other states or federal jurisdictions at a substantially equivalent or higher practice level as determined by the board, pays the fee prescribed by the board and meets all of the following requirements:
 - 1. Is currently licensed or certified in behavioral health by the regulatory agency of one or more other states or federal jurisdictions and each license or certification is current and in good standing.
 - 2. Has been licensed or certified for at least one year in one or more other states or federal jurisdictions in the discipline and practice level for which an application is submitted. The practice level of the jurisdictions must be substantially equivalent, as determined by the board, to the practice level for which the application is submitted.
 - 3. Meets the basic requirements for licensure prescribed by section 32-3275.
 - 4. Submits to the board all of the following:
 - (a) A listing of every jurisdiction in the United States in which the person has been licensed or certified in the practice of behavioral health and any disciplinary action taken by any regulatory agency or any instance in which a license has been surrendered in lieu of discipline.
 - (b) Verification of licensure or certification from every jurisdiction in which the person is licensed or certified for the discipline and practice level for which the person applies.
 - (c) Any other procedural application requirements adopted by the board in rule.
- B. In addition to the requirements of subsection A of this section, a person seeking license by endorsement for the following practice levels must have earned a master's or higher degree in the applicable field of practice granted by a regionally accredited college or university:
 - 1. Licensed clinical social worker.
 - 2. Licensed professional counselor.
 - 3. Licensed marriage and family therapist.
 - 4. Licensed independent addiction counselor.
- C. Except for licenses by endorsement issued in the practice levels prescribed in subsection B of this section, a person who is issued a license pursuant to this section shall practice behavioral health only under the direct supervision of a licensee.
- D. The board by rule may prescribe a procedure to issue licenses pursuant to this section.

32-3275. Requirements for licensure; withdrawal of application

- A. An applicant for licensure must meet all of the following requirements:
 - 1. Submit an application as prescribed by the board.
 - 2. Be at least twenty-one years of age.
 - 3. Pay all applicable fees prescribed by the board.
 - 4. Have the physical and mental capability to safely and competently engage in the practice of behavioral health.

5. Not have committed any act or engaged in any conduct that would constitute grounds for disciplinary action against a licensee pursuant to this chapter.
 6. Not have had a professional license or certificate refused, revoked, suspended or restricted by this state or any other regulatory jurisdiction in the United States or any other country for reasons that relate to unprofessional conduct.
 7. Not have voluntarily surrendered a professional license or certificate in this state or another regulatory jurisdiction in the United States or any other country while under investigation for conduct that relates to unprofessional conduct.
 8. Not have a complaint, allegation or investigation pending before the board or another regulatory jurisdiction in the United States or another country that relates to unprofessional conduct. If an applicant has any such complaint, allegation or investigation pending, the board shall suspend the application process and may not issue or deny a license to the applicant until the complaint, allegation or investigation is resolved.
- B. Before the board considers denial of a license based on a deficiency pursuant to subsection A, paragraph 4, 5, 6 or 7 of this section, the applicant shall be given thirty-five days' notice of the time and place of a meeting at which the applicant may provide in person, by counsel or in written form information and evidence related to any deficiency relating to subsection A, paragraph 4, 5, 6 or 7 of this section, including any evidence that the deficiency has been corrected or monitored or that a mitigating circumstance exists. In any notice of denial, the board shall provide notice of the applicant's right to a hearing pursuant to title 41, chapter 6, article 10.
 - C. If the board finds that an applicant is subject to subsection A, paragraphs 4, 5, 6 or 7 of this section, the board may determine to its satisfaction that the conduct or condition has been corrected, monitored and resolved and may issue a license. If the conduct or condition has not been resolved, the board may determine to its satisfaction that mitigating circumstances exist that prevent its resolution and may issue a license.
 - D. An applicant for licensure may withdraw the application unless the board has sent to the applicant notification that the board has initiated an investigation concerning professional misconduct. Following that notification, the applicant may request that the board review the applicant's request to withdraw the application. In considering the request the board shall determine whether it is probable that the investigation would result in an adverse action against the applicant.
 - E. After a final board order of denial has been issued, the board shall report the denial if required by the health care quality improvement act of 1986 (42 United States Code chapter 117). For the purposes of this subsection and except as required by federal law, "final board order" means:
 1. For an applicant who seeks a hearing pursuant to title 41, chapter 6, article 10, when a final administrative decision has been made.
 2. For an applicant who does not timely file a notice of appeal, after the time for the filing expires pursuant to section 41-1092.03.

32-3276. Notice of address and telephone number changes; penalties

- A. A licensee must provide the board with the licensee's current home address and telephone number and office address and telephone number and promptly and in writing inform the board of any change in this information.
- B. The board may assess the costs it incurs in locating a licensee and impose a penalty of not to exceed one hundred dollars against a licensee who does not notify the board pursuant to subsection A of this section within thirty days after the change of address or telephone number.

32-3277. Expired licenses; reinstatement

- A. A person who does not renew a license is ineligible to practice pursuant to this chapter.
- B. The board may reinstate an expired license if the person submits an application for reinstatement within ninety days after the expiration of the license. The application must document to the board's satisfaction that the applicant has met the renewal requirements prescribed by this chapter and include a late renewal penalty prescribed by the board by rule.

32-3278. Inactive license

- A. The board by rule may establish procedures for a licensee to delay renewal of the license for good cause and to place the licensee on inactive status. A person on inactive status shall not practice behavioral health or claim to be a licensee.
- B. A licensee on inactive status may request reinstatement of the license to active status by submitting a license renewal application.

32-3279. Probationary and temporary licenses

- A. If an applicant does not meet the basic requirements for licensure prescribed in section 32-3275, the board may issue a probationary license that is subject to any of the following:
 - 1. A requirement that the licensee's practice be supervised.
 - 2. A restriction on the licensee's practice.
 - 3. A requirement that the licensee begin or continue medical or psychiatric treatment.
 - 4. A requirement that the licensee participate in a specified rehabilitation program.
 - 5. A requirement that the licensee abstain from alcohol and other drugs.
- B. If the board offers a probationary license, the board shall notify the applicant in writing of the:
 - 1. Applicant's specific deficiencies.
 - 2. Probationary period.
 - 3. Applicant's right to reject the terms of probation.
 - 4. Applicant's right to a hearing on the board's denial of the application.
- C. The board by rule may prescribe a procedure to issue temporary licenses. At a minimum, these rules must include the following provisions:
 - 1. A person issued a temporary license may practice behavioral health only under the direct supervision of a licensee.
 - 2. A temporary license expires on the date specified by the board and not more than one year after the date of issuance.
 - 3. A temporary license may contain restrictions as to time, place and supervision that the board deems appropriate.
 - 4. The board may summarily revoke a temporary license without a hearing.
 - 5. The board's denial of a licensure application terminates a temporary license.

32-3280. Fingerprinting

- A. An applicant for licensure under this article other than for a temporary license must submit a full set of fingerprints to the board, at the applicant's own expense, for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.
- B. The board shall waive the records check required in subsection A of this section for an applicant who provides evidence acceptable to the board that the applicant holds a valid fingerprint clearance card issued by the department of public safety.

ARTICLE 4 REGULATION

32-3281. Disciplinary action; investigations; hearings; civil penalty; timely complaints; burden of proof

- A. The board, on its own motion or on a complaint, may investigate any evidence that appears to show that a licensee is or may be incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of behavioral health. A motion by the board to initiate an investigation shall be made at an open and properly noticed board meeting and shall include the basis on which the investigation is being initiated and the name of the board member making the motion. The board's vote on the motion to initiate an investigation shall be recorded. As part of its investigation, the board may hold an investigational meeting pursuant to this chapter. Any person may, and a licensee and any entity licensed by the department of health services shall, report to the board any information that would cause a reasonable licensee to believe that another licensee is guilty of unprofessional conduct or is physically or mentally unable to provide behavioral health services competently or safely. Any person or entity that reports or provides information to the board in good faith is not subject to an action for civil damages. It is an act of unprofessional conduct for any licensee to fail to report as required by this section. The board shall report to the department of health services any entity licensed by the department of health services that fails to report as required by this section. For complaints related to conduct that is inconsistent with professional standards or ethics, scope of practice or standard of care, the board may consult with one or more licensed or retired behavioral health professionals of the same profession as the licensee to review complaints and make recommendations to the board.
- B. On determination of reasonable cause, the board shall require, at the licensee's own expense, any combination of mental, physical or psychological examinations, assessments or skills evaluations necessary to determine the licensee's competence or ability to safely engage in the practice of behavioral health and conduct necessary investigations, including investigational interviews between representatives of the board and the licensee, to fully inform the board with respect to any information filed with the board under subsection A of this section. These examinations may include biological fluid testing. The board may require the licensee, at the licensee's expense, to undergo assessment by a rehabilitative, retraining or assessment program approved by the board.

- C. If the board finds, based on the information received pursuant to subsection A or B of this section, that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the board may restrict, limit or order a summary suspension of a license pending proceedings for revocation or other action. If the board takes action pursuant to this subsection, it must also serve the licensee with a written notice that states the charges and that the licensee is entitled to a formal hearing before the board or an administrative law judge within sixty days.
- D. If after completing an investigation the board finds that the information provided is not of sufficient seriousness to merit disciplinary action against the licensee, the board shall either:
1. Dismiss the complaint if, in the opinion of the board, the complaint is without merit.
 2. File a letter of concern and dismiss the complaint. The licensee may file a written response with the board within thirty days after the licensee receives the letter of concern.
 3. Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.
- E. A complaint dismissed by the board pursuant to subsection D, paragraph 1 of this section is not a complaint of unprofessional conduct and shall not be disclosed by the board as a complaint on the licensee's complaint history.
- F. If after completing its investigation the board believes that the information is or may be true, the board may enter into a consent agreement with the licensee to limit or restrict the licensee's practice or to rehabilitate the licensee, protect the public and ensure the licensee's ability to safely engage in the practice of behavioral health. A consent agreement may also require the licensee to successfully complete a board approved rehabilitative, retraining or assessment program.
- G. If the board finds that the information provided pursuant to subsection A of this section is or may be true, the board may request a formal interview with the licensee. If the licensee refuses the invitation for a formal interview or accepts and the results indicate that grounds may exist for revocation or suspension of the licensee's license for more than twelve months, the board shall issue a formal complaint and order that a hearing be held pursuant to title 41, chapter 6, article 10. If after completing a formal interview the board finds that the protection of the public requires emergency action, the board may order a summary suspension of the licensee's license pending formal revocation proceedings or other action authorized by this section.
- H. If after completing the formal interview the board finds the information provided is not of sufficient seriousness to merit suspension for more than twelve months or revocation of the license, the board may take the following actions:
1. Dismiss if, in the opinion of the board, the information is without merit.
 2. File a letter of concern and dismiss the complaint. The licensee may file a written response with the board within thirty days after the licensee receives the letter of concern.
 3. Issue a decree of censure. A decree of censure is an official action against the licensee's license and may include a requirement for restitution of fees to a client resulting from violations of this chapter or rules adopted pursuant to this chapter.
 4. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the licensee concerned. Probation may include temporary suspension not to exceed twelve months, restriction of the licensee's license to practice behavioral health, a requirement for restitution of fees to a client or education or rehabilitation at the licensee's own expense. If a licensee fails to comply with the terms of probation, the board shall serve the licensee with a written notice that states that the licensee is subject to a formal hearing based on the information considered by the board at the formal interview and any other acts or conduct alleged to be in violation of this chapter or rules adopted by the board pursuant to this chapter, including noncompliance with the terms of probation or a consent agreement.
 5. Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.
- I. If the board finds that the information provided in subsection A or G of this section warrants suspension or revocation of a license issued under this chapter, the board shall initiate formal proceedings pursuant to title 41, chapter 6, article 10.
- J. In a formal interview pursuant to subsection G of this section or in a hearing pursuant to subsection I of this section, the board in addition to any other action may impose a civil penalty not to exceed one thousand dollars for each violation of this chapter or a rule adopted under this chapter.
- K. A letter of concern is a public document.
- L. A licensee who after a formal hearing is found by the board to be guilty of unprofessional conduct, to be mentally or physically unable to safely engage in the practice of behavioral health or to be professionally incompetent is subject to censure, probation as provided in this section, suspension of license or revocation

