

2022 Regular Session

HOUSE BILL NO. 582

BY REPRESENTATIVE STAGNI

COUNSELORS/MENTAL HEALTH: Joins Louisiana to the licensed professional counselors interstate compact

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AN ACT

To amend and reenact R.S. 37:1103(introductory paragraph) and to enact R.S. 37:1131 through 1145, relative to adding the state of Louisiana to the Licensed Professional Counselors Interstate Compact; to provide for the increase of public access to professional counseling services; to provide for the enhancement of public health and safety; to provide for multistate practice regulations; to provide for spousal support for relocating active duty military personnel; to provide for the exchange of licensure among member states; to provide for use of telehealth technology; to provide for uniformity of professional counseling licensure requirements; to eliminate the requirement for licenses in multiple states, to provide for opportunities for interstate practice by licensed professional counselors who meet uniform licensure requirements; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:1103(introductory paragraph) is hereby amended and reenacted and R.S. 37:1131 through 1145 are hereby enacted to read as follows:

§1103. Definitions

As used in this ~~Chapter~~ Part, the following terms have the meaning ascribed to them in this Section:

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1 §1131. Purpose

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

8 B. This compact is designed to achieve the following objectives:

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

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

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

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

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

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

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

21 (8) Invest all member states with the authority to hold a licensed professional
22 counselor accountable for meeting all state practice laws in the state in which the
23 client is located at the time care is rendered through the mutual recognition of
24 member state licenses.

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

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

1 §1132. Definitions

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

4 (1) "Active duty military" means full-time duty status in the active
5 uniformed service of the United States, including members of the National Guard
6 and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.

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

14 (3) "Alternative program" means a non disciplinary monitoring or practice
15 remediation process approved by a professional counseling licensing board to
16 address impaired practitioners.

17 (4) "Continuing competence" or "continuing education" means a
18 requirement, as a condition of license renewal, to provide evidence of participation
19 in, or completion of, educational and professional activities relevant to practice or
20 area of work.

21 (5) "Counseling Compact Commission" or "commission" means the national
22 administrative body whose membership consists of all states that have enacted the
23 compact.

24 (6) "Current significant investigative information" means either of the
25 following:

26 (a) Investigative information that a licensing board, after a preliminary
27 inquiry that includes notification and an opportunity for the licensed professional
28 counselor to respond, if required by state law, has reason to believe is not groundless
29 and, if proved true, would indicate more than a minor infraction.

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

5 (7) "Data system" means a repository of information about licensees,
6 including, but not limited to, continuing education, examination, licensure,
7 investigative, privilege to practice and adverse action information.

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

11 (9) "Encumbrance" means a revocation or suspension of, or any limitation
12 on, the full and unrestricted practice of licensed professional counseling by a
13 licensing board.

14 (10) "Executive committee" means a group of directors elected or appointed
15 to act on behalf of, and within the powers granted to them by, the commission.

16 (11) "Home state" means the member state that is the licensee's primary
17 state of residence.

18 (12) "Impaired practitioner" means an individual who has a condition(s) that
19 may impair their ability to practice as a licensed professional counselor without some
20 type of intervention and may include, but are not limited to, alcohol and drug
21 dependence, mental health impairment, and neurological or physical impairments.

22 (13) "Investigative information" means information, records, and documents
23 received or generated by a professional counseling licensing board pursuant to an
24 investigation.

25 (14) "Jurisprudence requirement", if required by a member state, means the
26 assessment of an individual's knowledge of the laws and rules governing the practice
27 of professional counseling in a state.

1 (15) "Licensed professional counselor" shall mean a counselor licensed by
2 a member state, regardless of the title used by that state, to independently assess,
3 diagnose, and treat behavioral health conditions.

4 (16) "Licensee" means an individual who currently holds an authorization
5 from the state to practice as a licensed professional counselor.

6 (17) "Licensing board" means the agency of a state, or equivalent, that is
7 responsible for the licensing and regulation of licensed professional counselors.

