

**2022**

**STATE OF NEBRASKA**

**STATUTES RELATING TO**

# **MENTAL HEALTH PRACTICE ACT**

**MARRIAGE AND FAMILY THERAPY  
PROFESSIONAL COUNSELING  
SOCIAL WORK**

**NEBRASKA**

Good Life. Great Mission.

**DEPT. OF HEALTH AND HUMAN SERVICES**

Department of Health and Human Services  
Division of Public Health  
Licensure Unit

301 Centennial Mall South, First Floor  
PO Box 94986  
Lincoln, NE 68509-4986

## INDEX

### MENTAL HEALTH PRACTICE ACT

- 38-2101. Act, how cited.
- 38-2102. Legislative findings.
- 38-2103. Definitions, where found.
- 38-2104. Approved educational program, defined.
- 38-2105. Board, defined.
- 38-2106. Certified marriage and family therapist, defined.
- 38-2107. Certified master social work, defined.
- 38-2108. Certified master social worker, defined.
- 38-2109. Certified professional counselor, defined.
- 38-2110. Certified social work, defined.
- 38-2111. Certified social worker, defined.
- 38-2112. Consultation, defined.
- 38-2113. Independent mental health practice, defined.
- 38-2114. Marriage and family therapy, defined.
- 38-2115. Mental health practice, defined; limitation on practice.
- 38-2116. Mental health practitioner, independent mental health practitioner, defined; use of titles.
- 38-2117. Mental health program, defined.
- 38-2118. Professional counseling, defined.
- 38-2119. Social work practice or the practice of social work, defined.
- 38-2120. Board; membership; qualifications.
- 38-2121. License; required; exceptions.
- 38-2122. Mental health practitioner; qualifications.
- 38-2123. Provisional mental health practitioner license; qualifications; application; expiration; disclosure required.
- 38-2124. Independent mental health practitioner; qualifications.
- 38-2125. Reciprocity; military spouse; temporary license.
- 38-2126. Certified social workers and certified master social workers; legislative findings.
- 38-2127. Practice of social work; certificate required; exceptions.
- 38-2128. Certified master social worker; certified social worker; qualifications.
- 38-2129. Provisional certification as master social worker; qualifications; application; expiration.
- 38-2130. Certified marriage and family therapist, certified professional counselor, social worker; reciprocity; military spouse; temporary certificate.
- 38-2131. Certified social workers; certified master social workers; act, how construed.
- 38-2132. Certified professional counselor; qualifications.
- 38-2132.01. Certified professional counselor; eligibility for licensure under compact.
- 38-2133. Marriage and family therapist; certification; qualifications.
- 38-2134. Marriage and family therapists; act, how construed.
- 38-2135. Fees.
- 38-2136. Mental health practitioners; confidentiality; exception.
- 38-2137. Mental health practitioner; duty to warn of patient's threatened violent behavior; limitation on liability.
- 38-2138. Code of ethics; board; duties; duty to report violations.
- 38-2139. Additional grounds for disciplinary action.
  
- 38-4201. Licensed Professional Counselors Interstate Compact.

## **PRACTICE OF SOCIAL WORK**

- 71-1,244 to 71-1,247. Repealed. Laws 1993, LB 669, §62.
- 71-1,248. Transferred to section 71-1,311.
- 71-1,249. Transferred to section 71-1,300.
- 71-1,250. Transferred to section 71-1,303.
- 71-1,251. Transferred to section 71-1,301.
- 71-1,252. Transferred to section 71-1,304.
- 71-1,253 and 71-1,254. Repealed. Laws 1993, LB 669, §62.
- 71-1,255. Transferred to section 71-1,297.
- 71-1,256. Transferred to section 71-1,318.
- 71-1,257. Repealed. Laws 1993, LB 669, §62.
- 71-1,258. Transferred to section 71-1,319.
- 71-1,259. Repealed. Laws 1993, LB 669, §62.
- 71-1,260 and 71-1,261. Transferred to sections 71-1,320 and 71-1,321.
- 71-1,262. Repealed. Laws 1993, LB 669, §62.
- 71-1,263 and 71-1,264. Transferred to sections 71-1,322 and 71-1,323.

## **PRACTICE OF PROFESSIONAL COUNSELING**

- 71-1,265. Repealed. Laws 1993, LB 669, §62.
- 71-1,266. Transferred to section 71-1,310.
- 71-1,267. Transferred to section 71-1,324.
- 71-1,268. Repealed. Laws 1993, LB 669, §62.
- 71-1,269. Transferred to section 71-1,325.
- 71-1,270. Transferred to section 71-1,333.
- 71-1,271. Repealed. Laws 1993, LB 669, §62.
- 71-1,272. Repealed. Laws 1988, LB 1100, §185.
- 71-1,273. Transferred to section 71-1,326.
- 71-1,274. Repealed. Laws 1993, LB 669, §62.
- 71-1,275. Transferred to section 71-1,327.
- 71-1,276. Repealed. Laws 1988, LB 1100, §185.
- 71-1,277. Transferred to section 71-1,328.

## **MENTAL HEALTH PRACTITIONERS**

- 71-1,295. Transferred to section 38-2102.
- 71-1,296. Transferred to section 38-2103.
- 71-1,297. Transferred to section 38-2104.
- 71-1,298. Transferred to section 38-2105.
- 71-1,299. Transferred to section 38-2106.
- 71-1,300. Transferred to section 38-2107.
- 71-1,301. Transferred to section 38-2108.
- 71-1,302. Transferred to section 38-2109.
- 71-1,303. Transferred to section 38-2110.
- 71-1,304. Transferred to section 38-2111.
- 71-1,305. Transferred to section 38-2112.
- 71-1,305.01. Transferred to section 38-2113.
- 71-1,306. Transferred to section 38-2114.
- 71-1,307. Transferred to section 38-2115.
- 71-1,308. Transferred to section 38-2116.
- 71-1,309. Transferred to section 38-2117.
- 71-1,310. Transferred to section 38-2118.
- 71-1,311. Transferred to section 38-2119.
- 71-1,312. Transferred to section 38-2121.
- 71-1,313. Repealed. Laws 2007, LB 463, § 1319.
- 71-1,314. Transferred to section 38-2122.
- 71-1,314.01. Transferred to section 38-2123.
- 71-1,314.02. Transferred to section 38-2124.
- 71-1,315. Repealed. Laws 2007, LB 247 § 91 and LB 463, § 1319.
- 71-1,316. Repealed. Laws 2007, LB 247 § 91 and LB 463, § 1319.

71-1,317. Transferred to section 38-2126.  
71-1,318. Transferred to section 38-2127.  
71-1,319. Transferred to section 38-2128.  
71-1,319.01. Transferred to section 38-2129.  
71-1,320. Repealed. Laws 2007, LB 463, § 1319.  
71-1,321. Repealed. Laws 2007, LB 463, § 1319.  
71-1,322. Repealed. Laws 2007, LB 463, § 1319.  
71-1,323. Transferred to section 38-2131.  
71-1,324. Repealed. Laws 2007, LB 463, § 1319.  
71-1,325. Transferred to section 38-2132.  
71-1,326. Repealed. Laws 2007, LB 463, § 1319.  
71-1,327. Repealed. Laws 2007, LB 463, § 1319.  
71-1,328. Repealed. Laws 2007, LB 463, § 1319.  
71-1,329. Transferred to section 38-2133.  
71-1,330. Repealed. Laws 2007, LB 463, § 1319.  
71-1,331. Repealed. Laws 2007, LB 463, § 1319.  
71-1,332. Transferred to section 38-2134.  
71-1,333. Repealed. Laws 2007, LB 247 § 91 and LB 463, § 1319.  
71-1,334. Repealed. Laws 2003, LB 242, §154.  
71-1,335. Transferred to section 38-2136.  
71-1,336. Transferred to section 38-2137.  
71-1,337. Transferred to section 38-2138.  
71-1,338. Repealed. Laws 2007, LB 247 § 91 and LB 463, § 1319.