of license or any combination of these, including a stay of action, and for a period of time or permanently and under conditions as the board deems appropriate for the protection of the public health and safety and just in the circumstance. The board may charge all costs incurred in the course of the investigation and formal hearing to the licensee it finds is in violation of this chapter. The board shall deposit, pursuant to sections 35-146 and 35-147, monies collected pursuant to this subsection in the board of behavioral health examiners fund established by section 32-3254.

- M. If the board during the course of any investigation determines that a criminal violation may have occurred involving the delivery of behavioral health services, the board shall make the evidence of violations available to the appropriate criminal justice agency for its consideration.
- N. The board shall deposit, pursuant to sections 35-146 and 35-147, all monies collected from civil penalties paid pursuant to this chapter in the state general fund.
- O. Notice of a complaint and hearing is effective by a true copy of the notice being sent by certified mail to the licensee's last known address of record in the board's files. Notice of the complaint and hearing is complete on the date of its deposit in the mail.
- P. In determining the appropriate disciplinary action under this section, the board shall consider all previous nondisciplinary and disciplinary actions against a licensee.
- Q. The board may defer action with regard to an impaired licensee who voluntarily signs an agreement, in a form satisfactory to the board, agreeing to practice restrictions and treatment and monitoring programs deemed necessary by the board to protect the public health and safety. A licensee who is impaired and who does not agree to enter into an agreement with the board is subject to other action as provided pursuant to this chapter.
- R. Subject to an order duly entered by the board, a person whose license to practice behavioral health has been suspended or restricted pursuant to this chapter, whether voluntarily or by action of the board, may at reasonable intervals apply to the board for reinstatement of the license. The person shall submit the application in writing and in the form prescribed by the board. After conducting an investigation and hearing, the board may grant or deny the application or modify the original finding to reflect any circumstances that have changed sufficiently to warrant modification. The board may require the applicant to pass an examination or complete board imposed continuing education requirements or may impose any other sanctions the board deems appropriate for reentry into the practice of behavioral health.
- S. A person whose license is revoked, suspended or not renewed must return the license to the offices of the board within ten days after notice of that action.
- T. The board may enforce a civil penalty imposed pursuant to this section in the superior court in Maricopa county.
- U. For complaints being brought before the full board, the information released to the public regarding an ongoing investigation must clearly indicate that the investigation is a pending complaint and must include the following statement: Pending complaints represent unproven allegations. On investigation, many complaints are found to be without merit or not of sufficient seriousness to merit disciplinary action against the licensee and are dismissed.
- V. The board shall not act on its own motion or on any complaint received by the board in which an allegation of unprofessional conduct or any other violation of this chapter against a professional who holds an Arizona license occurred more than four years before the complaint is received by the board. The time limitation does not apply to:
 - 1. Malpractice settlements or judgments, allegations of sexual misconduct or an incident or occurrence that involved a felony, diversion of a controlled substance or impairment while practicing by the licensee.
 - 2. The board's consideration of the specific unprofessional conduct related to the licensee's failure to conduct or a violation as required by law.
- W. The board shall not open an investigation if identifying information regarding the complainant is not provided.
- X. Except for disciplinary matters prescribed by section 32-3251, paragraph 16, subdivision (v), the board has the burden of proof by clear and convincing evidence for disciplinary matters brought pursuant to this chapter.

32-3282. Right to examine and copy evidence; summoning witnesses and documents; taking testimony; right to counsel; confidentiality

- A. In connection with information received pursuant to section 32-3281, subsection A, the board or the board's authorized agents or employees at all reasonable times have access to, for the purpose of examination, and the right to copy any psychotherapy notes, documents, reports, records or other physical evidence of any person being investigated, or the reports, records and any other documents maintained by and in possession of any hospital, clinic, physician's office, laboratory, pharmacy or health care institution as defined in

section 36-401 or any other public or private agency, if the psychotherapy notes, documents, reports, records or evidence relate to the specific complaint.

- B. For the purpose of all investigations and proceedings conducted by the board:
1. The board on its own initiative may issue subpoenas compelling the attendance and testimony of witnesses or demanding the production for examination or copying of documents or any other physical evidence if the evidence relates to the unauthorized practice of behavioral health or to the competence, unprofessional conduct or mental or physical ability of a licensee to safely practice. Within five days after the service of a subpoena on any person requiring the production of any evidence in that person's possession or under that person's control, the person may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify a subpoena if in its opinion the evidence required does not relate to unlawful practices covered by this chapter or is not relevant to the charge that is the subject matter of the hearing or investigation or the subpoena does not describe with sufficient particularity the physical evidence required to be produced. Any member of the board and any agent designated by the board may administer oaths, examine witnesses and receive evidence.
 2. Any person appearing before the board may be represented by counsel.
 3. The board shall make available to the licensee who is the subject of the investigation, or the licensee's designated representative, for inspection at the board's office the investigative file at least five business days before a board meeting at which the board considers the complaint. The board may redact any confidential information before releasing the file to the licensee.
 4. The superior court, on application by the board or by the person subpoenaed, has jurisdiction to issue an order either:
 - (a) Requiring the person to appear before the board or the board's authorized agent to produce evidence relating to the matter under investigation.
 - (b) Revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to unlawful practices covered by this chapter or is not relevant to grounds for disciplinary action that are the subject matter of the hearing or investigation or the subpoena does not describe with sufficient particularity the physical evidence required to be produced. Any failure to obey an order of the court may be punished by the court as contempt.
- C. Records, including clinical records, reports, files or other reports or oral statements relating to examinations, findings or treatments of clients, any information from which a client or the client's family might be identified or information received and records kept by the board as a result of the investigation procedure prescribed by this chapter are not available to the public.
- D. This section and any other law that makes communications between a licensee and the licensee's client a privileged communication do not apply to investigations or proceedings conducted pursuant to this chapter. The board and the board's employees, agents and representatives shall keep in confidence the names of any clients whose records are reviewed during the course of investigations and proceedings pursuant to this chapter.

32-3283. Confidential relationship; privileged communications; clients with legal guardians; treatment decisions

- A. The confidential relationship between a client and a licensee, including a temporary licensee, is the same as between an attorney and a client. Unless a client waives this privilege in writing or in court testimony, a licensee shall not voluntarily or involuntarily divulge information that is received by reason of the confidential nature of the behavioral health professional-client relationship.
- B. A licensee shall divulge to the board information the board requires in connection with any investigation, public hearing or other proceeding.
- C. The behavioral health professional-client privilege does not extend to cases in which the behavioral health professional has a duty to:
1. Inform victims and appropriate authorities that a client's condition indicates a clear and imminent danger to the client or others pursuant to this chapter.
 2. Report information as required by law.
- D. A client's legal guardian may make treatment decisions on behalf of the client, except that the client receiving services is the decision maker for issues:
1. That directly affect the client's physical or emotional safety, such as sexual or other exploitative relationships.
 2. That the guardian agrees to specifically reserve to the client.
 3. Where the right to seek behavioral health services without parental or guardian consent is established by state or federal law.

32-3284. Cease and desist orders; injunctions

- A. The board may issue a cease and desist order or request that an injunction be issued by the superior court to stop a person from engaging in the unauthorized practice of behavioral health or from violating or threatening to violate a statute, rule or order that the board has issued or is empowered to enforce. If the board seeks an injunction to stop the unauthorized practice of behavioral health, it is sufficient to charge that the respondent on a day certain in a named county engaged in the practice of behavioral health without a license and without being exempt from the licensure requirements of this chapter. It is not necessary to show specific damages or injury. The cease and desist order must state the reason for its issuance and give notice of the person's right to request a hearing under applicable procedures prescribed in title 41, chapter 6, article 10.
- B. Violation of an injunction shall be punished as for contempt of court.

32-3285. Judicial review

Except as provided in section 41-1092.08, subsection H, final decisions of the board are subject to judicial review pursuant to title 12, chapter 7, article 6.

32-3286. Unlawful practice; unlawful use of title; violations; classification; civil penalty; exception

- A. Except as prescribed in section 32-3271, a person who is not licensed pursuant to this chapter shall not engage in the practice of behavioral health.
- B. A person who is not licensed pursuant to this chapter shall not use any of the following designations or any other designation that indicates licensure status, including abbreviations, or claim to be licensed pursuant to this chapter:
 - 1. Licensed professional counselor.
 - 2. Licensed associate counselor.
 - 3. Licensed marriage and family therapist.
 - 4. Licensed associate marriage and family therapist.
 - 5. Licensed clinical social worker.
 - 6. Licensed master social worker.
 - 7. Licensed baccalaureate social worker.
 - 8. Licensed independent addiction counselor.
 - 9. Licensed associate addiction counselor.
 - 10. Licensed addiction technician.
- C. A person who is not licensed pursuant to this chapter and who practices or attempts to practice or who holds himself out as being trained and authorized to practice behavioral health, including diagnosing or treating any mental ailment, disease or disorder or other mental condition of any person, without being authorized by law to perform the act is engaging in the unauthorized practice of behavioral health, is in violation of this chapter, is guilty of a class 6 felony and is subject to a civil penalty of not more than \$500 for each offense.
- D. A person who conspires with or aids and abets another to commit any act described in subsection C of this section is guilty of a class 6 felony and is subject to a civil penalty of not more than \$500 for each offense.
- E. The board shall notify the department of health services if a licensed health care institution employs or contracts with a person who is investigated pursuant to this section.
- F. Each day that a violation is committed constitutes a separate offense.
- G. All fees received for services described in this section shall be refunded by the person found guilty pursuant to this section.
- H. Notwithstanding subsection A of this section and based on circumstances presented to the board, the board may sanction a person's failure to timely renew a license while continuing to engage in the practice of behavioral health as an administrative violation rather than as a violation of this section or grounds for unprofessional conduct and may impose a civil penalty of not more than \$500. The board shall deposit, pursuant to sections 35-146 and 35-147, monies collected pursuant to this subsection in the state general fund.