8 (18) "Member state" means a state that has enacted the compact.

9 (19) "Privilege to practice" means a legal authorization, which is equivalent
10 to a license, permitting the practice of professional counseling in a remote state.

11 (20) "Professional counseling" means the assessment, diagnosis, and
12 treatment of behavioral health conditions by a licensed professional counselor.

13 (21) "Remote state" means a member state other than the home state, where
14 a licensee is exercising or seeking to exercise the privilege to practice.

15 (22) "Rule" means a regulation promulgated by the commission that has the
16 force of law.

17 (23) "Single state license" means a licensed professional counselor license
18 issued by a member state that authorizes practice only within the issuing state and
19 does not include a privilege to practice in any other member state.

20 (24) "State" means any state, commonwealth, district, or territory of the
21 United States of America that regulates the practice of professional counseling.

22 (25) "Telehealth" means the application of telecommunication technology
23 to deliver professional counseling services remotely to assess, diagnose, and treat
24 behavioral health conditions.

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

28 §1133. State participation in the compact

29 A. To participate in the compact, a state shall currently:

- 1 (1) License and regulate licensed professional counselor.
- 2 (2) Require licensees to pass a nationally recognized exam approved by the
3 commission.
- 4 (3) Require licensees to have a sixty-hour master's degree in counseling or
5 sixty hours of graduate course work in the following areas:
- 6 (a) Professional counseling orientation and ethical practice.
- 7 (b) Social and cultural diversity.
- 8 (c) Human growth and development.
- 9 (d) Career development.
- 10 (e) Counseling and helping relationships.
- 11 (f) Group counseling and group work.
- 12 (g) Assessment and testing.
- 13 (h) Research and program evaluation.
- 14 (4) Require licensees to complete a supervised postgraduate professional
15 experience as defined by the commission.
- 16 (5) Have a mechanism in place for receiving and investigating complaints
17 about licensees.
- 18 B. A member state shall:
- 19 (1) Participate fully in the commission's data system, including using the
20 commission's unique identifier as defined in rules.
- 21 (2) Notify the commission, in compliance with the terms of the compact and
22 rules, of any adverse action or the availability of investigative information regarding
23 a licensee.
- 24 (3)(a) Implement or utilize procedures for considering the criminal history
25 records of applicants for an initial privilege to practice. These procedures shall
26 include the submission of fingerprints or other biometric-based information by
27 applicants for the purpose of obtaining an applicant's criminal history record
28 information from the Federal Bureau of Investigation and the agency responsible for
29 retaining that state's criminal records.

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

5 (c) Communication between a member state, the commission, and among
6 member states regarding the verification of eligibility for licensure through the
7 compact shall not include any information received from the Federal Bureau of
8 Investigation relating to a federal criminal records check performed by a member
9 state under Public Law 92-544.

10 (4) Comply with the rules of the commission.

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

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

17 (7) Provide for the state commissioner's attendance of the Counseling
18 Compact Commission meetings.

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

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

25 E. Nothing in this compact shall affect the requirements established by a
26 member state for the issuance of a single state license.

27 F. A license issued to a licensed professional counselor by a home state to
28 a resident in that state shall be recognized by each member state as authorizing a

1 licensed professional counselor to practice professional counseling, under a privilege
2 to practice, in each member state.

3 §1134. Privilege to practice

4 A. To exercise the privilege to practice under the terms and provisions of the
5 compact, the licensee shall do all of the following:

6 (1) Hold a license in the home state.

7 (2) Have no encumbrances on any state license.

8 (3) Have a valid United States Social Security Number or National
9 Practitioner Identifier.

10 (4) Be eligible for a privilege to practice in any member state in accordance
11 with Subsections D, G, and H of this Section.

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

14 (6) Notify the commission that the licensee is seeking the privilege to
15 practice within a remote state.