## STATUTES PERTAINING TO THE MENTAL HEALTH PRACTICE ACT

### **38-2101. Act, how cited.**

Sections 38-2101 to 38-2139 shall be known and may be cited as the Mental Health Practice Act.

**Source:** Laws 2007, LB247, § 72; Laws 2007, LB463, § 720.

### **38-2102. Legislative findings.**

The Legislature finds that, because many mental health practitioners are not regulated in this state, anyone may offer mental health services by using an unrestricted title and that there is no means for identifying qualified practitioners, for enforcing professional standards, or for holding such practitioners accountable for their actions. Therefor the Legislature determines that, in the interest of consumer protection and for the protection of public health, safety, and welfare, individuals should be provided a means by which they can be assured that their selection of a mental health practitioner is based on sound criteria and that the activities of those persons who by any title may offer or deliver therapeutic mental health services should be regulated.

The purpose of licensing mental health practitioners is to provide for an omnibus title for such persons and to provide for associated certification of social workers, master social workers, professional counselors, and marriage and family therapists.

**Source:** Laws 1993, LB 669, § 14; R.S.1943, (2003), § 71-1,295; Laws 2007, LB463, § 721.

### **38-2103. Definitions, where found.**

For purposes of the Mental Health Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-2104 to 38-2119 apply.

**Source:** Laws 1993, LB 669, § 15; R.S.1943, (2003), § 71-1,296; Laws 2007, LB247, § 38; Laws 2007, LB463, § 722.

### **38-2104. Approved educational program, defined.**

(1) Approved educational program means a program of education and training accredited by an agency listed in subsection (2) of this section or approved by the board. Such approval may be based on the program's accreditation by an accrediting agency with requirements similar to an agency listed in subsection (2) of this section or on standards established by the board in the manner and form provided in section 38-133.

(2) Approved educational program includes a program of education and training accredited by:

- (a) The Commission on Accreditation for Marriage and Family Therapy Education;
- (b) The Council for Accreditation of Counseling and Related Educational Programs;
- (c) The Council on Rehabilitation Education;
- (d) The Council on Social Work Education; or

(e) The American Psychological Association for a doctoral degree program enrolled in by a person who has a master's degree or its equivalent in psychology.

**Source:** Laws 1986, LB 286, § 12; R.S.1943, (1990), § 71-1,255; Laws 1993, LB 669, § 16; R.S.1943, (2003), § 71-1,297; Laws 2007, LB463, § 723; Laws 2018, LB1034, § 32.

**Effective Date: July 19, 2018**

### **38-2105. Board, defined.**

Board means the Board of Mental Health Practice.

**Source:** Laws 1993, LB 669, § 17; Laws 1999, LB 828, § 148; R.S.1943, (2003), § 71-1,298; Laws 2007, LB463, § 724.

### **38-2106. Certified marriage and family therapist, defined.**

Certified marriage and family therapist means a person who is certified to practice marriage and family therapy pursuant to the Uniform Credentialing Act and who holds a current certificate issued by the department.

**Source:** Laws 1993, LB 669, § 18; R.S.1943, (2003), § 71-1,299; Laws 2007, LB463, § 725.

### **38-2107. Certified master social work, defined.**

Certified master social work means the specialized application of social work values, knowledge, principles, and methods in all areas of social work practice. Certified master social work may include the private, independent, and autonomous practice of social work.

**Source:** Laws 1986, LB 286, § 6; R.S.1943, (1990), § 71-1,249; Laws 1993, LB 669, § 19; R.S.1943, (2003), § 71-1,300; Laws 2007, LB463, § 726.

**38-2108. Certified master social worker, defined.**

Certified master social worker means a person who meets the standards established in subsection (1) of section 38-2128 and who holds a current certificate issued by the department.

**Source:** Laws 1986, LB 286, § 8; R.S.1943, (1990), § 71-1,251; Laws 1993, LB 669, § 20; R.S.1943, (2003), § 71-1,301; Laws 2007, LB463, § 727.

**38-2109. Certified professional counselor, defined.**

Certified professional counselor means a person who is certified to practice professional counseling pursuant to the Uniform Credentialing Act and who holds a current certificate issued by the department.

**Source:** Laws 1993, LB 669, § 21; R.S.1943, (2003), § 71-1,302; Laws 2007, LB463, § 728.

**38-2110. Certified social work, defined.**

Certified social work means the professional application of social work values, knowledge, principles, and methods in all areas of social work practice, except that certified social work shall not include private, independent, and autonomous practice of social work.

**Source:** Laws 1986, LB 286, § 7; R.S.1943, (1990), § 71-1,250; Laws 1993, LB 669, § 22; R.S.1943, (2003), § 71-1,303; Laws 2007, LB463, § 729.

**38-2111. Certified social worker, defined.**

Certified social worker means a person who meets the standards established in subsection (2) of section 38-2128 and who holds a current certificate issued by the department.

**Source:** Laws 1986, LB 286, § 9; R.S.1943, (1990), § 71-1,252; Laws 1993, LB 669, § 23; R.S.1943, (2003), § 71-1,304; Laws 2007, LB463, § 730.

**38-2112. Consultation, defined.**

Consultation means a professional collaborative relationship between a licensed mental health practitioner and a consultant who is a psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided in similar provisions of the Psychology Interjurisdictional Compact, a qualified physician, or a licensed independent mental health practitioner in which (1) the consultant makes a diagnosis based on information supplied by the licensed mental health practitioner and any additional assessment deemed necessary by the consultant and (2) the consultant and the licensed mental health practitioner jointly develop a treatment plan which indicates the responsibility of each professional for implementing elements of the plan, updating the plan, and assessing the client's progress.

**Source:** Laws 1993, LB 669, § 24; Laws 1994, LB 1210, § 95; R.S.1943, (2003), § 71-1,305; Laws 2007, LB463, § 731; Laws 2008, LB1108, § 1; Laws 2018, LB1034, § 33.

**Effective Date: July 19, 2018**

**38-2113. Independent mental health practice, defined.**

(1) Independent mental health practice means the provision of treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations.

(2) Independent mental health practice includes diagnosing major mental illness or disorder, using psychotherapy with individuals suspected of having major mental or emotional disorders, or using psychotherapy to treat the concomitants of organic illness, with or without consultation with a qualified physician or licensed psychologist.

(3) Independent mental health practice does not include the practice of psychology or medicine, prescribing drugs or electroconvulsive therapy, treating physical disease, injury, or deformity, or measuring personality or intelligence for the purpose of diagnosis or treatment planning.

**Source:** Laws 2007, LB247, § 39; R.S.Supp.,2007, § 71-1,305.01.

**38-2114. Marriage and family therapy, defined.**

Marriage and family therapy means the assessment and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems through the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families for the purpose of treating such disorders.

**Source:** Laws 1993, LB 669, § 25; R.S.1943, (2003), § 71-1,306; Laws 2007, LB463, § 732.

**38-2115. Mental health practice, defined; limitation on practice.**

(1) Mental health practice means the provision of treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations.