ARTICLE 5 SOCIAL WORK

32-3291. Licensed baccalaureate social worker; licensure; qualifications; supervision

- A. A person who wishes to be licensed by the board to engage in the practice of social work as a licensed baccalaureate social worker shall:
 - 1. Furnish documentation as prescribed by the board by rule that the person has earned a baccalaureate degree in social work from a regionally accredited college or university in a program accredited by the council on social work education or a degree from a foreign school based on a program of study that the board determines is substantially equivalent.
 - 2. Pass an examination approved by the board.

- B. A licensed baccalaureate social worker shall only engage in clinical practice under direct supervision as prescribed by the board.

32-3292. Licensed master social worker; licensure; qualifications; supervision

- A. A person who wishes to be licensed by the board to engage in the practice of social work as a licensed master social worker shall:
1. Furnish documentation satisfactory to the board that the person has earned a master's or higher degree in social work from a regionally accredited college or university in a program accredited by the council on social work education or a degree from a foreign school based on a program of study that the board determines is substantially equivalent.
 2. Pass an examination approved by the board.
- B. A licensed master social worker shall only engage in clinical practice under direct supervision as prescribed by the board.

32-3293. Licensed clinical social worker; licensure; qualifications

A person who wishes to be licensed by the board to engage in the practice of social work as a licensed clinical social worker shall:

1. Furnish documentation as prescribed by the board by rule that the person has:
 - (a) Earned a master's or higher degree in social work from a regionally accredited college or university in a program accredited by the council on social work education or a degree from a foreign school based on a program of study that the board determines is substantially equivalent.
 - (b) Received at least twenty-four months of post-master's degree experience in the practice of clinical social work under supervision that includes at least one thousand six hundred hours of direct client contact that meets the requirements prescribed by the board by rule. For clinical supervision, at least one hundred hours of experience must be as prescribed by the board by rule. For direct client contact hours, not more than four hundred hours may be in psychoeducation.
2. Provide documentation on a board-approved form completed by the person's supervisor attesting that the person both:
 - (a) Was observed during supervised hours to have demonstrated satisfactory competency in clinical documentation, consultation, collaboration and coordination of care related to clients to whom the person provided direct care.
 - (b) Has a rating of at least satisfactory in overall performance.
3. Pass an examination approved by the board.

ARTICLE 5.1 SOCIAL WORK LICENSURE COMPACT

32-3295. Social work licensure compact

SECTION 1. PURPOSE

- A. The purpose of this compact is to facilitate interstate practice of regulated social workers by improving public access to competent social work services. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.
- B. This compact is designed to achieve the following objectives:
1. Increase public access to social work services.
 2. Reduce overly burdensome and duplicative requirements associated with holding multiple licenses.
 3. Enhance the member states' ability to protect the public's health and safety.
 4. Encourage the cooperation of member states in regulating multistate practice.
 5. Promote mobility and address workforce shortages by eliminating the necessity for licenses in multiple states by providing for the mutual recognition of other member state licenses.
 6. Support military families.
 7. Facilitate the exchange of licensure and disciplinary information among member states.
 8. Authorize all member states to hold a regulated social worker accountable for abiding by a member state's laws, regulations and applicable professional standards in the member state in which the client is located at the time care is rendered.
 9. Allow for the use of telehealth to facilitate increased access to regulated social work services.

SECTION 2. DEFINITIONS

In this compact, unless the context otherwise requires:

1. "Active military member" means any individual with full-time duty status in the active armed forces of the United States, including members of the national guard and reserve.
2. "Adverse action" means any administrative, civil, equitable or criminal action allowed by a state's laws that is imposed by a licensing authority or other authority against a regulated social worker, including actions against an individual's license or multistate authorization to practice, such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice or any other encumbrance on licensure affecting a regulated social worker's authorization to practice, including issuance of a cease and desist action.
3. "Alternative program" means a nondisciplinary monitoring or practice remediation process approved by a licensing authority to address practitioners with an impairment.
4. "Charter member states" means member states that have enacted legislation to adopt this compact if the legislation predates the effective date of this compact as described in section 14 of this compact.
5. "Compact commission" or "commission" means the government agency whose membership consists of all states that have enacted this compact, that is known as the social work licensure compact commission as described in section 10 of this compact and that operates as an instrumentality of the member states.
6. "Current significant investigative information" means either:
 - (a) Investigative information that a licensing authority, after a preliminary inquiry that includes notification and an opportunity for the regulated social worker to respond, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction as may be defined by the commission.
 - (b) Investigative information that indicates that the regulated social worker represents an immediate threat to public health and safety, as defined by the commission, regardless of whether the regulated social worker has been notified and has had an opportunity to respond.
7. "Data system" means a repository of information about licensees, including continuing education, examination, licensure, current significant investigative information, disqualifying events, multistate licenses and adverse action information or other information as required by the commission.
8. "Disqualifying event" means any adverse action or incident that results in an encumbrance that disqualifies or makes the licensee ineligible to either obtain, retain or renew a multistate license.
9. "Domicile" means the jurisdiction in which the licensee resides and intends to remain indefinitely.
10. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of social work licensed and regulated by a licensing authority.
11. "Executive committee" means a group of delegates elected or appointed to act on behalf of, and within the powers granted to them by, the compact and commission.
12. "Home state" means the member state that is the licensee's primary domicile.
13. "Impairment":
 - (a) Means a conditions or conditions that may impair a practitioner's ability to engage in full and unrestricted practice as a regulated social worker without some type of intervention.
 - (b) May include alcohol and drug dependence, mental health impairment and neurological or physical impairments.
14. "Licensees" means an individual who currently holds a license from a state to practice as a regulated social worker.
15. "Licensing authority" means the board or agency of a member state, or equivalent, that is responsible for licensing and regulating regulated social workers.
16. "Member state" means a state, commonwealth, district or territory of the United States of America that has enacted this compact.
17. "Multistate authorization to practice" means a legally authorized privilege to practice that is equivalent to a license and that is associated with a multistate license permitting the practice of social work in a remote state.
18. "Multistate license" means a license to practice as a regulated social worker issued by a home state licensing authority that authorizes the regulated social worker to practice in all member states under multistate authorization to practice.
19. "Qualifying national exam" means a national licensing examination approved by the commission.
20. "Regulated social worker" means any clinical, master's or bachelor's social worker who is licensed by a member state regardless of the title used by that member state.
21. "Remote state" means a member state other than the licensee's home state.
22. "Rule" or "rule of the commission" means a regulation duly promulgated by the commission, as authorized by the compact, that has the force of law.
23. "Single state license":
 - (a) Means a social work license issued by any state that authorizes practice only within the issuing state.
 - (b) Does not include multistate authorization to practice in any member state.

24. "Social work" or "social work services" means the application of social work theory, knowledge, methods, ethics and the professional use of self to restore or enhance social, psychosocial or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities through the care and services provided by a regulated social worker as set forth in the member state's statutes and regulations in the state where the services are being provided.
25. "State" means any state, commonwealth, district or territory of the United States of America that regulates the practice of social work.
26. "Unencumbered license" means a license that authorizes a regulated social worker to engage in the full and unrestricted practice of social work.

SECTION 3. STATE PARTICIPATION IN THE COMPACT

- A. To be eligible to participate in the compact, a potential member state must currently meet all of the following criteria:
 1. License and regulate the practice of social work at either the clinical, master's or bachelor's category.
 2. Require applicants for licensure to graduate from a program that:
 - (a) Is operated by a college or university recognized by the licensing authority.
 - (b) Is accredited, or in candidacy by an institution that subsequently becomes accredited, by an accrediting agency recognized by either:
 - (i) The council for higher education accreditation, or its successor.
 - (ii) The United States department of education; and
 - (c) Corresponds to the licensure sought as outlined in section 4 of this compact.
 3. Require applicants for clinical licensure to complete a period of supervised practice.
 4. Have a mechanism in place for receiving, investigating and adjudicating complaints about licensees.
- B. To maintain membership in the compact, a member state shall do all of the following:
 1. Require that applicants for a multistate license pass a qualifying national exam for the corresponding category of multistate license sought as outlined in section 4 of this compact.
 2. Participate fully in the commission's data system, including using the commission's unique identifier as defined in rules.
 3. Notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of current significant investigative information regarding a licensee.
 4. Implement procedures for considering the criminal history records of applicants for a multistate license. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.
 5. Comply with the rules of the commission.
 6. Require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable home state laws.
 7. Authorize a licensee holding a multistate license in any member state to practice in accordance with the terms of the compact and rules of the commission.
 8. Designate a delegate to participate in the commission meetings.
- C. A member state that meets the requirements of subsections A and B of this section shall designate the categories of social work licensure that are eligible for issuance of a multistate license for applicants in such member state. To the extent that any member state does not meet the requirements for participation in the compact at any particular category of social work licensure, such member state may choose, but is not obligated, to issue a multistate license to applicants who otherwise meet the requirements of section 4 of this compact for issuance of a multistate license in such category or categories of licensure.
- D. The home state may charge a fee for granting the multistate license.

SECTION 4. SOCIAL WORKER PARTICIPATION IN THE COMPACT

- A. To be eligible for a multistate license under the terms and provisions of this compact, an applicant, regardless of category must:
 1. Hold or be eligible for an active, unencumbered license in the home state.
 2. Pay any applicable fees, including any state fee, for the multistate license.
 3. Submit, in connection with an application for a multistate license, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.
 4. Notify the home state of any adverse action, encumbrance or restriction on any professional license taken by any member state or nonmember state within thirty days after the date the action is taken.

