

Sixty-ninth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1035

Introduced by

Legislative Management

(Workforce Committee)

1 A BILL for an Act to create and enact chapter 43-41.1 of the North Dakota Century Code,
2 relating to adoption of the social work licensure compact.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** Chapter 43-41.1 of the North Dakota Century Code is created and enacted as
5 follows:

6 **43-41.1-01. Social work licensure compact.**

7 The social work licensure compact is entered with all states legally joining the compact, in
8 the form substantially as follows:

9 **ARTICLE I - PURPOSE**

- 10 1. The purpose of this compact is to facilitate interstate practice of regulated social
11 workers by improving public access to competent social work services.
- 12 2. The compact preserves the regulatory authority of states to protect public health and
13 safety through the current system of state licensure.
- 14 3. This compact is designed to:
- 15 a. Increase public access to social work services;
- 16 b. Reduce overly burdensome and duplicative requirements associated with holding
17 multiple licenses;
- 18 c. Enhance the member states' ability to protect the public's health and safety;
- 19 d. Encourage the cooperation of member states in regulating multistate practice;
- 20 e. Promote mobility and address workforce shortages by eliminating the necessity
21 for licenses in multiple states by providing for the mutual recognition of other
22 member state licenses;
- 23 f. Support military families;

- g. Facilitate the exchange of licensure and disciplinary information among member states;
- h. Authorize all member states to hold a regulated social worker accountable for abiding by a member state's laws, regulations, and applicable professional standards in the member state in which the client is located at the time care is rendered; and
- i. Allow for the use of telehealth to facilitate increased access to regulated social work services.

ARTICLE II - DEFINITIONS

As used in this compact:

1. "Active military member" means any individual with full-time duty status in the active armed forces of the United States, including members of the national guard and reserve.
2. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing authority or other authority against a regulated social worker, including actions against an individual's license or multistate authorization to practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a regulated social worker's authorization to practice, including issuance of a cease and desist action.
3. "Alternative program" means a nondisciplinary monitoring or practice remediation process approved by a licensing authority to address practitioners with an impairment.
4. "Charter member states" means member states that have enacted legislation to adopt this compact where the legislation predates the effective date of this compact as described in article XIV.
5. "Compact commission" or "commission" means the government agency whose membership consists of all states that have enacted this compact, which is known as the social work licensure compact commission, as described in article X, and which operates as an instrumentality of the member states.
6. "Current significant investigative information" means:

- 1 a. Investigative information that a licensing authority, after a preliminary inquiry that
2 includes notification and an opportunity for the regulated social worker to
3 respond, has reason to believe is not groundless and, if proved true, would
4 indicate more than a minor infraction as defined by the commission; or
5 b. Investigative information that indicates the regulated social worker represents an
6 immediate threat to public health and safety, as defined by the commission,
7 regardless of whether the regulated social worker has been notified and has had
8 an opportunity to respond.
- 9 7. "Data system" means a repository of information about licensees, including continuing
10 education, examination, licensure, current significant investigative information,
11 disqualifying event, multistate licenses, and adverse action information or other
12 information as required by the commission.
- 13 8. "Disqualifying event" means any adverse action or incident which results in an
14 encumbrance that disqualifies or makes the licensee ineligible to either obtain, retain,
15 or renew a multistate license.
- 16 9. "Domicile" means the jurisdiction where the licensee resides and intends to remain
17 indefinitely.
- 18 10. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and
19 unrestricted practice of social work licensed and regulated by a licensing authority.
- 20 11. "Executive committee" means a group of delegates elected or appointed to act on
21 behalf of, and within the powers granted to the delegates by, the compact and
22 commission.
- 23 12. "Home state" means the member state that is the licensee's primary domicile.
- 24 13. "Impairment" means a condition that may impair a practitioner's ability to engage in full
25 and unrestricted practice as a regulated social worker without some type of
26 intervention and may include alcohol and drug dependence, mental health impairment,
27 and neurological or physical impairments.
- 28 14. "Licensee" means an individual who holds a license from a state to practice as a
29 regulated social worker.
- 30 15. "Licensing authority" means the board or agency of a member state, or equivalent,
31 which is responsible for the licensing and regulation of regulated social workers.