(2) Mental health practice does not include:

(a) The practice of psychology or medicine;

(b) Prescribing drugs or electroconvulsive therapy;

(c) Treating physical disease, injury, or deformity;

(d) Diagnosing major mental illness or disorder except in consultation with a qualified physician, a psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided in similar provisions of the Psychology Interjurisdictional Compact, or a licensed independent mental health practitioner;

(e) Measuring personality or intelligence for the purpose of diagnosis or treatment planning;

(f) Using psychotherapy with individuals suspected of having major mental or emotional disorders except in consultation with a qualified physician, a licensed psychologist, or a licensed independent mental health practitioner; or

(g) Using psychotherapy to treat the concomitants of organic illness except in consultation with a qualified physician or licensed psychologist.

(3) Mental health practice includes the initial assessment of organic mental or emotional disorders for the purpose of referral or consultation.

(4) Nothing in sections 38-2114, 38-2118, and 38-2119 shall be deemed to constitute authorization to engage in activities beyond those described in this section. Persons certified under the Mental Health Practice Act but not licensed under section 38-2122 shall not engage in mental health practice.

**Source:** Laws 1993, LB 669, § 26; Laws 1994, LB 1210, § 96; R.S.1943, (2003), § 71-1,307; Laws 2007, LB247, § 40; Laws 2007, LB463, § 733; Laws 2008, LB1108, § 2; Laws 2018, LB1034, § 34.

**Effective Date: July 19, 2018**

**38-2116. Mental health practitioner, independent mental health practitioner, defined; use of titles.**

(1) Mental health practitioner means a person who holds himself or herself out as a person qualified to engage in mental health practice or a person who offers or renders mental health practice services. Independent mental health practitioner means a person who holds himself or herself out as a person qualified to engage in independent mental health practice or a person who offers or renders independent mental health practice services.

(2) A person who is licensed as a mental health practitioner and certified as a master social worker may use the title licensed clinical social worker. A person who is licensed as a mental health practitioner and certified as a professional counselor may use the title licensed professional counselor. A person who is licensed as a mental health practitioner and certified as a marriage and family therapist may use the title licensed marriage and family therapist. No person shall use the title licensed clinical social worker, licensed professional counselor, or licensed marriage and family therapist unless he or she is licensed and certified as provided in this subsection.

(3) A person who is licensed as an independent mental health practitioner and certified as a master social worker may use the title licensed independent clinical social worker. A person who is licensed as an independent mental health practitioner and certified as a professional counselor may use the title licensed independent professional counselor. A person who is licensed as an independent mental health practitioner and certified as a marriage and family therapist may use the title licensed independent marriage and family therapist. No person shall use the title licensed independent clinical social worker, licensed independent professional counselor, or licensed independent marriage and family therapist unless he or she is licensed and certified as provided in this subsection.

(4) A mental health practitioner shall not represent himself or herself as a physician or psychologist and shall not represent his or her services as being medical or psychological in nature. An independent mental health practitioner shall not represent himself or herself as a physician or psychologist.

**Source:** Laws 1993, LB 669, § 27; R.S.1943, (2003), § 71-1,308; Laws 2007, LB247, § 41; Laws 2007, LB463, § 734; Laws 2008, LB1108, § 3.

**38-2117. Mental health program, defined.**

Mental health program means an approved educational program in a field such as, but not limited to, social work, professional counseling, marriage and family therapy, human development, psychology, or family relations, the content of which contains an emphasis on therapeutic mental health and course work in psychotherapy and the assessment of mental disorders.

**Source:** Laws 1993, LB 669, § 28; R.S.1943, (2003), § 71-1,309; Laws 2007, LB463, § 735; Laws 2018, LB1034, § 35.

**Effective Date: July 19, 2018**

**38-2118. Professional counseling, defined.**

Professional counseling means the assessment and treatment of mental and emotional disorders within the context of professional counseling theory and practice of individuals, couples, families, or groups and includes, but is not limited to:

- (1) Assisting individuals or groups through the counseling relationship to develop understanding, define goals, plan action, and change behavior with the goal of reflecting interests, abilities, aptitudes, and needs as they are related to personal and social concerns, educational progress, and occupations;
- (2) Appraisal activities which shall mean selecting, administering, scoring, and interpreting instruments designed to assess a person's aptitudes, attitudes, abilities, achievements, interests, and personal characteristics, except that nothing in this subdivision shall be construed to authorize a certified professional counselor to engage in the practice of clinical psychology as defined in section 38-3111;
- (3) Referral activities which evaluate data to identify which persons or groups may better be served by other specialists;
- (4) Research activities which shall mean reporting, designing, conducting, or consulting on research in counseling with human subjects;
- (5) Therapeutic, vocational, or personal rehabilitation in relationship to adapting to physical, emotional, or intellectual disability; and
- (6) Consulting on any activity listed in this section.

**Source:** Laws 1986, LB 579, § 2; Laws 1988, LB 1100, § 88; R.S.1943, (1990), § 71-1,266; Laws 1993, LB 669, § 29; Laws 1994, LB 1210, § 97; R.S.1943, (2003), § 71-1,310; Laws 2007, LB463, § 736.

**38-2119. Social work practice or the practice of social work, defined.**

(1) Social work practice or the practice of social work means the professional activity of helping individuals, groups, and families or larger systems such as organizations and communities to improve, restore, or enhance their capacities for personal and social functioning and the professional application of social work values, knowledge, principles, and methods in the following areas of practice:

- (a) Information, resource identification and development, and referral services;
- (b) Preparation and evaluation of psychosocial assessments and development of social work service plans;
- (c) Case management, coordination, and monitoring of social work service plans in the areas of personal, social, or economic resources, conditions, or problems;
- (d) Development, implementation, and evaluation of social work programs and policies;
- (e) Supportive contacts to assist individuals and groups with personal adjustment to crisis, transition, economic change, or a personal or family member's health condition, especially in the area of services given in hospitals, health clinics, home health agencies, schools, shelters for the homeless, shelters for the urgent care of victims of sexual assault, child abuse, elder abuse, or domestic violence, nursing homes, and correctional facilities. Nothing in this subdivision shall be construed to prevent charitable and religious organizations, the clergy, governmental agencies, hospitals, health clinics, home health agencies, schools, shelters for the homeless, shelters for the urgent care of victims of sexual assault, child abuse, elder abuse, or domestic violence, nursing homes, or correctional facilities from providing supportive contacts to assist individuals and groups with adjustment to crisis, transition, economic change, or personal or a family member's health condition if such persons or organizations do not represent themselves to be social workers;
- (f) Social casework for and prevention of psychosocial dysfunction, disability, or impairment; and
- (g) Social work research, consultation, and education.

(2) Social work practice does not include the following:

- (a) The measuring and testing of personality or intelligence;
- (b) Accepting fees or compensation for the treatment of disease, injury, or deformity of persons by drugs, surgery, or any manual or mechanical treatment whatsoever;
- (c) Prescribing drugs or electroconvulsive therapy; and
- (d) Treating organic diseases or major psychiatric diseases.

(3) A certified master social worker who practices within the confines of this section shall not be required to be licensed as a mental health practitioner.

**Source:** Laws 1986, LB 286, § 5; R.S.1943, (1990), § 71-1,248; Laws 1993, LB 669, § 30; Laws 1994, LB 1210, § 98; R.S.1943, (2003), § 71-1,311; Laws 2007, LB463, § 737.



**38-2120. Board; membership; qualifications.**

The board shall consist of eight professional members and two public members appointed pursuant to section 38-158. The members shall meet the requirements of sections 38-164 and 38-165. Two professional members shall be certified master social workers, two professional members shall be certified professional counselors, two professional members shall be certified marriage and family therapists, and two professional members shall be licensed mental health practitioners that do not hold an associated certification.