16 (7) Meet any continuing competence or continuing education requirements
17 established by the home state

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

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

22 (10) Report to the commission any adverse action, encumbrance, or
23 restriction on license taken by any non-member state within thirty days from the date
24 the action is taken.

25 B. The privilege to practice is valid until the expiration date of the home
26 license. The licensee shall comply with the requirements of Subsection A of this
27 Section to maintain the privilege to practice in the remote state.

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

1 D. A licensee providing professional counseling services in a remote state
2 is subject to that state’s regulatory authority. A remote state may, in accordance with
3 due process and that state’s laws, remove a licensee’s privilege to practice in the
4 remote state for a specific period of time, impose fines, and take any other necessary
5 actions to protect the health and safety of its citizens. The licensee is not eligible for
6 a privilege to practice in any member state until the specific time for removal has
7 passed and all fines are paid.

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

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

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

13 F. Once an encumbered license in the home state is restored to good
14 standing, the licensee shall meet the requirements of Subsection A of the Section to
15 obtain a privilege to practice in any remote state.

16 G. If a licensee’s privilege to practice in any remote state is removed, the
17 licensee shall lose the privilege to practice in all other remote states until all of the
18 following have occurred:

19 (1) The specific period of time for which the privilege to practice was
20 removed has ended.

21 (2) All fines have been paid.

22 (3) The licensee has not had any encumbrance or restriction against any
23 license or privilege to practice within the previous two years.

24 H. Once the requirements of Subsection G of this Section have been met, the
25 licensee shall meet the requirements in Subsection A of this Section to obtain a
26 privilege to practice in a remote state.

27 §1135. Obtaining a new home state license based upon the privilege to practice

28 A. A licensed professional counselor may hold a license issued by the home
29 state, which allows for a privilege to practice, in only one member state at a time.

1 B. If a licensed professional counselor changes his primary state of residence
2 by moving between two member states:

3 (1) The licensed professional counselor shall file an application for obtaining
4 a new home state license based on a privilege to practice, pay all applicable fees, and
5 notify the current and new home state in accordance with applicable rules adopted
6 by the commission.

7 (2) Upon receipt of an application for obtaining a new home state license by
8 virtue of a privilege to practice, the new home state shall verify that the licensed
9 professional counselor meets the pertinent criteria outlined in Section 4 via the data
10 system, without need for primary source verification except for:

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

14 (b) Other criminal background checks as required by the new home state.

15 (c) Completion of any requisite jurisprudence requirements of the new home
16 state.

17 (3) The former home state shall convert the former home state license into
18 a privilege to practice once the new home state has activated the new home state
19 license in accordance with applicable rules adopted by the commission.

20 (4) If a licensed professional counselor does not meet the criteria for a
21 privilege to practice described in R.S. 37:1134, the new home state for the licensed
22 professional counselor shall apply its requirements for issuing a new single-state
23 license.

24 (5) The licensed professional counselor who obtains a new home state
25 license by the criteria described in this Section shall pay all applicable fees to the
26 new home state in order to be issued a new home state license.

27 C. If a licensed professional counselor changes his primary state of residence
28 by moving from a member state to a non-member state, or from a non-member state

1 to a member state, the state criteria shall apply for issuance of a single-state license
2 in the new state.

3 D. Nothing in this compact shall interfere with a licensee's ability to hold a
4 single-state license in multiple states; however for the purposes of this compact, a
5 licensee shall have only one home state license.

6 E. Nothing in this Section shall affect the requirements established by a
7 member state for the issuance of a single-state license.

8 §1136. Active duty military personnel or his spouses

9 Active duty military personnel, or the spouse of an active duty member of the
10 military, shall designate a home state where the individual has a current license in
11 good standing. The individual may retain the home state designation during the
12 period the service member is on active duty. Subsequent to designating a home state,
13 the individual shall only change his home state through application for licensure in
14 the new state.

15 §1137. Compact privilege to practice telehealth

16 A. Member states shall recognize the right of a licensed professional
17 counselor, licensed by a home state in accordance with R.S.37:1133 and under rules
18 promulgated by the commission, to practice professional counseling in any member
19 state via telehealth under a privilege to practice as provided in the compact and rules
20 promulgated by the commission.