- 1 16. "Member state" means a state, commonwealth, district, or territory of the United States
2 that has enacted this compact.
- 3 17. "Multistate authorization to practice" means a legally authorized privilege to practice,
4 which is equivalent to a license, associated with a multistate license permitting the
5 practice of social work in a remote state.
- 6 18. "Multistate license" means a license to practice as a regulated social worker issued by
7 a home state licensing authority that authorizes the regulated social worker to practice
8 in all member states under multistate authorization to practice.
- 9 19. "Qualifying national exam" means a national licensing examination approved by the
10 commission.
- 11 20. "Regulated social worker" means any clinical, master's, or bachelor's social worker
12 licensed by a member state regardless of the title used by that member state.
- 13 21. "Remote state" means a member state other than the licensee's home state.
- 14 22. "Rules" or "rules of the commission" means a regulation adopted by the commission,
15 as authorized by the compact, which has the force of law.
- 16 23. "Single state license" means a social work license issued by any state that authorizes
17 practice only within the issuing state and does not include multistate authorization to
18 practice in any member state.
- 19 24. "Social work" or "social work services" means the application of social work theory,
20 knowledge, methods, ethics, and the professional use of self to restore or enhance
21 social, psychosocial, or biopsychosocial functioning of individuals, couples, families,
22 groups, organizations, and communities through the care and services provided by a
23 regulated social worker as provided by the member state's statutes and regulations in
24 the state where the services are being provided.
- 25 25. "State" means any state, commonwealth, district, or territory of the United States that
26 regulates the practice of social work.
- 27 26. "Unencumbered license" means a license that authorizes a regulated social worker to
28 engage in the full and unrestricted practice of social work.

29 **ARTICLE III - STATE PARTICIPATION IN THE COMPACT**

- 30 1. To be eligible to participate in the compact, a potential member state shall:

- a. License and regulate the practice of social work at either the clinical, master's, or bachelor's category;
 - b. Require an applicant for licensure to graduate from a program that:
 - (1) Is operated by a college or university recognized by the licensing authority;
 - (2) Is accredited, or in candidacy by an institution that subsequently becomes accredited, by an accrediting agency recognized by either:
 - (a) The council for higher education accreditation, or its successor; or
 - (b) The United States department of education; and
 - (3) Corresponds to the licensure sought as provided in article IV;
 - c. Require an applicant for clinical licensure to complete a period of supervised practice; and
 - d. Have a mechanism in place for receiving, investigating, and adjudicating complaints about a licensee.
2. To maintain membership in the compact, a member state shall:
- a. Require an applicant for a multistate license pass a qualifying national exam for the corresponding category of multistate license sought as provided in article IV;
 - b. Fully participate in the commission's data system, including using the commission's unique identifier as defined in rules;
 - c. Notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of current significant investigative information regarding a licensee;
 - d. Implement a procedure for considering the criminal history record of an applicant for a multistate license. The procedure must include the submission of fingerprints or other biometric-based information by an applicant for the purpose of obtaining the applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records;
 - e. Comply with the rules of the commission;
 - f. Require an applicant to obtain or retain a license in the applicant's home state and meet the home state's qualifications for licensure or renewal of licensure, and all other applicable home state laws;

g. Authorize a licensee holding a multistate license in any member state to practice in accordance with the terms of the compact and rules of the commission; and

h. Designate a delegate to participate in the commission meetings.

3. A member state meeting the requirements of subsections 1 and 2 shall designate the categories of social work licensure that are eligible for issuance of a multistate license for applicants in the member state. To the extent a member state does not meet the requirements for participation in the compact at any particular category of social work licensure, the member state may issue a multistate license to an applicant who otherwise meets the requirements of article IV for issuance of a multistate license in the category or categories of licensure.