**Source:** Laws 2007, LB463, § 738.

**38-2121. License; required; exceptions.**

The requirement to be licensed as a mental health practitioner pursuant to the Uniform Credentialing Act in order to engage in mental health practice shall not be construed to prevent:

- (1) Qualified members of other professions who are licensed, certified, or registered by this state from practice of any mental health activity consistent with the scope of practice of their respective professions;
- (2) Alcohol and drug counselors who are licensed by the Division of Public Health of the Department of Health and Human Services and problem gambling counselors who are certified by the Department of Health and Human Services prior to July 1, 2013, or by the Nebraska Commission on Problem Gambling beginning on July 1, 2013, from practicing their profession. Such exclusion shall include students training and working under the supervision of an individual qualified under section 38-315;
- (3) Any person employed by an agency, bureau, or division of the federal government from discharging his or her official duties, except that if such person engages in mental health practice in this state outside the scope of such official duty or represents himself or herself as a licensed mental health practitioner, he or she shall be licensed;
- (4) Teaching or the conduct of research related to mental health services or consultation with organizations or institutions if such teaching, research, or consultation does not involve the delivery or supervision of mental health services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services;
- (5) The delivery of mental health services by:
  - (a) Students, interns, or residents whose activities constitute a part of the course of study for medicine, psychology, nursing, school psychology, social work, clinical social work, counseling, marriage and family therapy, or other health care or mental health service professions; or
  - (b) Individuals seeking to fulfill postgraduate requirements for licensure when those individuals are supervised by a licensed professional consistent with the applicable regulations of the appropriate professional board;
- (6) Duly recognized members of the clergy from providing mental health services in the course of their ministerial duties and consistent with the codes of ethics of their profession if they do not represent themselves to be mental health practitioners;
- (7) The incidental exchange of advice or support by persons who do not represent themselves as engaging in mental health practice, including participation in self-help groups when the leaders of such groups receive no compensation for their participation and do not represent themselves as mental health practitioners or their services as mental health practice;
- (8) Any person providing emergency crisis intervention or referral services or limited services supporting a service plan developed by and delivered under the supervision of a licensed mental health practitioner, licensed physician, or a psychologist licensed to engage in the practice of psychology if such persons are not represented as being licensed mental health practitioners or their services are not represented as mental health practice; or
- (9) Staff employed in a program designated by an agency of state government to provide rehabilitation and support services to individuals with mental illness from completing a rehabilitation assessment or preparing, implementing, and evaluating an individual rehabilitation plan.

**Source:** Laws 1993, LB 669, § 31; Laws 1994, LB 1210, § 99; Laws 1995, LB 275, § 5; Laws 1996, LB 1044, § 479; Laws 2004, LB 1083, § 114; R.S.Supp.,2006, § 71-1,312; Laws 2007, LB296, § 361; Laws 2007, LB463, § 739; Laws 2013, LB6, § 11.

**38-2122. Mental health practitioner; qualifications.**

A person shall be qualified to be a licensed mental health practitioner if he or she:

- (1) Has received a master's degree, a doctoral degree, or the equivalent of a master's degree, as determined by the board, that consists of course work and training which was primarily therapeutic mental health in content and included a practicum or internship and was from an approved educational program. Practicums or internships completed after September 1, 1995, must include a minimum of three hundred clock hours of direct client contact under the supervision of a qualified physician, a licensed psychologist, or a licensed mental health practitioner;
- (2) Has successfully completed three thousand hours of supervised experience in mental health practice of which fifteen hundred hours were in direct client contact in a setting where mental health services were being offered and the remaining fifteen hundred hours included, but were not limited to, review of client records, case conferences,

direct observation, and video observation. For purposes of this subdivision, supervised means monitored by a qualified physician, a licensed clinical psychologist, or a certified master social worker, certified professional counselor, or marriage and family therapist qualified for certification on September 1, 1994, for any hours completed before such date or by a qualified physician, a psychologist licensed to engage in the practice of psychology, or a licensed mental health practitioner for any hours completed after such date, including evaluative face-to-face contact for a minimum of one hour per week. Such three thousand hours shall be accumulated after completion of the master's degree, doctoral degree, or equivalent of the master's degree; and

(3) Has satisfactorily passed an examination approved by the board. An individual who by reason of educational background is eligible for certification as a certified master social worker, a certified professional counselor, or a certified marriage and family therapist shall take and pass a certification examination approved by the board before becoming licensed as a mental health practitioner.

**Source:** Laws 1993, LB 669, § 33; Laws 1994, LB 1210, § 100; Laws 1995, LB 406, § 31; Laws 1997, LB 622, § 84; Laws 1997, LB 752, § 160; R.S.1943, (2003), § 71-1,314; Laws 2007, LB463, § 740; Laws 2018, LB1034, § 36.

**Effective Date: July 19, 2018**

**38-2123. Provisional mental health practitioner license; qualifications; application; expiration; disclosure required.**

(1) A person who needs to obtain the required three thousand hours of supervised experience in mental health practice as specified in section 38-2122 to qualify for a mental health practitioner license shall obtain a provisional mental health practitioner license. To qualify for a provisional mental health practitioner license, such person shall:

(a) Have a master's degree, a doctoral degree, or the equivalent of a master's degree, as determined by the board, that consists of course work and training which was primarily therapeutic mental health in content and included a practicum or internship and was from a mental health program as specified in section 38-2122;

(b) Apply prior to earning the three thousand hours of supervised experience; and

(c) Pay the provisional mental health practitioner license fee.

(2) The rules and regulations approved by the board and adopted and promulgated by the department shall not require that the applicant have a supervisor in place at the time of application for a provisional mental health practitioner license.

(3) A provisional mental health practitioner license shall expire upon receipt of licensure as a mental health practitioner or five years after the date of issuance, whichever comes first.

(4) A person who holds a provisional mental health practitioner license shall inform all clients that he or she holds a provisional license and is practicing mental health under supervision and shall identify the supervisor. Failure to make such disclosure is a ground for discipline as set forth in section 38-2139.

**Source:** Laws 1997, LB 622, § 81; Laws 2003, LB 242, § 73; R.S.1943, (2003), § 71-1,314.01; Laws 2007, LB463, § 741; Laws 2018, LB1034, § 37.

**Effective Date: July 19, 2018**

**38-2124. Independent mental health practitioner; qualifications.**

(1) No person shall hold himself or herself out as an independent mental health practitioner unless he or she is licensed as such by the department. A person shall be qualified to be a licensed independent mental health practitioner if he or she:

(a)(i)(A) Graduated with a master's or doctoral degree from an educational program which is accredited, at the time of graduation or within four years after graduation, by the Council for Accreditation of Counseling and Related Educational Programs, the Commission on Accreditation for Marriage and Family Therapy Education, or the Council on Social Work Education or (B) graduated with a master's or doctoral degree from an educational program deemed by the board to be equivalent in didactic content and supervised clinical experience to an accredited program;

(ii)(A) Is licensed as a licensed mental health practitioner or (B) is licensed as a provisional mental health practitioner and has satisfactorily passed an examination approved by the board pursuant to subdivision (3) of section 38-2122; and

(iii) Has three thousand hours of experience supervised by a licensed physician, a licensed psychologist, or a licensed independent mental health practitioner, one-half of which is comprised of experience with clients diagnosed under the major mental illness or disorder category; or

(b)(i) Graduated from an educational program which does not meet the requirements of subdivision (a)(i) of this subsection;

(ii)(A) Is licensed as a licensed mental health practitioner or (B) is licensed as a provisional mental health practitioner and has satisfactorily passed an examination approved by the board pursuant to subdivision (3) of section 38-2122; and

(iii) Has seven thousand hours of experience obtained in a period of not less than ten years and supervised by a licensed physician, a licensed psychologist, or a licensed independent mental health practitioner, one-half of which is comprised of experience with clients diagnosed under the major mental illness or disorder category.