21 B. A licensee providing professional counseling services in a remote state
22 under the privilege to practice shall adhere to the laws and regulations of the remote
23 state.

24 §1138. Adverse actions

25 A.(1) In addition to the other powers conferred by state law, a remote state
26 shall have the authority, in accordance with the existing state due process law, to:

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

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

10 (2) Only the home state shall have the power to take adverse action against
11 a licensed professional counselor's license issued by the home state.

12 B. For purposes of taking adverse action, the home state shall give the same
13 priority and effect to reported conduct received from a member state as it would if
14 the conduct had occurred within the home state. In so doing, the home state shall
15 apply its own state laws to determine appropriate action.

16 C. The home state shall complete any pending investigations of a licensed
17 professional counselor who changes his primary state of residence during the course
18 of the investigations. The home state shall also have the authority to take appropriate
19 action and shall promptly report the conclusions of the investigations to the
20 administrator of the data system. The administrator of the coordinated licensure
21 information system shall promptly notify the new home state of any adverse actions.

22 D. A member state, if otherwise permitted by state law, may recover from
23 the affected licensed professional counselor the costs of investigations and
24 disposition of cases resulting from any adverse action taken against that licensed
25 professional counselor.

26 E. A member state may take adverse action based on the factual findings of
27 the remote state, provided that the member state follows its own procedures for
28 taking the adverse action.

29 F. Joint Investigations:

1 (1) In addition to the authority granted to a member state by its respective
2 professional counseling practice act or other applicable state law, any member state
3 may participate with other member states in joint investigations of licensees.

4 (2) Member states shall share any investigative, litigation, or compliance
5 materials in furtherance of any joint or individual investigation initiated under the
6 compact.

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

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

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

19 §1139. Establishment of Counseling Compact Commission

20 A.(1) The compact member states hereby create and establish a joint public
21 agency known as the Counseling Compact Commission.

22 (2) The commission is an instrumentality of the compact states.

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

28 (4) Nothing in this Section shall be construed to be a waiver of sovereign
29 immunity.

1 B. All of the following provisions shall apply to the membership, voting, and
2 meeting of the commission:

3 (1) Each member state shall have and be limited to one delegate selected by
4 that member state's licensing board.

5 (2) The delegate shall be a current member of the licensing board at the time
6 of appointment, who is a licensed professional counselor, public member, or the
7 board administrator.

8 (3) Any delegate may be removed or suspended from office as provided by
9 the laws of the state from which the delegate is appointed.

10 (4) The member state licensing board shall fill any vacancy occurring on the
11 commission within sixty days.

12 (5) Each delegate shall be entitled to one vote with regard to the
13 promulgation of rules and creation of bylaws and shall otherwise have an opportunity
14 to participate in the business and affairs of the commission.

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

18 (7) The commission shall meet at least once during each calendar year.
19 Additional meetings shall be held as set forth in the bylaws.

20 (8) The commission shall by rule establish a term of office for delegates and
21 may by rule establish term limits.

22 C. The commission shall have power to carry out all of the following duties:

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

24 (2) Establish bylaws.

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

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

28 (5) Promulgate rules which shall be binding to the extent and in the manner
29 provided for in the compact.

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

4 (7) Purchase and maintain insurance and bonds.

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

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

12 (10) Accept any and all appropriate donations and grants of money,
13 equipment, supplies, materials, and services and to receive, utilize, and dispose of
14 the same; provided that at all times the commission shall avoid any appearance of
15 impropriety or conflict of interest.

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

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

21 (13) Establish a budget and make expenditures.

22 (14) Borrow money.

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

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

29 (17) Establish and elect an executive committee.

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

4 D. The executive committee shall have the power to act on behalf of the
5 commission according to the terms of this Section, including all of the following
6 terms:

7 (1)(a) The executive committee shall be composed of up to eleven members.