4. The home state may charge a fee for granting the multistate license.

ARTICLE IV - SOCIAL WORKER PARTICIPATION IN THE COMPACT

1. To be eligible for a multistate license under this compact, an applicant, regardless of category shall:

a. Hold or be eligible for an active, unencumbered license in the home state;

b. Pay any applicable fees, including any state fee, for the multistate license;

c. Submit, in connection with an application for a multistate license, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records;

d. Notify the home state of any adverse action, encumbrance, or restriction on any professional license taken by any member state or nonmember state within thirty days from the date the action is taken;

e. Meet any continuing competence requirements established by the home state; and

f. Abide by the laws, regulations, and applicable standards in the member state where the client is located at the time care is rendered.

2. An applicant for a clinical-category multistate license shall:

a. Fulfill a competency requirement, which must be satisfied by:

(1) Passage of a clinical-category qualifying national exam;

- 1 (2) Licensure of the applicant in the applicant's home state at the clinical
2 category, beginning before the time a qualifying national exam was required
3 by the home state and accompanied by a period of continuous social work
4 licensure thereafter, which may be further governed by the rules of the
5 commission; or
6 (3) The substantial equivalency of the requirements in paragraph 1 or 2, which
7 the commission may determine by rule;

8 b. Attain at least a master's degree in social work from a program that is:

- 9 (1) Operated by a college or university recognized by the licensing authority;
10 and
11 (2) Accredited, or in candidacy that subsequently becomes accredited, by an
12 accrediting agency recognized by:
13 (a) The council for higher education accreditation or its successor; or
14 (b) The United States department of education; and

15 c. Fulfill a practice requirement, which must be satisfied by demonstrating
16 completion of:

- 17 (1) A period of postgraduate supervised clinical practice equal to a minimum of
18 three thousand hours;
19 (2) A minimum of two years of full-time postgraduate supervised clinical
20 practice; or
21 (3) The substantial equivalency of the requirements in paragraph 1 or 2, which
22 the commission may determine by rule.

23 3. An applicant for a master's-category multistate license shall:

24 a. Fulfill a competency requirement, which must be satisfied by:

- 25 (1) Passage of a master's-category qualifying national exam;
26 (2) Licensure of the applicant in the applicant's home state at the master's
27 category, beginning before the time a qualifying national exam was required
28 by the home state at the master's category and accompanied by a
29 continuous period of social work licensure thereafter, which may be further
30 governed by the rules of the commission; or

- 1 (3) The substantial equivalency of the requirements in paragraph 1 or 2, which
2 the commission may determine by rule; and
- 3 b. Attain at least a master's degree in social work from a program that is:
- 4 (1) Operated by a college or university recognized by the licensing authority;
5 and
- 6 (2) Accredited, or in candidacy that subsequently becomes accredited, by an
7 accrediting agency recognized by:
- 8 (a) The council for higher education accreditation or its successor; or
9 (b) The United States department of education.
- 10 4. An applicant for a bachelor's-category multistate license shall:
- 11 a. Fulfill a competency requirement, which must be satisfied by:
- 12 (1) Passage of a bachelor's-category qualifying national exam;
- 13 (2) Licensure of the applicant in the applicant's home state at the bachelor's
14 category, beginning before the time a qualifying national exam was required
15 by the home state and accompanied by a period of continuous social work
16 licensure thereafter, which may be further governed by the rules of the
17 commission; or
- 18 (3) The substantial equivalency of the requirements in paragraph 1 or 2, which
19 the commission may determine by rule; and
- 20 b. Attain at least a bachelor's degree in social work from a program that is:
- 21 (1) Operated by a college or university recognized by the licensing authority;
22 and
- 23 (2) Accredited, or in candidacy that subsequently becomes accredited, by an
24 accrediting agency recognized by:
- 25 (a) The council for higher education accreditation or its successor; or
26 (b) The United States department of education.
- 27 5. The multistate license for a regulated social worker is subject to the renewal
28 requirements of the home state. The regulated social worker must maintain
29 compliance with the requirements of subsection 1 to be eligible to renew a multistate
30 license.