(2) The experience required under this section shall be documented in a reasonable form and manner as prescribed by the board, which may consist of sworn statements from the applicant and his or her employers and supervisors. The board shall not in any case require the applicant to produce individual case records.

(3) The application for an independent mental health practitioner license shall include the applicant's social security number.

**Source:** Laws 2007, LB247, § 42; R.S.Supp.,2007, § 71-1,314.02; Laws 2008, LB1108, § 4; Laws 2018, LB1034, § 38.

**Effective Date: July 19, 2018**

**38-2125. Reciprocity; military spouse; temporary license.**

The department, with the recommendation of the board, may issue a license based on licensure in another jurisdiction to an individual who (1) meets the licensure requirements of the Mental Health Practice Act or substantially equivalent requirements as determined by the department, with the recommendation of the board, or (2) has been in active practice in the appropriate discipline for at least five years following initial licensure or certification in another jurisdiction and has passed the Nebraska jurisprudence examination. An applicant for a license who is a military spouse may apply for a temporary license as provided in section 38-129.01.

**Source:** Laws 2007, LB463, § 742; Laws 2017, LB88, § 65; Laws 2018, LB1034, § 39.

**Effective Date: July 19, 2018**

**38-2126. Certified social workers and certified master social workers; legislative findings.**

The Legislature finds that certified social workers and certified master social workers provide a wide range of psychosocial assessment, intervention, and support services that do not constitute the clinical treatment services of licensed mental health practitioners, psychologists, or physicians. The Legislature therefor finds that it is appropriate to provide for certification of social workers and master social workers.

**Source:** Laws 1993, LB 669, § 36; R.S.1943, (2003), § 71-1,317; Laws 2007, LB463, § 743.

**38-2127. Practice of social work; certificate required; exceptions.**

The requirement to be certified as a social worker pursuant to the Uniform Credentialing Act in order to represent himself or herself as a social worker shall not be construed to prevent:

(1) Qualified members of other professions, including, but not limited to, licensed physicians, registered or licensed practical nurses, attorneys, marriage and family therapists, psychologists, psychotherapists, vocational guidance counselors, school psychologists, members of the clergy, court employees, or other persons credentialed under the Uniform Credentialing Act from doing work consistent with the scope of practice of their respective professions, except that such qualified members shall not hold themselves out to the public by title as being engaged in the practice of social work; or

(2) The activities and services of a student or intern in social work practice who is pursuing a course of study in an approved educational program if the activities and services constitute a part of his or her supervised course of study or experience for certification and are performed under the supervision of a certified master social worker and the person is identified by an appropriate title as a social work student or intern. For purposes of this subdivision, supervision means that written records of services or procedures are examined and evaluative interviews are conducted relative thereto by a certified master social worker.

**Source:** Laws 1986, LB 286, § 13; Laws 1987, LB 473, § 31; R.S.1943, (1990), § 71-1,256; Laws 1993, LB 669, § 37; R.S.1943, (2003), § 71-1,318; Laws 2007, LB463, § 744.

**38-2128. Certified master social worker; certified social worker; qualifications.**

(1) A person shall be qualified to be a certified master social worker if he or she:

(a) Has a doctorate or a master's degree in social work from an approved educational program;

(b) Has had a minimum of at least three thousand hours of experience, in addition to the master's or doctorate degree, in social work under the supervision as defined in section 38-2127 of a certified master social worker;

(c) Provides evidence to the department that he or she meets the requirements of subdivisions (1)(a) and (1)(b) of this section; and

(d) Completes an application and satisfactorily passes an examination approved by the board.

(2) A person shall be qualified to be a certified social worker if he or she provides evidence to the board that he or she has a baccalaureate or master's degree in social work from an approved educational program and completes an application form.

**Source:** Laws 1986, LB 286, § 15; Laws 1988, LB 1100, § 85; Laws 1990, LB 1080, § 1; R.S.1943, (1990), § 71-1,258; Laws 1993, LB 669, § 38; Laws 1993, LB 506, § 1; Laws 1994, LB 1210, § 101; Laws 1997, LB 752, § 161; R.S.1943, (2003), § 71-1,319; Laws 2007, LB463, § 745.

**38-2129. Provisional certification as master social worker; qualifications; application; expiration.**

(1) A person who needs to obtain the required three thousand hours of supervised experience in social work as specified in section 38-2128 to qualify for certification as a master social worker shall obtain a provisional certification as a master social worker. To qualify for a provisional certification as a master social worker, such person shall:

(a) Have a doctorate or master's degree in social work from an approved educational program; and

(b) Apply prior to earning the three thousand hours of supervised experience.

(2) A provisional master social worker certification shall expire upon receipt of certification as a master social worker or five years after the date of issuance, whichever comes first.

(3) A person who holds a provisional certification as a master social worker shall inform all clients that he or she holds a provisional certification and is practicing social work under supervision and shall identify the supervisor. Failure to make such disclosure is a ground for discipline as set forth in section 38-2139.

**Source:** Laws 1997, LB 622, § 82; Laws 2003, LB 242, § 74; R.S.1943, (2003), § 71-1,319.01; Laws 2007, LB463, § 746.

**38-2130. Certified marriage and family therapist, certified professional counselor, social worker; reciprocity; military spouse; temporary certificate.**

The department, with the recommendation of the board, may issue a license based on licensure in another jurisdiction to an individual who (1) meets the licensure requirements of the Mental Health Practice Act or substantially equivalent requirements as determined by the department, with the recommendation of the board, or (2) has been in active practice in the appropriate discipline for at least five years following initial licensure or certification in another jurisdiction and has passed the Nebraska jurisprudence examination. An applicant for a license who is a military spouse may apply for a temporary license as provided in section 38-129.01.

**Source:** Laws 2007, LB463, § 742; Laws 2017, LB88, § 65; Laws 2018, LB1034, § 39.

**Effective Date: July 19, 2018**

**38-2131. Certified social workers; certified master social workers; act, how construed.**

Nothing in the Mental Health Practice Act shall be construed to require the State of Nebraska, any agency of the State of Nebraska, or any of the entities which operate under rules and regulations of a state agency, which either employ or contract for the services of social services workers, to employ or contract with only persons certified pursuant to the act for the performance of any of the professional activities enumerated in section 38-2119.

**Source:** Laws 1986, LB 286, § 21; R.S.1943, (1990), § 71-1,264; Laws 1993, LB 669, § 42; R.S.1943, (2003), § 71-1,323; Laws 2007, LB463, § 748.

**38-2132. Certified professional counselor; qualifications.**

A person shall be qualified to be a certified professional counselor if he or she:

(1) Has received a master's degree from an approved educational program;

(2) Has had three thousand hours of experience in professional counseling approved by the board after receipt of the master's degree; and

(3) Completes an application and satisfactorily passes an examination approved by the board.

**Source:** Laws 1986, LB 579, § 5; Laws 1988, LB 1100, § 91; R.S.1943, (1990), § 71-1,269; Laws 1993, LB 669, § 44; Laws 1994, LB 1210, § 104; Laws 1997, LB 752, § 162; R.S.1943, (2003), § 71-1,325; Laws 2007, LB463, § 749.

**38-2132.01. Certified professional counselor; eligibility for licensure under compact.**

The only persons credentialed pursuant to the Mental Health Practice Act that are eligible to be licensed professional counselors under the Licensed Professional Counselors Interstate Compact are licensed independent mental health practitioners with a certification in professional counseling.