8 (b) Seven voting members shall be elected by the commission from the
9 current membership of the commission.

10 (c) Up to four ex-officio, nonvoting members shall be from four recognized
11 national professional counselor organizations.

12 (d) The ex-officio members will be selected by their respective
13 organizations.

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

16 (3) The executive committee shall meet at least annually.

17 (4) The executive committee shall have the following duties and
18 responsibilities, including all of the following:

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

23 (b) Ensure compact administration services are appropriately provided,
24 contractual or otherwise.

25 (c) Prepare and recommend the budget.

26 (d) Maintain financial records on behalf of the commission.

27 (e) Monitor compact compliance of member states and provide compliance
28 reports to the commission.

29 (f) Establish additional committees as necessary.

1 (g) Other duties, as provided in rules or bylaws.

2 (5) Meetings of the commission.

3 (a) All meetings shall be open to the public, and public notice of meetings
4 shall be given in the same manner as required under the rulemaking provisions in
5 R.S. 37:1141.

6 (b) The commission or the executive committee or other committees of the
7 commission may convene in a closed, non-public meeting if the commission or
8 executive committee or other committees of the commission discuss any of the
9 following:

10 (i) Non-compliance of a member state with its obligations under the
11 compact.

12 (ii) The employment, compensation, discipline or other matters, practices,
13 or procedures related to specific employees or other matters related to the
14 commission's internal personnel practices and procedures.

15 (iii) Current, threatened, or reasonably anticipated litigation.

16 (iv) Negotiation of contracts for the purchase, lease, or sale of goods,
17 services, or real estate.

18 (v) Accusing any person of a crime or formally censuring any person.

19 (vi) Disclosure of trade secrets or commercial or financial information that
20 is privileged or confidential.

21 (vii) Disclosure of information of a personal nature where disclosure would
22 constitute a clearly unwarranted invasion of personal privacy.

23 (viii) Disclosure of investigative records compiled for law enforcement
24 purposes.

25 (ix) Disclosure of information related to any investigative reports prepared
26 by or on behalf of or for use of the commission or other committee charged with
27 responsibility of investigation or determination of compliance issues pursuant to this
28 Section.

1 (x) Matters specifically exempted from disclosure by federal or member state
2 statute.

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

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

13 (6) Financing of the commission

14 (a) The commission shall pay, or provide for the payment of, the reasonable
15 expenses of its establishment, organization, and ongoing activities.

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

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

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

28 (e) The commission shall keep accurate accounts of all receipts and
29 disbursements. The receipts and disbursements of the commission shall be subject

1 to the audit and accounting procedures established under its bylaws. However, all
2 receipts and disbursements of funds handled by the commission shall be audited
3 yearly by a certified or licensed public accountant, and the report of the audit shall
4 be included in and become part of the annual report of the commission.

5 (7) All of the following provisions relating to qualified immunity, defense,
6 and indemnification shall apply to the commission:

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

17 (b) The commission shall defend any member, officer, executive director,
18 employee, or representative of the commission in any civil action seeking to impose
19 liability arising out of any actual or alleged act, error, or omission that occurred
20 within the scope of commission employment, duties, or responsibilities, or that the
21 person against whom the claim is made had a reasonable basis for believing occurred
22 within the scope of commission employment, duties, or responsibilities; provided
23 that nothing in this Subparagraph shall be construed to prohibit that person from
24 retaining his own counsel; and provided further, that the actual or alleged act, error,
25 or omission did not result from that person's intentional or willful or wanton
26 misconduct.

27 (c) The commission shall indemnify and hold harmless any member, officer,
28 executive director, employee, or representative of the commission for the amount of
29 any settlement or judgment obtained against that person arising out of any actual or

1 alleged act, error, or omission that occurred within the scope of commission
2 employment, duties, or responsibilities, or that such person had a reasonable basis
3 for believing occurred within the scope of commission employment, duties, or
4 responsibilities, provided that the actual or alleged act, error, or omission did not
5 result from the intentional, willful, or wanton misconduct of that person.