- 1 6. The regulated social worker's services in a remote state are subject to the member
2 state's regulatory authority. A remote state may, in accordance with due process and
3 the member state's laws, remove a regulated social worker's multistate authorization
4 to practice in the remote state for a specific period of time, impose fines, and take any
5 other necessary actions to protect the health and safety of the state's citizens.
- 6 7. If a multistate license is encumbered, the regulated social worker's multistate
7 authorization to practice must be deactivated in all remote states until the multistate
8 license is no longer encumbered.
- 9 8. If a multistate authorization to practice is encumbered in a remote state, the regulated
10 social worker's multistate authorization to practice may be deactivated in that state
11 until the multistate authorization to practice is no longer encumbered.

12 **ARTICLE V - ISSUANCE OF A MULTISTATE LICENSE**

- 13 1. Upon receipt of an application for a multistate license, the home state licensing
14 authority shall determine the applicant's eligibility for a multistate license in
15 accordance with article IV.
- 16 2. If an applicant is eligible under article IV, the home state licensing authority shall issue
17 a multistate license that authorizes the applicant or regulated social worker to practice
18 in all member states under a multistate authorization to practice.
- 19 3. Upon issuance of a multistate license, the home state licensing authority shall
20 designate whether the regulated social worker holds a multistate license in the
21 bachelor's, master's, or clinical category of social work.
- 22 4. A multistate license issued by a home state to a resident in that state must be
23 recognized by all compact member states as authorizing social work practice under a
24 multistate authorization to practice corresponding to each category of licensure
25 regulated in each member state.

26 **ARTICLE VI - AUTHORITY OF INTERSTATE COMPACT**

27 **COMMISSION AND MEMBER STATE LICENSING AUTHORITIES**

- 28 1. This compact or any rule of the commission may not be construed to limit, restrict, or
29 reduce the ability of a member state to enact and enforce laws, regulations, or other
30 rules related to the practice of social work in that state, where those laws, regulations,
31 or other rules are not inconsistent with the provisions of this compact.

2. This compact may not affect the requirements established by a member state for the issuance of a single state license.
3. This compact or any rule of the commission may not be construed to limit, restrict, or reduce the ability of a member state to take adverse action against a licensee's single state license to practice social work in that state.
4. This compact or any rule of the commission may not be construed to limit, restrict, or reduce the ability of a remote state to take adverse action against a licensee's multistate authorization to practice in that state.
5. This compact or any rule of the commission may not be construed to limit, restrict, or reduce the ability of a licensee's home state to take adverse action against a licensee's multistate license based on information provided by a remote state.

ARTICLE VII - REISSUANCE OF A

MULTISTATE LICENSE BY A NEW HOME STATE

1. A licensee can hold a multistate license, issued by the licensee's home state, in only one member state at any given time.
2. If a licensee changes the licensee's home state by moving between two member states:
 - a. The licensee immediately shall apply for the reissuance of the licensee's multistate license in the licensee's new home state. The licensee shall pay all applicable fees and notify the previous home state in accordance with the rules of the commission.
 - b. Upon receipt of an application to reissue a multistate license, the new home state shall verify the multistate license is active, unencumbered, and eligible for reissuance under the terms of the compact and the rules of the commission. The multistate license issued by the previous home state will be deactivated and all member states notified in accordance with the rules adopted by the commission.
 - c. Before the reissuance of the multistate license, the new home state shall conduct a criminal history records check of the licensee. The criminal history record check procedure must include the submission of fingerprints or other biometric-based information by an applicant for the purpose of obtaining an applicant's criminal

- 1 history record information from the federal bureau of investigation and the agency
2 responsible for retaining that state's criminal records.
- 3 d. If required for initial licensure, the new home state may require completion of
4 jurisprudence requirements in the new home state.
- 5 e. Notwithstanding any other provision of this compact, if a licensee does not meet
6 the requirements of this compact for the reissuance of a multistate license by the
7 new home state, the licensee is subject to the new home state's requirements for
8 the issuance of a single state license in that state.
- 9 3. If a licensee changes the licensee's primary state of residence by moving from a
10 member state to a nonmember state, or from a nonmember state to a member state,
11 the licensee is subject to the state requirements for the issuance of a single state
12 license in the new home state.
- 13 4. This compact may not interfere with a licensee's ability to hold a single state license in
14 multiple states. For the purposes of this compact, a licensee may have only one home
15 state, and only one multistate license.
- 16 5. This compact may not interfere with the requirements established by a member state
17 for the issuance of a single state license.