**Source:** Laws 2022, LB752, § 16.

**Effective Date: July 21, 2022**

**Cross References**

**Licensed Professional Counselors Interstate Compact**, see section 38-4201.

**38-2133. Marriage and family therapist; certification; qualifications.**

(1) A person who applies to the department for certification as a marriage and family therapist shall be qualified for such certification if he or she:

(a) Provides evidence to the department that he or she has a master's or doctoral degree in marriage and family therapy from a program approved by the board or a graduate degree in a field determined by the board to be related to marriage and family therapy and graduate-level course work determined by the board to be equivalent to a master's degree in marriage and family therapy;

(b) Provides evidence to the department that he or she has had at least three thousand hours of experience in marriage and family therapy under a qualified supervisor following receipt of the graduate degree. The three thousand hours shall include at least one thousand five hundred hours of direct-client contact during the five years preceding application for certification. During the course of completing the client-contact hours, there shall be at least one hundred hours of supervisor-supervisee contact hours with a qualified supervisor and supervision shall be provided at least one hour per week or two hours every two weeks; and

(c) Completes an application and passes an examination approved by the board.

(2) For purposes of this section:

(a) Actively engaged in the practice of marriage and family therapy may include (i) services and activities provided under the direct supervision of a person with at least a master's degree in marriage and family therapy from a program approved by the board or (ii) services and activities that are classified by title or by description of duties and responsibilities as marriage and family therapy practice;

(b) Qualified supervisor means (i) a licensed mental health practitioner, a psychologist licensed to engage in the practice of psychology, or a licensed physician who holds a designation of approved supervisor from an association which establishes standards for marriage and family therapy in conformity with accepted industry standards; such standards shall be specified in rules and regulations approved by the board and adopted and promulgated by the department or (ii) a marriage and family therapist who has practiced for five years and has completed a five-hour supervision course that may be provided by an association which establishes standards for marriage and family therapy in conformity with accepted industry standards; such standards shall be specified in rules and regulations approved by the board and adopted and promulgated by the department; and

(c) Supervision means face-to-face contact between an applicant and a qualified supervisor during which the applicant appraises the supervisor of the diagnosis and treatment of each client, the clients' cases are discussed, the supervisor provides the applicant with oversight and guidance in treating and dealing with clients, and the supervisor evaluates the applicant's performance. In order for a supervised period of time to be credited toward the time of supervision required by subsection (1) of this section, it shall consist of the following:

(i) Focus on raw data from the applicant's clinical work which is made directly available to the supervisor through such means as written clinical materials, direct observation, and video and audio recordings;

(ii) A process which is distinguishable from personal psychotherapy or didactic instruction; and

(iii) A proportion of individual and group supervision as determined by the rules and regulations of the board.

**Source:** Laws 1993, LB 669, § 48; Laws 1994, LB 1210, § 107; Laws 1997, LB 752, § 163; Laws 2000, LB 1135, § 15; Laws 2003, LB 242, § 78; R.S.1943, (2003), § 71-1,329; Laws 2007, LB463, § 750; Laws 2012, LB1148, § 1.

**38-2134. Marriage and family therapists; act, how construed.**

Nothing in the Mental Health Practice Act shall be construed to require the State of Nebraska, any agency of the State of Nebraska, or any of the entities which operate under rules and regulations of a state agency, which employ or contract for the services of marriage and family therapists, to employ or contract with only persons certified pursuant to the act for the performance of any of the professional activities enumerated in section 38-2119.

**Source:** Laws 1993, LB 669, § 51; R.S.1943, (2003), § 71-1,332; Laws 2007, LB463, § 751.

**38-2135. Fees.**

The department shall establish and collect fees for credentialing under the Mental Health Practice Act as provided in sections 38-151 to 38-157.

**Source:** Laws 2007, LB463, § 752.

**38-2136. Mental health practitioners; confidentiality; exception.**

No person licensed or certified pursuant to the Mental Health Practice Act shall disclose any information he or she may have acquired from any person consulting him or her in his or her professional capacity except:

(1) With the written consent of the person or, in the case of death or disability, of the person's personal representative, any other person authorized to sue on behalf of the person, or the beneficiary of an insurance policy on the person's life, health, or physical condition. When more than one person in a family receives therapy conjointly, each such family member who is legally competent to execute a waiver shall agree to the waiver referred to in this subdivision. Without such a waiver from each family member legally competent to execute a waiver, a practitioner shall not disclose information received from any family member who received therapy conjointly;

(2) As such privilege is limited by the laws of the State of Nebraska or as the board may determine by rule and regulation;

(3) When the person waives the privilege by bringing charges against the licensee; or

(4) When there is a duty to warn under the limited circumstances set forth in section 38-2137.

**Source:** Laws 1993, LB 669, § 54; Laws 1994, LB 1210, § 109; Laws 1999, LB 828, § 150; R.S.1943, (2003), § 71-1,335; Laws 2007, LB247, § 46; Laws 2007, LB463, § 753.

**38-2137. Mental health practitioner; duty to warn of patient's threatened violent behavior; limitation on liability.**

(1) There shall be no monetary liability on the part of, and no cause of action shall arise against, any person who is licensed or certified pursuant to the Mental Health Practice Act for failing to warn of and protect from a patient's threatened violent behavior or failing to predict and warn of and protect from a patient's violent behavior except when the patient has communicated to the mental health practitioner a serious threat of physical violence against himself, herself, or a reasonably identifiable victim or victims.

(2) The duty to warn of or to take reasonable precautions to provide protection from violent behavior shall arise only under the limited circumstances specified in subsection (1) of this section. The duty shall be discharged by the mental health practitioner if reasonable efforts are made to communicate the threat to the victim or victims and to a law enforcement agency.

(3) No monetary liability and no cause of action shall arise under section 38-2136 against a licensee or certificate holder for information disclosed to third parties in an effort to discharge a duty arising under subsection (1) of this section according to the provisions of subsection (2) of this section.

**Source:** Laws 1993, LB 669, § 55; R.S.1943, (2003), § 71-1,336; Laws 2007, LB247, § 47; Laws 2007, LB463, § 754.

**38-2138. Code of ethics; board; duties; duty to report violations.**

The board shall adopt a code of ethics which is essentially in agreement with the current code of ethics of the national and state associations of the specialty professions included in mental health practice and which the board deems necessary to assure adequate protection of the public in the provision of mental health services to the public. A violation of the code of ethics shall be considered an act of unprofessional conduct.

The board shall ensure through the code of ethics and the rules and regulations adopted and promulgated under the Mental Health Practice Act that persons licensed or certified pursuant to the act limit their practice to demonstrated areas of competence as documented by relevant professional education, training, and experience. Intentional failure by a mental health practitioner to report known acts of unprofessional conduct by a mental health practitioner to the department or the board shall be considered an act of unprofessional conduct and shall be grounds for disciplinary action under appropriate sections of the Uniform Credentialing Act unless the mental health practitioner has acquired such knowledge in a professional relationship otherwise protected by confidentiality.

**Source:** Laws 1993, LB 669, § 56; Laws 1999, LB 828, § 151; R.S.1943, (2003), § 71-1,337; Laws 2007, LB247, § 48; Laws 2007, LB463, § 755.

**38-2139. Additional grounds for disciplinary action.**

In addition to the grounds for disciplinary action found in sections 38-178 and 38-179, a credential subject to the Mental Health Practice Act may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 38-196 when the applicant or licensee fails to disclose the information required by section 38-2123 or 38-2129.

**Source:** Laws 2007, LB463, § 756.

**38-4201. Licensed Professional Counselors Interstate Compact.**

The State of Nebraska adopts the Licensed Professional Counselors Interstate Compact in the form substantially as follows:

Licensed Professional Counselors Interstate Compact

## SECTION 1: PURPOSE

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.