5. Meet any continuing competence requirements established by the home state.
 6. Abide by the laws, regulations and applicable standards in the member state where the client is located at the time care is rendered.
- B. An applicant for a clinical-category multistate license must meet all of the following requirements:
1. Fulfill a competency requirement, which shall be satisfied by either:
 - (a) Passage of a clinical-category qualifying national exam.
 - (b) Licensure of the applicant in the applicant's home state at the clinical category, beginning prior to such time as a qualifying national exam was required by the home state and accompanied by a period of continuous social work licensure thereafter, all of which may be further governed by the rules of the commission.
 - (c) The substantial equivalency of the foregoing competency requirements, which the commission may determine by rule.
 2. Attain at least a master's degree in social work from a program that is both:
 - (a) Operated by a college or university recognized by the licensing authority.
 - (b) Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:
 - (i) The council for higher education accreditation, or its successor.
 - (ii) The United States department of education.
 3. Fulfill a practice requirement, which shall be satisfied by demonstrating completion of either:
 - (a) A period of postgraduate supervised clinical practice equal to a minimum of three thousand hours.
 - (b) A minimum of two years of full-time postgraduate supervised clinical practice.
 - (c) The substantial equivalency of the foregoing practice requirements, which the commission may determine by rule.
- C. An applicant for a master's-category multistate license must meet all of the following requirements:
1. Fulfill a competency requirement, which shall be satisfied by either:
 - (a) Passage of a masters-category qualifying national exam.
 - (b) Licensure of the applicant in the applicant's home state at the master's category, beginning prior to such time as a qualifying national exam was required by the home state at the master's category and accompanied by a continuous period of social work licensure thereafter, all of which may be further governed by the rules of the commission.
 - (c) The substantial equivalency of the foregoing competency requirements, which the commission may determine by rule.
 2. Attain at least a master's degree in social work from a program that is both:
 - (a) Operated by a college or university recognized by the licensing authority.
 - (b) Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:
 - (i) The council for higher education accreditation, or its successor.
 - (ii) The United States department of education.
- D. An applicant for a bachelor's-category multistate license must meet all of the following requirements:
1. Fulfill a competency requirement, which shall be satisfied by either:
 - (a) Passage of a bachelor's-category qualifying national exam.
 - (b) Licensure of the applicant in the applicant's home state at the bachelor's category, beginning prior to such time as a qualifying national exam was required by the home state and accompanied by a period of continuous social work licensure thereafter, all of which may be further governed by the rules of the commission.
 - (c) The substantial equivalency of the foregoing competency requirements, which the commission may determine by rule.
 2. Attain at least a bachelor's degree in social work from a program that is both:
 - (a) Operated by a college or university recognized by the licensing authority.
 - (b) Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:
 - (i) The council for higher education accreditation, or its successor.
 - (ii) The United States department of education.
- E. The multistate license for a regulated social worker is subject to the renewal requirements of the home state. The regulated social worker must maintain compliance with the requirements of subsection A of this section to be eligible to renew a multistate license.
- F. The regulated social worker's services in a remote state are subject to that member state's regulatory authority. A remote state may, in accordance with due process and that member state's laws, remove a regulated social worker's multistate authorization to practice in the remote state for a specific period of time, impose fines and take any other necessary actions to protect the health and safety of its citizens.

- G. If a multistate license is encumbered, the regulated social worker's multistate authorization to practice shall be deactivated in all remote states until the multistate license is no longer encumbered.
- H. If a multistate authorization to practice is encumbered in a remote state, the regulated social worker's multistate authorization to practice may be deactivated in that state until the multistate authorization to practice is no longer encumbered.

SECTION 5. ISSUANCE OF A MULTISTATE LICENSE

- A. On receipt of an application for multistate license, the home state licensing authority shall determine the applicant's eligibility for a multistate license in accordance with section 4 of this compact.
- B. If such applicant is eligible pursuant to section 4 of this compact, the home state licensing authority shall issue a multistate license that authorizes the applicant or regulated social worker to practice in all member states under a multistate authorization to practice.
- C. On issuance of a multistate license, the home state licensing authority shall designate whether the regulated social worker holds a multistate license in the bachelor's, master's or clinical category of social work.
- D. A multistate license issued by a home state to a resident in that state shall be recognized by all compact member states as authorizing social work practice under a multistate authorization to practice corresponding to each category of licensure regulated in each member state.

SECTION 6. AUTHORITY OF INTERSTATE COMPACT COMMISSION AND MEMBER STATE LICENSING AUTHORITIES

- A. This compact and any rule of the commission does not limit, restrict or in any way reduce the ability of a member state to enact and enforce laws, regulations or other rules related to the practice of social work in that state if those laws, regulations or other rules are not inconsistent with the provisions of this compact.
- B. This compact does not affect the requirements established by a member state for the issuance of a single state license.
- C. This compact and any rule of the commission does not limit, restrict or in any way reduce the ability of a member state to take adverse action against a licensee's single state license to practice social work in that state.
- D. This compact and any rule of the commission does not limit, restrict or in any way reduce the ability of a remote state to take adverse action against a licensee's multistate authorization to practice in that state.
- E. This compact and any rule of the commission does not limit, restrict or in any way reduce the ability of a licensee's home state to take adverse action against a licensee's multistate license based on information provided by a remote state.

SECTION 7. REISSUANCE OF A MULTISTATE LICENSE BY A NEW HOME STATE

- A. A licensee can hold a multistate license issued by the licensee's home state in only one member state at any given time.
- B. If a licensee changes the licensee's home state by moving between two member states:
 - 1. The licensee shall immediately apply for the reissuance of the licensee's multistate license in the new home state. The licensee shall pay all applicable fees and notify the prior home state in accordance with the rules of the commission.
 - 2. On receipt of an application to reissue a multistate license, the new home state shall verify that the multistate license is active, unencumbered and eligible for reissuance under the terms of the compact and the rules of the commission. The multistate license issued by the prior home state will be deactivated and all member states notified in accordance with the applicable rules adopted by the commission.
 - 3. Prior to the reissuance of the multistate license, the new home state shall conduct procedures for considering the criminal history records of the licensee. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.
 - 4. If required for initial licensure, the new home state may require completion of jurisprudence requirements in the new home state.
 - 5. Notwithstanding any other provision of this compact, if a licensee does not meet the requirements set forth in this compact for the reissuance of a multistate license by the new home state, the licensee shall be subject to the new home state requirements for the issuance of a single state license in that state.

- C. If a licensee changes the licensee's primary state of residence by moving from a member state to a nonmember state, or from a nonmember state to a member state, the licensee shall be subject to the state requirements for the issuance of a single state license in the new home state.
- D. This compact does not interfere with a licensee's ability to hold a single state license in multiple states; however, for the purposes of this compact, a licensee shall have only one home state and only one multistate license.
- E. This compact does not interfere with the requirements established by a member state for the issuance of a single state license.

SECTION 8. MILITARY FAMILIES

An active military member or the active military member's spouse shall designate a home state where the individual has a multistate license. The individual may retain the individual's home state designation during the period the active military member is on active duty.

SECTION 9. ADVERSE ACTIONS

- A. In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to take adverse action against a regulated social worker's multistate authorization to practice only within that member state and issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing authority in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing licensing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence is located.
- B. Only the home state shall have the power to take adverse action against a regulated social worker's multistate license.
- C. For the purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.
- D. The home state shall complete any pending investigations of a regulated social worker who changes the regulated social worker's home state during the course of the investigations. The home state shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the data system shall promptly notify the new home state of any adverse action.
- E. A member state, if otherwise allowed by state law, may recover from the affected regulated social worker the costs of investigations and dispositions of cases resulting from any adverse action taken against that regulated social worker.
- F. A member state may take adverse action based on the factual findings of another member state if the member state follows its own procedures for taking the adverse action.
- G. The following apply to joint investigations:
 1. In addition to the authority granted to a member state by its respective social work practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.
 2. Member states shall share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact.
- H. If adverse action is taken by the home state against the multistate license of a regulated social worker, the regulated social worker's multistate authorization to practice in all other member states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against the license of a regulated social worker shall include a statement that the regulated social worker's multistate authorization to practice is deactivated in all member states until all conditions of the decision, order or agreement are satisfied.
- I. If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state and all other member states of any adverse actions by remote states.
- J. This compact does not override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

- K. This compact does not authorize a member state to demand the issuance of subpoenas for attendance and testimony of witnesses or the production of evidence from another member state for lawful actions within that member state.
- L. This compact does not authorize a member state to impose discipline against a regulated social worker who holds a multistate authorization to practice for lawful actions within another member state.

SECTION 10. ESTABLISHMENT OF SOCIAL WORK LICENSURE
COMPACT COMMISSION

- A. The compact member states hereby create and establish a joint government agency whose membership consists of all member states that have enacted the compact known as the social work licensure compact commission. The commission is an instrumentality of the compact states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact as set forth in section 14 of this compact.
- B. The membership, voting and meetings of the commission are as follows:
 - 1. Each member state shall have and be limited to one delegate selected by that member state's licensing authority.
 - 2. The delegate shall be either:
 - (a) A current member of the licensing authority at the time of appointment who is a regulated social worker or public member of the state licensing authority.
 - (b) An administrator of the licensing authority or the administrator's designee.
 - 3. The commission shall by rule or bylaw establish a term of office for delegates and may by rule or bylaw establish term limits.
 - 4. The commission may recommend the removal or suspension of any delegate from office.
 - 5. A member state's licensing authority shall fill any vacancy of its delegate occurring on the commission within sixty days after the vacancy.
 - 6. Each delegate shall be entitled to one vote on all matters before the commission requiring a vote by commission delegates.
 - 7. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates to meet by telecommunication, videoconference or other means of communication.
 - 8. The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The commission may meet by telecommunication, video conference or other similar electronic means.
- C. The commission shall have the following powers:
 - 1. Establish the fiscal year of the commission.
 - 2. Establish code of conduct and conflict of interest policies.
 - 3. Establish and amend rules and bylaws.
 - 4. Maintain its financial records in accordance with the bylaws.
 - 5. Meet and take such actions as are consistent with this compact, the commission's rules and the bylaws.
 - 6. Initiate and conclude legal proceedings or actions in the name of the commission if the standing of any licensing authority to sue or be sued under applicable law is not affected.
 - 7. Maintain and certify records and information provided to a member state as the authenticated business records of the commission, and designate an agent to do so on the commission's behalf.
 - 8. Purchase and maintain insurance and bonds.
 - 9. Borrow, accept or contract for services of personnel, including employees of a member state.
 - 10. Conduct an annual financial review.
 - 11. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters.
 - 12. Assess and collect fees.
 - 13. Accept any appropriate gifts, donations, grants of monies, other sources of revenue, equipment, supplies, materials and services and receive, use and dispose of the same. At all times the commission shall avoid any appearance of impropriety or conflict of interest.
 - 14. Lease, purchase, retain, own, hold, improve or use any property, real, personal, or mixed, or any undivided interest in the property.
 - 15. Sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal, or mixed.
 - 16. Establish a budget and make expenditures.