6 §1140. Data system

7 A. The commission shall provide for the development, maintenance, and
8 utilization of a coordinated database and reporting system containing licensure,
9 adverse action, and investigative information on all licensed individuals in member
10 states.

11 B. Notwithstanding any other provision of state law to the contrary, a
12 member state shall submit a uniform data set to the data system on all individuals to
13 whom this compact is applicable as required by the rules of the commission,
14 including all of the following:

15 (1) Identifying information.

16 (2) Licensure data.

17 (3) Adverse actions against a license or privilege to practice.

18 (4) Non-confidential information related to alternative program participation.

19 (5) Any denial of application for licensure, and the reason for such denial.

20 (6) Other information that may facilitate the administration of this compact,

21 as determined by the rules of the commission.

22 (7) Current significant investigative information.

23 C. Investigative information pertaining to a licensee in any member state
24 shall only be available to other member states.

25 D. The commission shall promptly notify all member states of any adverse
26 action taken against a licensee or an individual applying for a license. Adverse action
27 information pertaining to a licensee in any member state shall be available to any
28 other member state.

1 E. Member states contributing information to the data system may designate
2 information that may not be shared with the public without the express permission
3 of the contributing state.

4 F. Any information submitted to the data system that is subsequently
5 required to be expunged by the laws of the member state contributing the
6 information shall be removed from the data system.

7 §1141. Rulemaking

8 A. The commission shall promulgate reasonable rules in order to effectively
9 and efficiently achieve the purpose of the compact. Notwithstanding the foregoing,
10 in the event the commission exercises its rulemaking authority in a manner that is
11 beyond the scope of the purposes of the compact, or the powers granted hereunder,
12 then such an action by the commission shall be invalid and have no force or effect.

13 B. The commission shall exercise its rulemaking powers pursuant to the
14 criteria set forth in this Section and the rules adopted in accordance with this Section.
15 Rules and amendments shall become binding as of the date specified in each rule or
16 amendment.

17 C. If a majority of the legislatures of the member states rejects a rule, by
18 enactment of a statute or resolution in the same manner used to adopt the compact
19 within four years of the date of adoption of the rule, then such rule shall have no
20 further force and effect in any member state.

21 D. Rules or amendments to the rules shall be adopted at a regular or special
22 meeting of the commission.

23 E. Prior to promulgation and adoption of a final rule or rules by the
24 commission, and at least thirty days in advance of the meeting at which the rule will
25 be considered and voted upon, the commission shall file a notice of proposed
26 rulemaking in all of the following areas:

27 (1) On the website of the commission or other publicly accessible platform.

1 (2) On the website of each member state's professional counseling licensing
2 board or other publicly accessible platform or the publication in which each state
3 would otherwise publish proposed rules.

4 F. The notice of proposed rulemaking shall include all of the following:

5 (1) The proposed time, date, and location of the meeting in which the rule
6 will be considered and voted upon.

7 (2) The text of the proposed rule or amendment and the reason for the
8 proposed rule.

9 (3) A request for comments on the proposed rule from any interested person.

10 (4) The manner in which interested persons may submit notice to the
11 commission of their intention to attend the public hearing and any written comments.

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

15 H. The commission shall grant an opportunity for a public hearing before it
16 adopts a rule or amendment if a hearing is requested by any of the following parties:

17 (1) At least twenty-five persons.

18 (2) A state or federal governmental subdivision or agency.

19 (3) An association having at least twenty-five members.

20 I.(1) If a hearing is held on the proposed rule or amendment, the commission
21 shall publish the place, time, and date of the scheduled public hearing. If the hearing
22 is held via electronic means, the commission shall publish the mechanism for access
23 to the electronic hearing.

24 (2) All persons wishing to be heard at the hearing shall notify the executive
25 director of the commission or other designated member in writing of their desire to
26 appear and testify at the hearing no less than five business days before the scheduled
27 date of the hearing.