This Compact is designed to achieve the following objectives:

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

## SECTION 2. DEFINITIONS

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

- A. "Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.
- B. "Adverse Action" means any administrative, civil, equitable or criminal action permitted by a State's laws which is imposed by a licensing board or other authority against a Licensed Professional Counselor, including actions against an individual's license or Privilege to Practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other Encumbrance on licensure affecting a Licensed Professional Counselor's authorization to practice, including issuance of a cease and desist action.
- C. "Alternative Program" means a nondisciplinary monitoring or practice remediation process approved by a Professional Counseling Licensing Board to address Impaired Practitioners.
- D. "Continuing Competence/Education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.
- E. "Counseling Compact Commission" or "Commission" means the national administrative body whose membership consists of all States that have enacted the Compact.
- F. "Current Significant Investigative Information" means:
  - 1. Investigative Information that a Licensing Board, after a preliminary inquiry that includes notification and an opportunity for the Licensed Professional Counselor to respond, if required by State law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
  - 2. Investigative Information that indicates that the Licensed Professional Counselor represents an immediate threat to public health and safety regardless of whether the Licensed Professional Counselor has been notified and had an opportunity to respond.
- G. "Data System" means a repository of information about Licensees, including, but not limited to, continuing education, examination, licensure, investigative, Privilege to Practice and Adverse Action information.
- H. "Encumbered License" means a license in which an Adverse Action restricts the practice of licensed Professional Counseling by the Licensee and said Adverse Action has been reported to the National Practitioners Data Bank (NPDB).
- I. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of Licensed Professional Counseling by a Licensing Board.
- J. "Executive Committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

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

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

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

N. "Jurisprudence Requirement" if required by a Member State, means the assessment of an individual's knowledge of the laws and Rules governing the practice of Professional Counseling in a State.

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

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

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

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

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

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

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

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

W. "Single State License" means a Licensed Professional Counselor license issued by a Member State that authorizes practice only within the issuing State and does not include a Privilege to Practice in any other Member State.

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

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

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

### SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

1. License and regulate Licensed Professional Counselors;
2. Require Licensees to pass a nationally recognized examination 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 course work including the following topic areas:

a. Professional Counseling Orientation and Ethical Practice;

b. Social and Cultural Diversity;

c. Human Growth and Development;

d. Career Development;

e. Counseling and Helping Relationships;

f. Group Counseling and Group Work;

g. Diagnosis and Treatment; Assessment and Testing;

h. Research and Program Evaluation; and

i. Other areas as determined by the Commission.

4. Require Licensees to complete a supervised postgraduate professional experience as defined by the Commission;

5. Have a mechanism in place for receiving and investigating complaints about Licensees.

B. A Member State shall:

1. Participate fully in the Commission's Data System, including using the Commission's unique identifier as defined in Rules;

2. Notify the Commission, in compliance with the terms of the Compact and Rules, of any Adverse Action or the availability of Investigative Information regarding a Licensee;

3. Implement or utilize procedures for considering the criminal history records of applicants for an initial Privilege to Practice. These procedures shall include the submission of fingerprints or other biometric-based information by



applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records;

a. A Member State must fully implement a criminal background check requirement, within a timeframe established by rule, by receiving the results of the Federal Bureau of Investigation record search and shall use the results in making licensure decisions.

b. Communication between a Member State, the Commission and among Member States regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a Member State under Public Law 92-544.

4. Comply with the Rules of the Commission;

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

6. Grant the Privilege to Practice to a Licensee holding a valid Unencumbered License in another Member State in accordance with the terms of the Compact and Rules; and

7. Provide for the attendance of the State's commissioner 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. However, the Single State License granted to these individuals shall not be recognized as granting a Privilege to Practice Professional Counseling in any other Member State.

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

F. A license issued to a Licensed Professional Counselor by a Home State to a resident in that State shall be recognized by each Member State as authorizing a Licensed Professional Counselor to practice Professional Counseling, under a Privilege to Practice, in each Member State.

#### SECTION 4. PRIVILEGE TO PRACTICE

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

1. Hold a license in the Home State;

2. Have a valid United States social security number or national practitioner identifier;

3. Be eligible for a Privilege to Practice in any Member State in accordance with Section 4(D), (G) and (H);

4. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two years;

5. Notify the Commission that the Licensee is seeking the Privilege to Practice within a Remote State(s);

6. Pay any applicable fees, including any State fee, for the Privilege to Practice;

7. Meet any Continuing Competence/Education requirements established by the Home State;

8. Meet any Jurisprudence Requirements established by the Remote State(s) in which the Licensee is seeking a Privilege to Practice; and

9. Report to the Commission any Adverse Action, Encumbrance, or restriction on license taken by any non-Member State within thirty days from the date the action is taken.

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

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

D. A Licensee providing Professional Counseling services in a Remote State is subject to that State's regulatory authority. A Remote State may, in accordance with due process and that State's laws, remove a Licensee's Privilege to Practice in the Remote State for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The Licensee may be ineligible for a Privilege to Practice in any Member State until the specific time for removal has passed and all fines are paid.

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

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

2. Have 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 Section 4(A) to obtain a Privilege to Practice in any Remote State.

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

1. The specific period of time for which the Privilege to Practice was removed has ended;
  2. All fines have been paid; and
  3. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two years.
- H. Once the requirements of Section 4(G) have been met, the Licensee must meet the requirements in Section 4(A) to obtain a Privilege to Practice in a Remote State.

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

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

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

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

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

- a. a Federal Bureau of Investigation fingerprint-based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the Commission in accordance with Public Law 92-544;
- b. other criminal background check as required by the new Home State; and
- c. completion of any requisite Jurisprudence Requirements of the new Home State.

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

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

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

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

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

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

## SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

## SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

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

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

## SECTION 8. ADVERSE ACTIONS

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

1. Take Adverse Action against a Licensed Professional Counselor's Privilege to Practice within that Member State, and

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Board in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel

expenses, mileage, and other fees required by the service statutes of the State in which the witnesses or evidence are located.

3. 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. In so doing, the Home State shall apply its own State laws to determine appropriate action.

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

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

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

F. Joint Investigations:

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

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

G. If Adverse Action is taken by the Home State against the license of a Licensed Professional Counselor, the Licensed Professional Counselor's Privilege to Practice in all other Member States shall be deactivated until all Encumbrances have been removed from the State license. All Home State disciplinary orders that impose Adverse Action against the license of a Licensed Professional Counselor shall include a Statement that the Licensed Professional Counselor's Privilege to Practice is deactivated in all Member States during the pendency of the order.

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

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

## SECTION 9. ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

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

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

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

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

B. Membership, Voting, and Meetings

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

2. The delegate shall be either:

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

b. An administrator of the Licensing Board.

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

4. The Member State Licensing Board shall fill any vacancy occurring on the Commission within sixty 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 which shall be binding to the extent and in the manner provided for in the Compact;
6. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Board to sue or be sued under applicable law shall not be affected;
7. Purchase and maintain insurance and bonds;
8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;
9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;
11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;
12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
13. Establish a budget and make expenditures;
14. Borrow money;
15. Appoint committees, including standing committees composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;
16. Provide and receive information from, and cooperate with, law enforcement agencies;
17. Establish and elect an Executive Committee; and
18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the State regulation of Professional Counseling licensure and practice.