17. Borrow monies.
 18. Appoint committees, including standing committees, composed of members, state regulators, state legislators or their representatives, consumer representatives and such other interested persons as may be designated in this compact and the bylaws.
 19. Provide and receive information from, and cooperate with, law enforcement agencies.
 20. Establish and elect an executive committee, including a chairperson and a vice chairperson.
 21. Determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact.
 22. Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact.
- D. The executive committee shall have the power to act on behalf of the commission according to the terms of this compact. The powers, duties and responsibilities of the executive committee include:
1. Overseeing the day-to-day activities of the administration of the compact, including enforcement and compliance with the compact, its rules and bylaws, and other such duties as deemed necessary.
 2. Recommending to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to member states, fees charged to licensees and other fees.
 3. Ensuring the compact administration services are appropriately provided, including by contract.
 4. Preparing and recommending the budget.
 5. Maintaining financial records on behalf of the commission.
 6. Monitoring compact compliance of member states and providing compliance reports to the commission.
 7. Establishing additional committees as necessary.
 8. Exercising the powers and duties of the commission during the interim between commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the commission by rule or bylaw.
 9. Performing other duties as provided in the rules or bylaws of the commission.
- E. The executive committee shall be composed of up to eleven members as follows:
1. The chairperson and vice chairperson of the commission shall be voting members of the executive committee.
 2. The commission shall elect five voting members from the current membership of the commission.
 3. Up to four ex officio, nonvoting members from four recognized national social work organizations shall be selected by their respective organizations.
- F. The commission may remove any member of the executive committee as provided in the commission's bylaws.
- G. The executive committee shall meet at least annually. Executive committee meetings shall be open to the public, except that the executive committee may meet in a closed, nonpublic meeting as provided in subsection I, paragraph 2 of this section. The executive committee shall give seven days' notice of its meetings, posted on its website and as determined to provide notice to persons with an interest in the business of the commission. The executive committee may hold a special meeting in accordance with subsection I, paragraph 1 of this section.
- H. The commission shall adopt and provide to the member states an annual report.
- I. Meetings of the commission are as follows:
1. All meetings shall be open to the public, except that the commission may meet in a closed, nonpublic meeting as provided in paragraph 2 of this subsection. Public notice for all meetings of the full commission shall be given in the same manner as required under the rulemaking provisions in section 12 of this compact, except that the commission may hold a special meeting when it must meet to conduct emergency business by giving forty-eight hours' notice to all commissioners, on the commission's website, and by other means as provided in the commission's rules. The commission's legal counsel shall certify that the commission's need to meet qualifies as an emergency.
 2. The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting for the commission or executive committee or other committees of the commission to receive legal advice or to discuss:
 - (a) Noncompliance of a member state with its obligations under the compact.
 - (b) The employment, compensation or discipline or other matters, practices or procedures related to specific employees.
 - (c) Current or threatened discipline of a licensee by the commission or by a member state's licensing authority.
 - (d) Current, threatened or reasonably anticipated litigation.
 - (e) Negotiation of contracts for the purchase, lease or sale of goods, services or real estate.
 - (f) Accusing any person of a crime or formally censuring any person.
 - (g) Trade secrets or commercial or financial information that is privileged or confidential.

- (h) Information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy.
 - (i) Investigative records compiled for law enforcement purposes.
 - (j) Information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact.
 - (k) Matters specifically exempted from disclosure by federal or member state law.
 - (l) Other matters as promulgated by the commission by rule.
- 3. If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.
 - 4. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.
- J. Financing of the commission is as follows:
- 1. The commission shall pay, or provide for the payment of, the reasonable expenses of the commission's establishment, organization, and ongoing activities.
 - 2. The commission may accept any appropriate revenue sources as provided in subsection C, paragraph 13 of this section.
 - 3. The commission may levy on and collect an annual assessment from each member state and impose fees on licensees of member states to whom the commission grants a multistate license to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for member states shall be allocated based on a formula that the commission promulgates by rule.
 - 4. The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same, and the commission shall not pledge the credit of any of the member states, except by and with the authority of the member state.
 - 5. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the financial review and accounting procedures established under the commission's bylaws. However, all receipts and disbursements of funds handled by the commission are subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the commission.
- K. Qualified immunity, defense and indemnification are as follows:
- 1. The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities. This paragraph does not protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or wilful or wanton misconduct of that person. The procurement of insurance of any type by the commission shall not in any way compromise or limit the immunity granted hereunder.
 - 2. The commission shall defend any member, officer, executive director, employee and representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or as determined by the commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities. This paragraph does not prohibit that person from retaining the person's own counsel at the person's own expense, and if the actual or alleged act, error, or omission did not result from that person's intentional or wilful or wanton misconduct.
 - 3. The commission shall indemnify and hold harmless any member, officer, executive director, employee and representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or

- responsibilities, if the actual or alleged act, error or omission did not result from the intentional or wilful or wanton misconduct of that person.
4. This compact does not limit the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.
 5. This compact does not waive or otherwise abrogate a member state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, the Clayton Act or any other state or federal antitrust or anticompetitive law or regulation.
 6. This compact is not a waiver of sovereign immunity by the member states or by the commission.

SECTION 11. DATA SYSTEM

- A. The commission shall provide for the development, maintenance, operation and utilization of a coordinated data system.
- B. The commission shall assign each applicant for a multistate license a unique identifier as determined by the rules of the commission.
- C. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact applies as required by the rules of the commission, including:
 1. Identifying information.
 2. Licensure data.
 3. Adverse actions against a license and information related to the adverse action.
 4. Nonconfidential information related to alternative program participation, the beginning and ending dates of such participation, and other information related to such participation that is not made confidential under member state law.
 5. Any denial of application for licensure, and the reason or reasons for such denial.
 6. The presence of current significant investigative information.
 7. Other information that may facilitate the administration of this compact or the protection of the public as determined by the rules of the commission.
- D. The records and information provided to a member state pursuant to this compact or through the data system, when certified by the commission or an agent of the commission, shall constitute the authenticated business records of the commission and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial or administrative proceedings in a member state.
- E. Current significant investigative information pertaining to a licensee in any member state will only be available to other member states.
- F. It is the responsibility of the member states to report any adverse action against a licensee and to monitor the database to determine whether adverse action has been taken against a licensee. Adverse action information pertaining to a licensee in any member state will be available to any other member state.
- G. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.
- H. Any information submitted to the data system that is subsequently expunged pursuant to federal law or the laws of the member state contributing the information shall be removed from the data system.

SECTION 12. RULEMAKING

- A. The commission shall promulgate reasonable rules in order to effectively and efficiently implement and administer the purposes and provisions of the compact. A rule is invalid and has no force or effect only if a court of competent jurisdiction holds that the rule is invalid because the commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the compact, or the powers granted hereunder, or based on another applicable standard of review.
- B. The rules of the commission shall have the force of law in each member state, provided that if the rules of the commission conflict with the laws of the member state that establish the member state's laws, regulations and applicable standards that govern the practice of social work as held by a court of competent jurisdiction, the rules of the commission shall be ineffective in that state to the extent of the conflict.
- C. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules shall become binding on the day following adoption or the date specified in the rule or amendment, whichever is later.
- D. If a majority of the legislatures of the member states rejects a rule or portion of a rule by enactment of a statute or resolution in the same manner used to adopt the compact within four years after the date of adoption of the rule, such rule shall have no further force and effect in any member state.
- E. Rules shall be adopted at a regular or special meeting of the commission.

- F. Prior to adoption of a proposed rule, the commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions and arguments.
- G. Prior to adoption of a proposed rule by the commission, and at least thirty days before the meeting at which the commission will hold a public hearing on the proposed rule, the commission shall provide a notice of proposed rulemaking:
 - 1. On the website of the commission or other publicly accessible platform.
 - 2. To persons who have requested notice of the commission's notices of proposed rulemaking.
 - 3. In such other way as the commission may by rule specify.
- H. The notice of proposed rulemaking shall include:
 - 1. The time, date and location of the public hearing at which the commission will hear public comments on the proposed rule and, if different, the time, date and location of the meeting where the commission will consider and vote on the proposed rule.
 - 2. If the hearing is held via telecommunication, video conference or other electronic means, the commission shall include the mechanism for access to the hearing in the notice of proposed rulemaking.
 - 3. The text of the proposed rule and the reason for the proposed rule.
 - 4. A request for comments on the proposed rule from any interested person.
 - 5. The manner in which interested persons may submit written comments.
- I. All hearings shall be recorded. A copy of the recording and all written comments and documents received by the commission in response to the proposed rule shall be available to the public.
- J. This section does not require a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.
- K. The commission, by majority vote of all members, shall take final action on the proposed rule based on the rulemaking record and the full text of the rule. The commission may adopt changes to the proposed rule if the changes do not enlarge the original purpose of the proposed rule. The commission shall provide an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters. The commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in subsection L of this section, the effective date of the rule shall be not sooner than thirty days after issuing the notice that it adopted or amended the rule.
- L. On a determination that an emergency exists, the commission may consider and adopt an emergency rule with forty-eight hours' notice, with opportunity to comment, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible but not later than ninety days after the effective date of the rule. For the purposes of this subsection, an emergency rule is one that must be adopted immediately in order to:
 - 1. Meet an imminent threat to public health, safety or welfare.
 - 2. Prevent a loss of commission or member state monies.
 - 3. Meet a deadline for the promulgation of a rule that is established by federal law or rule.
 - 4. Protect the public health and safety.
- M. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.
- N. A member state's rulemaking requirements shall not apply under this compact.

SECTION 13. OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

- A. Oversight is as follows:
 - 1. The executive and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to implement the compact.
 - 2. Except as otherwise provided in this compact, venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. This section does not affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any such similar matter.

3. The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact or promulgated rules.
- B. Default, technical assistance and termination are as follows:
 1. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default and any other action that the commission may take and shall offer training and specific technical assistance regarding the default.
 2. The commission shall provide a copy of the notice of default to the other member states.
 - C. If a state in default fails to cure the default, the defaulting state may be terminated from the compact on an affirmative vote of a majority of the delegates of the member states, and all rights, privileges and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
 - D. Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's state licensing authority and each of the member states' licensing authority.
 - E. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
 - F. On the termination of a state's membership from this compact, that state shall immediately provide notice to all licensees within that state of such termination. The terminated state shall continue to recognize all licenses granted pursuant to this compact for at least six months after the date of the notice of termination.
 - G. The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed on in writing between the commission and the defaulting state.
 - H. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.
 - I. Dispute resolution is as follows:
 1. On request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.
 2. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.
 - J. Enforcement is as follows:
 1. By majority vote as provided by rule, the commission may initiate legal action against a member state in default in the United States district court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees. The remedies prescribed in this subsection shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or the defaulting member state's law.
 2. A member state may initiate legal action against the commission in the United States district court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.
 3. No person other than a member state shall enforce this compact against the commission.

SECTION 14. EFFECTIVE DATE, WITHDRAWAL AND AMENDMENT

- A. This compact shall come into effect on the date on which the compact statute is enacted into law in the seventh member state. On or after the effective date of the compact, the commission shall convene and review the enactment of each of the first seven member states, known as the charter member states, to determine if the statute enacted by each such charter member state is materially different than the model compact statute. A charter member state whose enactment is found to be materially different from the model compact statute shall be entitled to the default process set forth in section 13 of this compact. If any member state is later found to be in default, or is terminated or withdraws from the compact, the

commission shall remain in existence and the compact shall remain in effect even if the number of member states should be less than seven. Member states enacting the compact after the seven initial charter member states shall be subject to the process set forth in section 10, subsection C, paragraph 21 of this compact to determine if their enactments are materially different from the model compact statute and whether they qualify for participation in the compact.

- B. All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the compact prior to the effective date of the compact or the commission coming into existence shall be considered to be actions of the commission unless specifically repudiated by the commission.
- C. Any state that joins the compact after the commission's initial adoption of the rules and bylaws shall be subject to the rules and bylaws as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission has the full force and effect of law on the day the compact becomes law in that state.
- D. Any member state may withdraw from this compact by enacting a statute repealing the same. A member state's withdrawal shall not take effect until one hundred eighty days after enactment of the repealing statute. Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal. On the enactment of a statute withdrawing from this compact, a state shall immediately provide notice of such withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing state shall continue to recognize all licenses granted pursuant to this compact for at least one hundred eighty days after the date of such notice of withdrawal.
- E. This compact does not invalidate or prevent any licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with this compact.
- F. This compact may be amended by the member states. An amendment to this compact does not become effective and binding on any member state until it is enacted into the laws of all member states.