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

4 (4) All hearings shall be recorded. A copy of the recording shall be made
5 available on request.

6 (5) Nothing in this section shall be construed as requiring a separate hearing
7 on each rule. Rules may be grouped for the convenience of the commission at
8 hearings required by this section.

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

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

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

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

25 (1) Meet an imminent threat to public health, safety, or welfare.

26 (2) Prevent a loss of commission or member state funds.

27 (3) Meet a deadline for the promulgation of an administrative rule that is
28 established by federal law or rule.

29 (4) Protect public health and safety.

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

11 §1142. Oversight; dispute resolution; enforcement

12 All of the following provisions shall apply with respect to the compact:

13 (1) The executive, legislative, and judicial branches of state government in
14 each member state shall enforce this compact and take all actions necessary and
15 appropriate to effectuate the compact's purposes and intent. The provisions of this
16 compact and the rules promulgated hereunder shall have standing as statutory law.

17 (2) All courts shall take judicial notice of the compact and the rules in any
18 judicial or administrative proceeding in a member state pertaining to the subject
19 matter of this compact which may affect the powers, responsibilities, or actions of
20 the commission.

21 (3) The commission shall be entitled to receive service of process in any
22 such proceeding and shall have standing to intervene in the proceeding for all
23 purposes. Failure to provide service of process to the commission shall render a
24 judgment or order void as to the commission, this compact, or promulgated rules.

25 B.(1) All of the following provisions relative to default, technical assistance,
26 and termination shall apply with respect to default, technical assistance, and
27 termination:

1 (2) If the commission determines that a member state has defaulted in the
2 performance of its obligations or responsibilities under this compact or the
3 promulgated rules, the commission shall do all of the following:

4 (a) Provide written notice to the defaulting state and other member states of
5 the nature of the default, the proposed means of curing the default, and any other
6 action to be taken by the commission.

7 (b) Provide remedial training and specific technical assistance regarding the
8 default.

9 C. If a state in default fails to cure the default, the defaulting state may be
10 terminated from the compact upon an affirmative vote of a majority of the member
11 states, and all rights, privileges, and benefits conferred by this compact may be
12 terminated on the effective date of termination. A cure of the default does not
13 relieve the offending state of obligations or liabilities incurred during the period of
14 default.

15 D. Termination of membership in the compact shall be imposed only after
16 all other means of securing compliance have been exhausted. Notice of intent to
17 suspend or terminate shall be given by the commission to the governor, the majority
18 and minority leaders of the defaulting state's legislature, and each of the member
19 states.

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

23 F. The commission shall not bear any costs related to a state that is found to
24 be in default or that has been terminated from the compact, unless agreed upon in
25 writing between the commission and the defaulting state.

26 G. The defaulting state may appeal the action of the commission by
27 petitioning the United States District Court for the District of Columbia or the federal
28 district where the commission has its principal offices. The prevailing member shall
29 be awarded all costs of such litigation, including reasonable attorney fees.

1 H. All of the following dispute resolution requirements shall apply to the
2 commission:

3 (1) Upon request by a member state, the commission shall attempt to resolve
4 disputes related to the compact that arise among member states and between member
5 and non-member states.

6 (2) The commission shall promulgate a rule providing for both mediation
7 and binding dispute resolution for disputes as appropriate.

8 I. All of the following provisions relating to enforcement shall apply with
9 respect to the commission and the compact:

10 (1) The commission, in the reasonable exercise of its discretion, shall enforce
11 the provisions and rules of this compact.

12 (2) By majority vote, the commission may initiate legal action in the United
13 States District Court for the District of Columbia or the federal district where the
14 commission has its principal offices against a member state in default to enforce
15 compliance with the provisions of the compact and its promulgated rules and bylaws.
16 The relief sought may include both injunctive relief and damages. In the event
17 judicial enforcement is necessary, the prevailing member shall be awarded all costs
18 of such litigation, including reasonable attorney fees.