ARTICLE VIII - MILITARY FAMILIES

18
19 An active military member or an active military member's spouse shall designate a home
20 state where the individual has a multistate license. The individual may retain the individual's
21 home state designation during the period the military member is on active duty.

ARTICLE IX - ADVERSE ACTIONS

- 22
23 1. In addition to the other powers conferred by state law, a remote state may:
- 24 a. Take adverse action against a regulated social worker's multistate authorization
25 to practice only within that member state, and issue subpoenas for both hearings
26 and investigations that require the attendance and testimony of witnesses and
27 the production of evidence. A subpoena issued by a licensing authority in a
28 member state for the attendance and testimony of witnesses or the production of
29 evidence from another member state must be enforced in the latter state by a
30 court of competent jurisdiction, according to the practice and procedure of that
31 court applicable to a subpoena issued in proceedings pending before the court.

- 1 The issuing licensing authority shall pay any witness fees, travel expenses,
2 mileage, and other fees required by the service statutes of the state where the
3 witnesses or evidence are located.
- 4 b. Only the home state has the power to take adverse action against a regulated
5 social worker's multistate license.
- 6 2. For purposes of taking adverse action, the home state shall give the same priority and
7 effect to reported conduct received from a member state as the home state would if
8 the conduct had occurred within the home state. In so doing, the home state shall
9 apply its own state law to determine appropriate action.
- 10 3. The home state shall complete any pending investigation of a regulated social worker
11 who changes their home state during the course of the investigation. The home state
12 also has the authority to take appropriate action and promptly shall report the
13 conclusion of the investigation to the administrator of the data system. The
14 administrator of the data system promptly shall notify the new home state of any
15 adverse actions.
- 16 4. A member state may recover the costs of an investigation and disposition of a case
17 resulting from an adverse action taken against a regulated social worker from the
18 regulated social worker against which the action was taken, if otherwise allowed by
19 state law.
- 20 5. A member state may take adverse action based on the factual findings of another
21 member state, if the member state follows its own procedures for taking the adverse
22 action.
- 23 6. Joint investigations.
- 24 a. In addition to the authority granted to a member state by its respective social
25 work practice act or other applicable state law, any member state may participate
26 with another member state in joint investigations of licensees.
- 27 b. Member states shall share any investigative, litigation, or compliance materials in
28 furtherance of any joint or individual investigation initiated under the compact.
- 29 7. If adverse action is taken by the home state against the multistate license of a
30 regulated social worker, the regulated social worker's multistate authorization to
31 practice in all other member states must be deactivated until all encumbrances have

1 been removed from the multistate license. All home state disciplinary orders that
2 impose adverse action against the license of a regulated social worker must include a
3 statement that the regulated social worker's multistate authorization to practice is
4 deactivated in all member states until all conditions of the decision, order, or
5 agreement are satisfied.

6 8. If a member state takes adverse action, the member state promptly shall notify the
7 administrator of the data system. The administrator of the data system promptly shall
8 notify the home state and all other member states of any adverse actions by remote
9 states.

10 9. This compact does not override a member state's decision that participation in an
11 alternative program may be used in lieu of adverse action.

12 10. This compact does not authorize a member state to demand the issuance of a
13 subpoena for attendance and testimony of witnesses or the production of evidence
14 from another member state for lawful actions within that member state.

15 11. This compact does not authorize a member state to impose discipline against a
16 regulated social worker who holds a multistate authorization to practice for lawful
17 actions within another member state.

18 **ARTICLE X - ESTABLISHMENT OF SOCIAL**
19 **WORK LICENSURE COMPACT COMMISSION**

20 1. The compact member states hereby create and establish a joint government agency
21 whose membership consists of all member states that have enacted the compact
22 known as the social work licensure compact commission. The commission is an
23 instrumentality of the compact states acting jointly and not an instrumentality of any
24 one state. The commission must come into existence on or after the effective date of
25 the compact as provided in article XIV.