SECTION 15. CONSTRUCTION AND SEVERABILITY

- A. This compact and the commission's rulemaking authority shall be liberally construed so as to effectuate the purposes, implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the commission's rulemaking authority solely for those purposes.
- B. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any member state, of a state seeking participation in the compact or of the United States, or the applicability thereof to any government, agency, person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby.
- C. Notwithstanding subsection B of this section, the commission may deny a state's participation in the compact or, in accordance with the requirements of section 13, subsection B of this compact, terminate a member state's participation in the compact, if the commission determines that a constitutional requirement of a member state is a material departure from the compact. Otherwise, if this compact is held to be contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

SECTION 16. CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS

- A. A licensee who provides services in a remote state under a multistate authorization to practice shall adhere to the laws and regulations, including laws, regulations and applicable standards, of the remote state where the client is located at the time care is rendered.
- B. This section does not prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with the compact.
- C. Any laws, statutes, regulations or other legal requirements in a member state that are in conflict with the compact are superseded to the extent of the conflict.
- D. All permissible agreements between the commission and the member states are binding in accordance with their terms.

ARTICLE 6 COUNSELING

32-3301. Licensed professional counselor; licensure; requirements

- A. A person who wishes to be licensed by the board to engage in the practice of professional counseling as a licensed professional counselor shall:
 - 1. Meet the education requirements of subsection B of this section and the work experience requirements of subsection F of this section.
 - 2. Pass an examination approved by the board.
- B. An applicant for licensure shall furnish documentation as prescribed by the board by rule that the person has received a master's or higher degree with a major emphasis in counseling from a regionally accredited college or university in a program of study that includes at least sixty semester credit hours or ninety quarter credit hours at one of the following:
 - 1. A program accredited by the council for the accreditation of counseling and related educational programs or the national council on rehabilitation education.
 - 2. A program with a curriculum that has been approved by the board pursuant to section 32-3253.
 - 3. A program with a curriculum meeting requirements as prescribed by the board by rule.
- C. A program that is not accredited by the council for the accreditation of counseling and related educational programs or the national council on rehabilitation education must require seven hundred hours of supervised clinical hours and twenty-four semester hours or thirty-two quarter hours in courses in the following eight core content areas as prescribed by the board by rule:
 - 1. Professional orientation and ethical practice.
 - 2. Social and cultural diversity.
 - 3. Human growth and development.
 - 4. Career development.
 - 5. Helping relationships.
 - 6. Group work.
 - 7. Assessment.
 - 8. Research and program evaluation.
- D. Credit hours offered above those prescribed pursuant to subsection C of this section must be in studies that provide a broad understanding in counseling related subjects as prescribed by the board by rule.
- E. The board may accept equivalent coursework in which core content area subject matter is embedded or contained within another course, including another subject matter.
- F. An applicant for licensure shall furnish documentation as prescribed by the board by rule that the applicant has received at least twenty-four months in post-master's degree work experience in the practice of professional counseling under supervision that includes at least one thousand six hundred hours of direct client contact and that meets the requirements prescribed by the board by rule. An applicant may use a doctoral-clinical internship to satisfy the requirement for one year of work experience under supervision.
- G. In addition to the requirements of subsection F of this section, the applicant must have at least one hundred hours of clinical supervision as prescribed by the board by rule. For the direct client contact hours, not more than four hundred hours may be in psychoeducation.
- H. The applicant's supervisor shall attest on a board-approved form that the applicant both:
 - 1. Was observed during supervised hours to have demonstrated satisfactory competency in clinical documentation, consultation, collaboration and coordination of care related to clients to whom the applicant provided direct care.
 - 2. Has a rating of at least satisfactory in overall performance.
- I. An applicant who is deficient in hours required pursuant to subsection B of this section may satisfy those requirements by successfully completing post-master's degree coursework.
- J. An applicant who completed a degree before July 1, 1989 and whose course of study did not include a practicum may substitute a one-year doctoral-clinical internship or an additional year of documented post-master's degree work experience in order to satisfy the requirements of subsection B of this section.

32-3303. Licensed associate counselor; licensure; requirements; supervision

- A. A person who wishes to be licensed by the board to engage in the practice of professional counseling as a licensed associate counselor shall satisfy the requirements of section 32-3301, subsections B, H and I and pass an examination approved by the board.
- B. A licensed associate counselor shall only practice under direct supervision as prescribed by the board.

ARTICLE 6.1 LICENSED PROFESSIONAL COUNSELOR COMPACT

32-3306. Licensed professional counselors; licensure compact

The counseling compact is enacted into law as follows:

SECTION 1. PURPOSE

- A. The purpose of this compact is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. The practice of professional counseling occurs in the state where the client is located at the time of the counseling services. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.
- B. This compact is designed to achieve the following objectives:
1. Increase public access to professional counseling services by providing for the mutual recognition of other member state licenses.
 2. Enhance the states' ability to protect the public's health and safety.
 3. Encourage the cooperation of member states in regulating multistate practice for licensed professional counselors.
 4. Support spouses of relocating active duty military personnel.
 5. Enhance the exchange of licensure, investigative and disciplinary information among member states.
 6. Allow for the use of telehealth technology to facilitate increased access to professional counseling services.
 7. Support the uniformity of professional counseling licensure requirements throughout the states to promote public safety and public health benefits.
 8. Invest all member states with the authority to hold a licensed professional counselor accountable for meeting all state practice laws in the state in which the client is located at the time care is rendered through the mutual recognition of member state licenses.
 9. Eliminate the necessity for licenses in multiple states.
 10. Provide opportunities for interstate practice by licensed professional counselors who meet uniform licensure requirements.

SECTION 2. DEFINITIONS

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

1. "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 United States Code chapters 1209 and 1211.
2. "Adverse action" means any administrative, civil, equitable or criminal action allowed by a state's laws that is imposed by a licensing board or other authority against a licensed professional counselor, including actions against an individual's license or privilege to practice such as revocation, suspension, probation, monitoring of the licensee, limit on the licensee's practice or any other encumbrance on licensure affecting a licensed professional counselor's authorization to practice, including issuance of a cease and desist action.
3. "Alternative program" means a nondisciplinary monitoring or practice remediation process approved by a professional counseling licensing board to address impaired practitioners.
4. "Continuing competence/education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and completion of, educational and professional activities relevant to a practice or area of work.
5. "Counseling compact commission" or "commission" means the national administrative body whose membership consists of all states that have enacted the compact.
6. "Current significant investigative information" means investigative information that either:
 - (a) A licensing board, after a preliminary inquiry that includes notification and an opportunity for the licensed professional counselor to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.
 - (b) Indicates that the licensed professional counselor represents an immediate threat to public health and safety regardless of whether the licensed professional counselor has been notified and had an opportunity to respond.
7. "Data system" means a repository of information about licensees, including continuing education, examination, licensure, investigative, privilege to practice and adverse action information.
8. "Encumbered license" means a license in which an adverse action restricts the practice of licensed professional counseling by the licensee and the adverse action has been reported to the national practitioners data bank.
9. "Encumbrance" means a revocation or suspension of, or any limit on, the full and unrestricted practice of licensed professional counseling by a licensing board.
10. "Executive committee" means a group of directors elected or appointed to act on behalf of and within the powers granted to them by the commission.
11. "Home state" means the member state that is the licensee's primary state of residence.

12. "Impaired practitioner" means an individual who has a condition that may impair the individual's ability to practice as a licensed professional counselor without some type of intervention and that may include alcohol or drug dependence, a mental health impairment and a neurological or physical impairment.
13. "Investigative information" means information, records and documents received or generated by a professional counseling licensing board pursuant to an investigation.
14. "Jurisprudence requirement" means, if required by a member state, the assessment of an individual's knowledge of the laws and rules governing the practice of professional counseling in a state.
15. "Licensed professional counselor" means a counselor who is licensed by a member state, regardless of the title used by that state, to independently assess, diagnose and treat behavioral health conditions.
16. "Licensee" means an individual who currently holds an authorization from a state to practice as a licensed professional counselor.
17. "Licensing board" means the agency of a state, or the equivalent, that is responsible for licensing and regulating licensed professional counselors.
18. "Member state" means a state that has enacted the compact.
19. "Privilege to practice" means a legal authorization that is equivalent to a license and that authorizes the practice of professional counseling in a remote state.
20. "Professional counseling" means the assessment, diagnosis and treatment of behavioral health conditions by a licensed professional counselor.
21. "Remote state" means a member state other than the home state where a licensee is exercising or seeking to exercise the privilege to practice.
22. "Rule" means a regulation promulgated by the commission that has the force of law.
23. "Single-state license" means a licensed professional counselor license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.
24. "State" means any state, commonwealth, district or territory of the United States that regulates the practice of professional counseling.
25. "Telehealth" means the application of telecommunication technology to deliver professional counseling services remotely to assess, diagnose and treat behavioral health conditions.
26. "Unencumbered license" means a license that authorizes a licensed professional counselor to engage in the full and unrestricted practice of professional counseling.

SECTION 3. STATE PARTICIPATION IN THE COMPACT

- A. To participate in the compact, a state must currently do all of the following:
 1. License and regulate licensed professional counselors.
 2. Require licensees to pass a nationally recognized exam approved by the commission.
 3. Require licensees to have a sixty-semester-hour or ninety-quarter-hour master's degree in counseling or sixty semester hours or ninety quarter hours of graduate coursework, including in the following topic areas:
 - (a) Professional counseling orientation and ethical practice.
 - (b) Social and cultural diversity.
 - (c) Human growth and development.
 - (d) Career development.
 - (e) Counseling and helping relationships.
 - (f) Group counseling and group work.
 - (g) Diagnosis and treatment.
 - (h) Assessment and testing.
 - (i) Research and program evaluation.
 - (j) Other areas as determined by the commission.
 4. Require licensees to complete a supervised postgraduate professional experience as defined by the commission.
 5. Have a mechanism in place for receiving and investigating complaints about licensees.
- B. A member state shall do all of the following:
 1. Participate fully in the commission's data system, including using the commission's unique identifier as defined in rules.
 2. Notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee.
 3. Implement or use procedures for considering the criminal history records of applicants for an initial privilege to practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history

record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records and shall include the following:

- (a) A member state must fully implement a criminal background check requirement within a time frame established by rule by receiving the results of the federal bureau of investigation record search and using the results in making licensure decisions.
 - (b) Communication between a member state and the commission and among member states regarding the verification of eligibility for licensure through the compact shall not include any information received from the federal bureau of investigation relating to a federal criminal records check performed by a member state under Public Law 92-544.
4. Comply with the rules of the commission.
 5. Require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or licensure renewal, as well as all other applicable state laws.
 6. Grant the privilege to practice to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules.
 7. Provide for the attendance of the state's commissioner to the counseling compact commission meetings.
- C. Member states may charge a fee for granting the privilege to practice.
- D. Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. The single-state license granted to these individuals shall not be recognized as granting a privilege to practice professional counseling in any other member state.
- E. This compact does not affect the requirements established by a member state for issuing a single-state license.
- F. A license issued to a licensed professional counselor by a home state to a resident in that state shall be recognized by each member state as authorizing the licensed professional counselor to practice professional counseling under a privilege to practice in each member state.