D. The Executive Committee

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact.
2. The Executive Committee shall be composed of up to eleven members:
  - a. Seven voting members who are elected by the Commission from the current membership of the Commission; and
  - b. Up to four ex officio, nonvoting members from four recognized national professional counselor organizations.
  - c. The ex officio members will be selected by their respective organizations.
3. The Commission may remove any member of the Executive Committee as provided in bylaws.
4. The Executive Committee shall meet at least annually.
5. The Executive Committee shall have the following duties and responsibilities:
  - a. Recommend to the entire Commission changes to the Rules or bylaws, changes to this Compact legislation, fees paid by Compact Member States such as annual dues, and any Commission Compact fee charged to Licensees for the Privilege to Practice;
  - b. Ensure Compact administration services are appropriately provided, contractual or otherwise;
  - c. Prepare and recommend the budget;
  - d. Maintain financial records on behalf of the Commission;
  - e. Monitor Compact compliance of Member States and provide compliance reports to the Commission;
  - f. Establish additional committees as necessary; and
  - g. Other duties as provided in Rules or bylaws.

E. Meetings of the Commission

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

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

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

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

#### F. Financing of the Commission

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

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

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

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

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

#### G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees, and representatives of the Commission shall have no greater 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, than a state employee would have under the same or similar circumstances; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

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

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

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

## SECTION 10. DATA SYSTEM

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

B. Notwithstanding any other 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 is applicable as required by the Rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse Actions against a license or Privilege to Practice;
4. Nonconfidential information related to Alternative Program participation;
5. Any denial of application for licensure, and the reason(s) for such denial;
6. Current Significant Investigative Information; and
7. Other information that may facilitate the administration of this Compact, as determined by the Rules of the Commission.

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

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

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

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

## SECTION 11. RULEMAKING

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

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

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

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

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

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

F. The Notice of Proposed Rulemaking shall include:

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

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

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

1. At least twenty-five persons;
2. A State or federal governmental subdivision or agency; or

3. An association having at least twenty-five members.

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

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

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

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

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

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

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

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

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

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or Member State funds;
3. Meet a deadline for the promulgation of an administrative Rule that is established by federal law or Rule; or
4. Protect public health and safety.

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

## SECTION 12. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

### A. Oversight

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

2. All courts shall take judicial notice of the Compact and the Rules in any judicial or administrative proceeding in a Member State pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Commission.

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

### B. Default, Technical Assistance, and Termination

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

- a. Provide written notice to the defaulting State and other Member States of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and
- b. Provide remedial training and specific technical assistance regarding the default.

C. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Member States, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.



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

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

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

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

H. Dispute Resolution

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

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

I. Enforcement

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

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

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

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

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

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

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

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

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

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

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

#### SECTION 14. CONSTRUCTION AND SEVERABILITY

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

## SECTION 15. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

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

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

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

**Source:** Laws 2022, LB752, § 1.

**Effective Date:** July 21, 2022

## STATUTES PERTAINING TO THE PRACTICE OF SOCIAL WORK

**71-1,244 to 71-1,247. Repealed.** Laws 1993, LB 669, §62.

**71-1,248. Transferred** to section 71-1,311.

**71-1,249. Transferred** to section 71-1,300.

**71-1,250. Transferred** to section 71-1,303.

**71-1,251. Transferred** to section 71-1,301.

**71-1,252. Transferred** to section 71-1,304.

**71-1,253 and 71-1,254. Repealed.** Laws 1993, LB 669, §62.

**71-1,255. Transferred** to section 71-1,297.

**71-1,256. Transferred** to section 71-1,318.

**71-1,257. Repealed.** Laws 1993, LB 669, §62.

**71-1,258. Transferred** to section 71-1,319.

**71-1,259. Repealed.** Laws 1993, LB 669, §62.

**71-1,260 and 71-1,261. Transferred** to sections 71-1,320 and 1,321.

**71-1,262. Repealed.** Laws 1993, LB 669, §62.

**71-1,263 and 71-1,264. Transferred** to sections 71-1,322 and 71-1,323.

## STATUTES PERTAINING TO THE PRACTICE OF PROFESSIONAL COUNSELING

**71-1,265. Repealed.** Laws 1993, LB 669, §62.

**71-1,266. Transferred** to section 71-1,310.

**71-1,267. Transferred** to section 71-1,324.

**71-1,268. Repealed.** Laws 1993, LB 669, §62.

**71-1,269. Transferred** to section 71-1,325.

**71-1,270. Transferred** to section 71-1,333.

**71-1,271. Repealed.** Laws 1993, LB 669, §62.

**71-1,272. Repealed.** Laws 1988, LB 1100, §185.

**71-1,273. Transferred** to section 71-1,326.

**71-1,274. Repealed.** Laws 1993, LB 669, §62.

**71-1,275. Transferred** to section 71-1,327.

**71-1,276. Repealed.** Laws 1988, LB 1100, §185.

**71-1,277. Transferred** to section 71-1,328.

## STATUTES PERTAINING TO MENTAL HEALTH PRACTITIONERS

**71-1,295. Transferred** to section 38-2102.

**71-1,296. Transferred** to section 38-2103.

**71-1,297. Transferred** to section 38-2104.

**71-1,298. Transferred** to section 38-2105.

71-1,299. **Transferred** to section 38-2106.  
71-1,300. **Transferred** to section 38-2107.  
71-1,301. **Transferred** to section 38-2108.  
71-1,302. **Transferred** to section 38-2109.  
71-1,303. **Transferred** to section 38-2110.  
71-1,304. **Transferred** to section 38-2111.  
71-1,305. **Transferred** to section 38-2112.  
71-1,305.01. **Transferred** to section 38-2113.  
71-1,306. **Transferred** to section 38-2114.  
71-1,307. **Transferred** to section 38-2115.  
71-1,308. **Transferred** to section 38-2116.  
71-1,309. **Transferred** to section 38-2117.  
71-1,310. **Transferred** to section 38-2118.  
71-1,311. **Transferred** to section 38-2119.  
71-1,312. **Transferred** to section 38-2121.  
71-1,313. **Repealed.** Laws 2007, LB 463, § 1319.  
71-1,314. **Transferred** to section 38-2122.  
71-1,314.01. **Transferred** to section 38-2123.  
71-1,314.02. **Transferred** to section 38-2124.  
71-1,315. **Repealed.** Laws 2007, LB 247 § 91 and LB 463, § 1319.  
71-1,316. **Repealed.** Laws 2007, LB 247 § 91 and LB 463, § 1319.  
71-1,317. **Transferred** to section 38-2126.  
71-1,318. **Transferred** to section 38-2127.  
71-1,319. **Transferred** to section 38-2128.  
71-1,319.01. **Transferred** to section 38-2129.  
71-1,320. **Repealed.** Laws 2007, LB 463, § 1319.  
71-1,321. **Repealed.** Laws 2007, LB 463, § 1319.  
71-1,322. **Repealed.** Laws 2007, LB 463, § 1319.  
71-1,323. **Transferred** to section 38-2131.  
71-1,324. **Repealed.** Laws 2007, LB 463, § 1319.  
71-1,325. **Transferred** to section 38-2132.  
71-1,326. **Repealed.** Laws 2007, LB 463, § 1319.  
71-1,327. **Repealed.** Laws 2007, LB 463, § 1319.  
71-1,328. **Repealed.** Laws 2007, LB 463, § 1319.  
71-1,329. **Transferred** to section 38-2133.  
71-1,330. **Repealed.** Laws 2007, LB 463, § 1319.  
71-1,331. **Repealed.** Laws 2007, LB 463, § 1319.  
71-1,332. **Transferred** to section 38-2134.  
71-1,333. **Repealed.** Laws 2007, LB 247 § 91 and LB 463, § 1319.  
71-1,334. **Repealed.** Laws 2003, LB 242, §154.  
71-1,335. **Transferred** to section 38-2136.  
71-1,336. **Transferred** to section 38-2137.  
71-1,337. **Transferred** to section 38-2138.  
71-1,338. **Repealed.** Laws 2007, LB 247 § 91 and LB 463, § 1319.