26 2. Membership, voting, and meetings.

27 a. Each member state has one delegate who is selected by that member state's
28 state licensing authority.

29 b. The delegate must be:

1 (1) A current member of the state licensing authority at the time of appointment,
2 who is a regulated social worker or public member of the state licensing
3 authority; or

4 (2) An administrator of the state licensing authority or the state licensing
5 authority's designee.

6 c. The commission shall establish a term of office for delegates by rule or bylaw and
7 may establish term limits by rule or bylaw.

8 d. The commission may recommend removal or suspension of any delegate from
9 office.

10 e. A member state's state licensing authority shall fill any delegate vacancy on the
11 commission within sixty days of the vacancy.

12 f. Each delegate is entitled to one vote on all matters before the commission
13 requiring a vote by commission delegates.

14 g. A delegate shall vote in person or by any other means as provided in the bylaws.
15 The bylaws may provide for delegates to meet by telecommunication,
16 videoconference, or other means of communication.

17 h. The commission shall meet at least once during each calendar year. Additional
18 meetings may be held as provided in the bylaws. The commission may meet by
19 telecommunication, video conference, or other similar electronic means.

20 3. The commission has the power to:

21 a. Establish the fiscal year of the commission;

22 b. Establish code of conduct and conflict of interest policies;

23 c. Establish and amend rules and bylaws;

24 d. Maintain its financial records in accordance with the bylaws;

25 e. Meet and take actions consistent with the provisions of this compact, the
26 commission's rules, and the bylaws;

27 f. Initiate and conclude legal proceedings or actions in the name of the commission,
28 provided the standing of any state licensing board to sue or be sued under
29 applicable law is not affected;

- 1 g. Maintain and certify records and information provided to a member state as the
- 2 authenticated business records of the commission, and designate an agent to do
- 3 so on the commission's behalf;
- 4 h. Purchase and maintain insurance and bonds;
- 5 i. Borrow, accept, or contract for services of personnel, including employees of a
- 6 member state;
- 7 j. Conduct an annual financial review;
- 8 k. Hire employees, elect or appoint officers, fix compensation, define duties, grant
- 9 the appropriate individuals the authority to carry out the purpose of the compact,
- 10 and establish the commission's personnel policies and programs relating to
- 11 conflicts of interest, qualifications of personnel, and other related personnel
- 12 matters;
- 13 l. Assess and collect fees;
- 14 m. Accept all appropriate gifts, donations, grants of money, other sources of
- 15 revenue, equipment, supplies, materials, and services, and receive, utilize, and
- 16 dispose of the same; if the commission avoids any appearance of impropriety or
- 17 conflict of interest;
- 18 n. Lease, purchase, retain, own, hold, improve, or use any property, real, personal,
- 19 or mixed, or any undivided interest in the property;
- 20 o. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose
- 21 of any property, real, personal, or mixed;
- 22 p. Establish a budget and make expenditures;
- 23 q. Borrow money;
- 24 r. Appoint committees, including standing committees, composed of members,
- 25 state regulators, state legislators or their representatives, and consumer
- 26 representatives, and any other interested persons designated in this compact
- 27 and the bylaws;
- 28 s. Provide and receive information from, and cooperate with, law enforcement
- 29 agencies;
- 30 t. Establish and elect an executive committee, including a chair and a vice chair;

1 u. Determine whether a state's adopted language is so materially different from the
2 model compact language that the state would not qualify for participation in the
3 compact; and

4 v. Perform any other function as may be necessary or appropriate to achieve the
5 purpose of this compact.

6 4. The executive committee.