SECTION 4. PRIVILEGE TO PRACTICE

- A. To exercise the privilege to practice under the terms and provisions of the compact, the licensee shall meet all of the following:
1. Hold a license in the home state.
 2. Have a valid United States social security number or national practitioner identifier.
 3. Be eligible for a privilege to practice in any member state in accordance with subsections D, G and H of this section.
 4. Not have had any encumbrance or restriction against any license or privilege to practice within the previous two years.
 5. Notify the commission that the licensee is seeking the privilege to practice within a remote state or states.
 6. Pay any applicable fees, including any state fee, for the privilege to practice.
 7. Meet any continuing competence/education requirements established by the home state.
 8. Meet any jurisprudence requirements established by the remote state or states in which the licensee is seeking a privilege to practice.
 9. Report to the commission any adverse action, encumbrance or restriction taken on the license by any nonmember state within thirty days after the date the action is taken.
- B. The privilege to practice is valid until the expiration date of the home state license. The licensee must comply with the requirements of subsection A of this section to maintain the privilege to practice in the remote state.
- C. A licensee providing professional counseling in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state.
- D. A licensee providing professional counseling services in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's privilege to practice in the remote state for a specific period of time, impose fines and civil penalties or take any other necessary actions to protect the health and safety of its citizens, or any combination of these actions. The licensee may be ineligible for a privilege to practice in any member state until the specific time for removal has passed and all fines and civil penalties are paid.
- E. If a home state license is encumbered, the licensee shall lose the privilege to practice in any remote state until both of the following occur:
1. The home state license is no longer encumbered.
 2. The licensee has not had any encumbrance or restriction against any license or privilege to practice within the previous two years.

- F. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection A of this section to obtain a privilege to practice in any remote state.
- G. If a licensee's privilege to practice in any remote state is removed, the individual may lose the privilege to practice in all other remote states until all of the following occur:
 - 1. The specific period of time for which the privilege to practice was removed has ended.
 - 2. All fines and civil penalties have been paid.
 - 3. The licensee has not had any encumbrance or restriction against any license or privilege to practice within the previous two years.
- H. Once the requirements of subsection G of this section have been met, the licensee must meet the requirements in subsection A of this section to obtain a privilege to practice in a remote state.

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

- A. A licensed professional counselor may hold a home state license, which allows for a privilege to practice in other member states, in only one member state at a time.
- B. If a licensed professional counselor changes the primary state of residence by moving between two member states, all of the following must occur:
 - 1. The licensed professional counselor shall file an application for obtaining a new home state license based on a privilege to practice, pay all applicable fees and notify the current and new home state in accordance with applicable rules adopted by the commission.
 - 2. On receipt of an application for obtaining a new home state license by virtue of a privilege to practice, the new home state shall verify that the licensed professional counselor meets the pertinent criteria outlined in section 4 of this compact via the data system, without need for primary source verification except for all of the following:
 - (a) A federal bureau of investigation fingerprint-based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the commission in accordance with Public Law 92-544.
 - (b) Any other criminal background check as required by the new home state.
 - (c) Completion of any requisite jurisprudence requirements of the new home state.
 - 3. The former home state shall convert the former home state license into a privilege to practice once the new home state has activated the new home state license in accordance with applicable rules adopted by the commission.
 - 4. Notwithstanding any other provision of this compact, if the licensed professional counselor cannot meet the criteria in section 4 of this compact, the new home state may apply its requirements for issuing a new single-state license.
 - 5. The licensed professional counselor shall pay all applicable fees to the new home state in order to be issued a new home state license.
- C. If a licensed professional counselor changes the primary state of residence by moving from a member state to a nonmember state, or from a nonmember state to a member state, the state criteria apply for issuance of a single-state license in the new state.
- D. This compact does not interfere with a licensee's ability to hold a single-state license in multiple states. For the purposes of this compact, a licensee shall have only one home state license.
- E. This compact does not affect the requirements established by a member state for the issuance of a single-state license.

SECTION 6. ACTIVE DUTY MILITARY PERSONNEL AND THEIR SPOUSES

Active duty military personnel and their spouses shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. After designating a home state, the individual shall change the individual's home state only by applying for licensure in the new state or through the process outlined in section 5 of this compact.

SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

- A. Member states shall recognize the right of a licensed professional counselor who is licensed by a home state in accordance with section 3 of this compact and under rules promulgated by the commission to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.
- B. A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state.

SECTION 8. ADVERSE ACTIONS

- A. In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:
 - 1. Take adverse action against a licensed professional counselor's privilege to practice within that member state.
 - 2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedures of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence is located.
 - 3. Only the home state shall have the power to take adverse action against a licensed professional counselor's license issued by the home state.
- B. For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state and shall apply its own state laws to determine appropriate action.
- C. The home state shall complete any pending investigations of a licensed professional counselor who changes the primary state of residence during the course of the investigations. The home state shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any adverse actions.
- D. A member state, if otherwise allowed by state law, may recover from the affected licensed professional counselor the costs of investigations and dispositions of cases resulting from any adverse action taken against that licensed professional counselor.
- E. A member state may take adverse action based on the factual findings of the remote state, provided that the member state follows its own procedures for taking the adverse action.
- F. With respect to joint investigations:
 - 1. In addition to the authority granted to a member state by its respective professional counseling practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.
 - 2. Member states shall share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under this compact.
- G. If adverse action is taken by the home state against the license of a licensed professional counselor, the licensed professional counselor's privilege to practice in all other member states shall be deactivated until all encumbrances have been removed from the home state license. All home state disciplinary orders that impose adverse action against the license of a licensed professional counselor shall include a statement that the licensed professional counselor's privilege to practice is deactivated in all member states during the pendency of the order.
- H. If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.
- I. This compact does not override a member state's decision that participation in an alternative program may be used instead of adverse action.

SECTION 9. ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

- A. The compact member states hereby create and establish a joint public agency known as the counseling compact commission, to which all of the following apply:
 - 1. The commission is an instrumentality of the compact states.
 - 2. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
 - 3. This compact shall not be construed to waive sovereign immunity.
- B. Membership, voting and meetings of the commission are as follows:
 - 1. Each member state shall have and be limited to one delegate selected by that member state's licensing board.
 - 2. The delegate shall be either:

- (a) A current member of the licensing board at the time of appointment who is a licensed professional counselor or public member.
 - (b) An administrator of the licensing board.
 - 3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.
 - 4. The member state licensing board shall fill any vacancy occurring on the commission within sixty days.
 - 5. Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission.
 - 6. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.
 - 7. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.
 - 8. The commission shall by rule establish a term of office for delegates and may by rule establish term limits.
- C. The commission shall have the following powers and duties:
- 1. Establish the fiscal year of the commission.
 - 2. Establish bylaws.
 - 3. Maintain its financial records in accordance with the bylaws.
 - 4. Meet and take such actions as are consistent with the provisions of this compact and the bylaws.
 - 5. Promulgate rules that shall be binding to the extent and in the manner provided for in this compact.
 - 6. Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state licensing board to sue or be sued under applicable law is not affected.
 - 7. Purchase and maintain insurance and bonds.
 - 8. Borrow, accept or contract for services of personnel, including employees of a member state.
 - 9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters.
 - 10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services and receive, use and dispose of the same. The commission shall avoid at all times any appearance of impropriety or conflict of interest.
 - 11. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed. The commission shall avoid at all times any appearance of impropriety.
 - 12. Sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property real, personal or mixed.
 - 13. Establish a budget and make expenditures.
 - 14. Borrow monies.
 - 15. Appoint committees, including standing committees, composed of members, state regulators, state legislators or their representatives and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws.
 - 16. Provide and receive information from and cooperate with law enforcement agencies.
 - 17. Establish and elect an executive committee.
 - 18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of professional counseling licensure and practice.
- D. The following apply to the executive committee of the commission:
- 1. The executive committee shall have the power to act on behalf of the commission according to the terms of this compact.
 - 2. The executive committee shall be composed of up to eleven members, including seven voting members who are elected by the commission from the current membership of the commission and up to four ex officio, nonvoting members from four recognized national professional counselor organizations who are selected by their respective organizations.
 - 3. The commission may remove any member of the executive committee as provided in the bylaws.
 - 4. The executive committee shall meet at least annually.
 - 5. The executive committee shall have all of the following duties and responsibilities:
 - (a) Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states, such as annual dues, and any commission compact fee charged to licensees for the privilege to practice.
 - (b) Ensure that compact administration services are appropriately provided, contractual or otherwise.

- (c) Prepare and recommend the budget.
 - (d) Maintain financial records on behalf of the commission.
 - (e) Monitor compact compliance of member states and provide compliance reports to the commission.
 - (f) Establish additional committees as necessary.
 - (g) Other duties as provided in rules or bylaws.
- E. The following apply to meetings of the commission:
1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in section 11 of this compact.
 2. The commission, the executive committee and other committees of the commission may convene in a closed, nonpublic meeting if the commission, executive committee or other committee of the commission must discuss any of the following:
 - (a) Noncompliance of a member state with its obligations under this compact.
 - (b) The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures.
 - (c) Current, threatened or reasonably anticipated litigation.
 - (d) Negotiation of contracts for the purchase, lease or sale of goods, services or real estate.
 - (e) Accusing any person of a crime or formally censuring any person.
 - (f) Disclosure of trade secrets or commercial or financial information that is privileged or confidential.
 - (g) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.
 - (h) Disclosure of investigative records compiled for law enforcement purposes.
 - (i) Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact.
 - (j) Matters specifically exempted from disclosure by federal or member state statute.
 3. If a meeting or portion of a meeting is closed pursuant to this subsection, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.
 4. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or an order of a court of competent jurisdiction.
- F. With respect to financing, the commission:
1. Shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.
 2. May accept any and all appropriate revenue sources, donations and grants of monies, equipment, supplies, materials and services.
 3. May levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based on a formula to be determined by the commission. The commission shall promulgate a rule that is binding on all member states.
 4. Shall not incur obligations of any kind before securing the monies adequate to meet those obligations or pledge the credit of any of the member states, except by and with the authority of the member state.
 5. Shall keep accurate accounts of all receipts and disbursements of monies. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of monies handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.
- G. With respect to qualified immunity, defense and indemnification:
1. The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties or

- responsibilities. This paragraph does not protect any such person from suit or liability for any damage, loss, injury or liability caused by that person's intentional or wilful or wanton misconduct.
2. The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties or responsibilities. This paragraph does not prohibit that person from retaining his or her own counsel if the actual or alleged act, error or omission did not result from that person's intentional or wilful or wanton misconduct.
 3. The commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties or responsibilities if the actual or alleged act, error or omission did not result from that person's intentional or wilful or wanton misconduct.