19 (3) The remedies herein shall not be the exclusive remedies of the
20 commission. The commission may pursue any other remedies available under
21 federal or state law.

22 §1143. Date of implementation of the commission for counseling profession
23 compact, practice and associate rules, withdrawal, and amendment

24 A. The compact shall come into effect on the date on which the compact
25 statute is enacted into law in the tenth member state. The provisions, which become
26 effective at that time, shall be limited to the powers granted to the commission
27 relating to assembly and the promulgation of rules. Thereafter, the commission shall
28 meet and exercise rulemaking powers necessary for the implementation and
29 administration of the compact.

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

6 C.(1) Any member state may withdraw from this compact by enacting a
7 statute repealing the statute.

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

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

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

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

21 §1144. Construction and severability

22 This compact shall be liberally construed so as to effectuate its purposes. The
23 provisions of this compact shall be severable and if any phrase, clause, sentence, or
24 provision of this compact is declared to be contrary to the constitution of any
25 member state or of the United States or the applicability thereof to any government,
26 agency, person, or circumstance is held invalid, the validity of the remainder of this
27 compact and the applicability thereof to any government, agency, person or
28 circumstance shall not be affected thereby. If this compact shall be held contrary to
29 the constitution of any member state, the compact shall remain in full force and

1 effect as to the remaining member states and in full force and effect as to the member
2 state affected as to all severable matters.

3 §1145. Binding effect of compact and other laws

4 A. A licensee providing professional counseling services in a remote state
5 under the privilege to practice shall adhere to the laws and regulations of the remote
6 state.

7 B. Nothing in this Part shall prevent the enforcement of any other law of a
8 member state that is not inconsistent with the compact.

9 C. Any laws of a member state in conflict with the compact are superseded
10 to the extent of the conflict.

11 D. Any lawful actions of the commission, including all rules and bylaws
12 promulgated by the commission, are binding upon the member states.

13 E. All agreements between the commission and the member states are
14 binding in accordance with their terms.

15 F. In the event any provision of the compact exceeds the constitutional limits
16 imposed on the legislature of any member state, the provision shall be ineffective to
17 the extent of the conflict with the constitutional provision in question in that member
18 state.

19 Section 2. (A) The Louisiana State Law Institute is hereby directed to designate R.S.
20 37:1101 and 1102 as Part I of Chapter 13 of Title 37 of the Louisiana Revised Statutes of
21 1950, and is further directed to apply to the Part the heading "Short title and purpose".

22 (B) The Louisiana State Law Institute is hereby directed to designate R.S. 37:1103
23 through 1123 as Part II of Chapter 13 of Title 37 of the Louisiana Revised Statutes of 1950,
24 and is further directed to apply to the Part the heading "Mental Health Counselor Licensing -
25 General Provisions".

26 (C) The Louisiana State Law Institute is hereby directed to designate R.S. 37:1131
27 through 1145, as enacted by Section 1 of this Act, as Part III of Chapter 13 of the Louisiana
28 Revised Statutes of 1950, and is further directed to apply to the Part the heading "Mental
29 Health Counselor Licensure Compact".

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 582 Original

2022 Regular Session

Stagni

Abstract: Adds Louisiana to the Licensed Professional Counselor Interstate Compact.

Proposed law allows Louisiana to join the Licensed Professional Counselor Interstate Compact.

Proposed law provides for Louisiana, as a participating state, to adopt the same uniform professional counseling licensure requirements as the states in the Licensed Professional Counselor Interstate Compact.

Proposed law eliminates the requirement for licenses in multiple states.

Proposed law provides for multistate practice regulations and the exchange of licensure among member states.

Proposed law provides for spousal support for relocating active duty military personnel.

Proposed law establishes telehealth technology for states in the Licensed Professional Counselor Interstate Compact.

(Amends R.S. 37:1103(intro. para.); Adds R.S. 37:1131-1145)