SECTION 10. DATA SYSTEM

- A. The commission shall provide for the development, maintenance, operation and use of a coordinated database and reporting system containing licensure, adverse action and investigative information on all licensed individuals in member states.
- B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact applies as required by the rules of the commission, including all of the following:
 1. Identifying information.
 2. Licensure data.
 3. Adverse actions against a license or privilege to practice.
 4. Nonconfidential information related to alternative program participation.
 5. Any denial of application for licensure and the reasons for such denial.
 6. Current significant investigative information.
 7. Other information that may facilitate the administration of this compact, as determined by the rules of the commission.
- C. Investigative information pertaining to a licensee in any member state shall be available only to other member states.
- D. The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state shall be available to any other member state.
- E. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.
- F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

SECTION 11. RULEMAKING

- A. The commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purpose of the compact. If the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact or the powers granted under the compact, the action taken by the commission is invalid and has no force or effect.
- B. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted pursuant to this section. Rules and amendments to the rules shall become binding as of the date specified in each rule or amendment.
- C. If a majority of the legislatures of the member states rejects a rule by enacting a statute or resolution in the same manner used to adopt the compact within four years after the date of adoption of the rule, the rule has no further force and effect in any member state.
- D. Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.
- E. Before promulgating and adopting a final rule, the commission shall file a notice of a proposed rulemaking at least thirty days before the meeting at which the rule will be considered and voted on. Notice must be given on both:
 1. The commission's website or other publicly accessible platform.

2. The website of each member state's licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.
- F. The notice of proposed rulemaking shall include all of the following:
1. The proposed time, date and location of the meeting in which the rule will be considered and voted on.
 2. The text of the proposed rule or amendment and the reason for the proposed rule.
 3. A request for comments on the proposed rule from any interested person.
 4. The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.
- G. Before adopting a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.
- H. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendments to a rule if a hearing is requested by one of the following:
1. At least twenty-five persons.
 2. A state or federal governmental subdivision or agency.
 3. An association having at least twenty-five members.
- I. If a hearing is held on the proposed rule or amendment to a rule, the commission shall publish the place, time and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing. The following apply with respect to hearings:
1. All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing at least five business days before the scheduled date of the hearing.
 2. Hearings shall be conducted in a manner providing each person who wishes to comment with a fair and reasonable opportunity to comment orally or in writing.
 3. All hearings shall be recorded and a copy of the recording made available on request.
 4. This section does not require a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.
- J. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.
- K. If a written notice of intent to attend the public hearing by interested parties is not received, the commission may proceed with promulgation of the proposed rule without a public hearing.
- L. The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
- M. On determining that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, an opportunity for comment or a hearing, except that the usual rulemaking procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible but not later than ninety days after the effective date of the rule. For the purposes of this subsection, an emergency rule is one that must be adopted immediately in order to do one of the following:
1. Meet an imminent threat to public health, safety or welfare.
 2. Prevent a loss of commission or member state monies.
 3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.
 4. Protect public health and safety.
- N. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for the purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the commission's website. The revision is subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chairperson of the commission before the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

SECTION 12. OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

- A. Oversight is as follows:
1. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated under this compact shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact that may affect the powers, responsibilities or actions of the commission.
 3. The commission is entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact or promulgated rules.
- B. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall do both of the following:
 1. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and any other action to be taken by the commission.
 2. Provide remedial training and specific technical assistance regarding the default.
 - C. If a state in default fails to cure the default, the defaulting state may be terminated from the compact on an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
 - D. Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature and each of the member states.
 - E. A state that has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
 - F. The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed on in writing between the commission and the defaulting state.
 - G. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.
 - H. On request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.
 - I. Enforcement provisions of this compact are as follows:
 1. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.
 2. By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.
 3. The remedies under this section are not the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

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

- A. The compact is effective on the date the compact statute is enacted into law in the tenth member state. The provisions of the compact become effective at that time and are limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to implement and administer the compact.
- B. Any state that joins the compact after the commission's initial adoption of the rules is subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.
- C. Any member state may withdraw from this compact by enacting a statute repealing the compact. The withdrawal of a member state:
 1. Does not take effect until six months after enactment of the repealing statute.
 2. Does not affect the continuing requirement of the withdrawing state's professional counseling licensing board to comply with the investigative and adverse action reporting requirements of this compact before the effective date of the withdrawal.

- D. This compact does not invalidate or prevent any professional counseling licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.
- E. This compact may be amended by the member states. An amendment to this compact does not become effective and binding on any member state until it is enacted into the laws of all member states.

SECTION 14. CONSTRUCTION AND SEVERABILITY

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

SECTION 15. BINDING EFFECT OF COMPACT AND OTHER LAWS

- A. A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations, including scope of practice, of the remote state.
- B. This compact does not prevent the enforcement of any other law of a member state that is not inconsistent with the compact.
- C. Any laws in a member state that conflict with the compact are superseded to the extent of the conflict.
- D. Any lawful actions of the commission, including all rules and bylaws properly promulgated by the commission, are binding on the member states.
- E. All permissible agreements between the commission and the member states are binding in accordance with their terms.
- F. If any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE 7 MARRIAGE AND FAMILY THERAPY

32-3311. Licensed marriage and family therapist; licensure; qualifications

- A. A person who wishes to be licensed by the board to engage in the practice of marriage and family therapy as a licensed marriage and family therapist shall furnish documentation as prescribed by the board by rule that the person has:
 - 1. Earned a master's or doctoral degree in behavioral science, including, but not limited to, marriage and family therapy, psychology, sociology, counseling and social work, granted by a regionally accredited college or university in a program accredited by the commission on accreditation for marriage and family therapy education or a degree based on a program of study that the board determines is substantially equivalent.
 - 2. Completed one thousand six hundred hours of post-master's degree experience in at least twenty-four months in the practice of marriage and family therapy under supervision that meets the requirements prescribed by the board by rule. For the direct client contact hours, not more than four hundred hours may be in psychoeducation. The one thousand six hundred hours must consist of direct client contact and include at least one thousand hours of clinical experience with couples and families and at least one hundred hours of clinical supervision as prescribed by the board by rule.
 - 3. Passed an examination approved by the board.
 - 4. Provided an attestation from the person's supervisor on a board-approved form that the person both:
 - (a) Was observed during supervised hours to have demonstrated satisfactory competency in clinical documentation, consultation, collaboration and coordination of care related to clients to whom the person provided direct care.
 - (b) Has a rating of at least satisfactory in overall performance.
- B. The curriculum for the master's or doctoral degree in behavioral science accepted by the board pursuant to subsection A, paragraph 1 of this section shall include a specified number of graduate courses as prescribed by the board by rule and shall be consistent with national standards of marriage and family therapy. Part of this course of study may be taken in a post-master's degree program as approved by the board.
- C. The one thousand hours of clinical experience required by subsection A, paragraph 2 of this section may include one year in an approved marriage and family doctoral internship program.

32-3313. Licensed associate marriage and family therapist; licensure; requirements; supervision

- A. A person who wishes to be licensed by the board to engage in the practice of marriage and family therapy as a licensed associate marriage and family therapist shall satisfy the requirements of section 32-3311, subsection A, paragraphs 1 and 3 and subsection B.
- B. A licensed associate marriage and family therapist shall only practice under direct supervision as prescribed by the board.

ARTICLE 8 SUBSTANCE ABUSE COUNSELING

32-3321. Licensed addiction technician; licensed associate addiction counselor; licensed independent addiction counselor; qualifications; supervision

- A. A person who wishes to be licensed by the board to engage in the practice of addiction counseling as a licensed addiction technician shall present documentation as prescribed by the board by rule that the person has:
 - 1. Received one of the following:
 - (a) An associate degree in addiction with an emphasis on counseling that meets the requirements as prescribed by the board by rule from a regionally accredited college or university.
 - (b) A bachelor's degree in a behavioral science with an emphasis on counseling that meets the requirements as prescribed by the board by rule from a regionally accredited college or university.
 - 2. Passed an examination approved by the board.
- B. A licensed addiction technician shall practice only under direct supervision as prescribed by the board.
- C. The board may waive the education requirement for an applicant requesting licensure as an addiction technician if the applicant provides services pursuant to contracts or grants with the federal government under the authority of Public Law 93-638 (25 United States Code sections 5301 through 5332) or Public Law 94-437 (25 United States Code sections 1601 through 1683). A person who becomes licensed as an addiction technician pursuant to this subsection shall provide addiction services only to those persons who are eligible for services pursuant to Public Law 93-638 (25 United States Code sections 5301 through 5332) or Public Law 94-437 (25 United States Code sections 1601 through 1683).
- D. A person who wishes to be licensed by the board to engage in the practice of addiction counseling as a licensed associate addiction counselor shall present evidence as prescribed by the board by rule that the person has:
 - 1. Received one of the following:
 - (a) A bachelor's degree in a behavioral science with an emphasis on counseling that meets the requirements as prescribed by the board by rule from a regionally accredited college or university and present documentation as prescribed by the board by rule that the applicant has received at least one thousand six hundred hours of direct client contact work experience in at least twenty-four months in addiction counseling under supervision that meets the requirements prescribed by the board by rule. For the direct client contact hours, not more than four hundred hours may be in psychoeducation.
 - (b) A master's or higher degree in a behavioral science with an emphasis on counseling as prescribed by the board by rule from a regionally accredited college or university.
 - 2. Passed an examination approved by the board.
 - 3. Provided an attestation from the person's supervisor on a board-approved form that the person both:
 - (a) Was observed during supervised hours to have demonstrated satisfactory competency in clinical documentation, consultation, collaboration and coordination of care related to clients to whom the person provided direct care.
 - (b) Has a rating of at least satisfactory in overall performance.
- E. A licensed associate addiction counselor shall practice only under direct supervision as prescribed by the board.
- F. A person who wishes to be licensed by the board to engage in the practice of addiction counseling as a licensed independent addiction counselor shall:
 - 1. Have received a master's or higher degree in a behavioral science with an emphasis on counseling, in a program that is approved by the board pursuant to section 32-3253 or that meets the requirements as prescribed by the board by rule, from a regionally accredited college or university.
 - 2. Present documentation as prescribed by the board by rule that the applicant has received at least one thousand six hundred hours of work experience in at least twenty-four months in addiction counseling with direct client contact under supervision that meets the requirements as prescribed by the board by rule. For the direct client contact hours, not more than four hundred hours may be in psychoeducation.
 - 3. Pass an examination approved by the board.
 - 4. Provide an attestation from the person's supervisor on a board-approved form that the person both:

- (a) Was observed during supervised hours to have demonstrated satisfactory competency in clinical documentation, consultation, collaboration and coordination of care related to clients to whom the person provided direct care.
- (b) Has a rating of at least satisfactory in overall performance.