7 a. The executive committee may act on behalf of the commission according to this
8 compact and may:

9 (1) Oversee the day-to-day activities of the administration of the compact,
10 including enforcement of and compliance with the compact, its rules and
11 bylaws, and any other duties as deemed necessary;

12 (2) Recommend to the commission changes to the rules or bylaws, changes to
13 this compact legislation, fees charged to compact member states, fees
14 charged to licensees, and other fees;

15 (3) Ensure compact administration services are appropriately provided,
16 including by contract;

17 (4) Prepare and recommend the budget;

18 (5) Maintain financial records on behalf of the commission;

19 (6) Monitor compact compliance of member states and provide compliance
20 reports to the commission;

21 (7) Establish additional committees as necessary;

22 (8) Exercise the powers and duties of the commission during the interim
23 between commission meetings, except for adopting or amending rules,
24 adopting or amending bylaws, and exercising any other powers and duties
25 expressly reserved to the commission by rule or bylaw; and

26 (9) Undertake any other duties as provided in the rules or bylaws of the
27 commission.

28 b. The executive committee must be composed of no more than eleven members,
29 including:

30 (1) The chair and vice chair of the commission, who are voting members of the
31 executive committee;

(2) Five voting members from the current membership of the commission,
elected by the commission; and

(3) Up to four ex officio, nonvoting members from four recognized national
social work organizations, selected by their respective organizations.

c. The commission may remove any member of the executive committee as
provided in the commission's bylaws.

d. The executive committee shall meet at least annually.

(1) Executive committee meetings must be open to the public, except the
executive committee may meet in a closed, nonpublic meeting as provided
in subdivision b of subsection 6.

(2) The executive committee shall give seven days' notice of meetings, posted
on its website and as determined to provide notice to individuals with an
interest in the business of the commission.

(3) The executive committee may hold a special meeting in accordance with
paragraph 2 of subdivision a of subsection 6.

5. The commission shall adopt and provide to the member states an annual report.

6. Meetings of the commission.

a. All meetings must be open to the public, except the commission may meet in a
closed, nonpublic meeting as provided in subdivision b.

(1) Public notice for all meetings of the full commission must be given in the
same manner as required under the rulemaking provisions in article XII,
except the commission may hold a special meeting as provided in
paragraph 2.

(2) The commission may hold a special meeting when the commission must
meet to conduct emergency business by giving forty-eight hours' notice to
all commissioners, on the commission's website, and other means as
provided in the commission's rules. The commission's legal counsel shall
certify the commission's need to meet qualifies as an emergency.

b. The commission or the executive committee or other committees of the
commission may convene in a closed, nonpublic meeting for the commission or

executive committee or other committees of the commission to receive legal
advice or to discuss:

(1) Noncompliance of a member state with its obligations under the compact;

(2) The employment, compensation, discipline, or other matters, practices, or
procedures related to specific employees;

(3) Current or threatened discipline of a licensee by the commission or by a
member state's licensing authority;

(4) Current, threatened, or reasonably anticipated litigation;

(5) Negotiation of contracts for the purchase, lease, or sale of goods, services,
or real estate;

(6) Accusing a person of a crime or formally censuring a person;

(7) Trade secrets or commercial or financial information that is privileged or
confidential;

(8) Information of a personal nature where disclosure would constitute a clearly
unwarranted invasion of personal privacy;

(9) Investigative records compiled for law enforcement purposes;

(10) Information related to any investigative report prepared by or on behalf of or
for use by the commission or other committee charged with the
responsibility of investigation or determination of compliance issues under
this compact;

(11) Matters specifically exempted from disclosure by federal or member state
law; or

(12) Other matters as adopted by the commission by rule.

c. If a meeting, or portion of a meeting, is closed, the presiding officer shall state the
meeting will be closed and reference each relevant exempting provision, which
must be recorded in the minutes.

d. 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 the actions were taken, including a description of the
views expressed. All documents considered in connection with an action must be
identified in the minutes. All minutes and documents of a closed meeting must

1 remain under seal, subject to release only by a majority vote of the commission
2 or order of a court of competent jurisdiction.

3 7. Financing of the commission.

4 a. The commission shall pay, or provide for the payment of, the reasonable
5 expenses of its establishment, organization, and ongoing activities.

6 b. The commission may accept any and all appropriate revenue sources as
7 provided in subdivision m of subsection 3.

8 c. The commission may levy on and collect an annual assessment from each
9 member state and impose fees on licensees of member states to whom the
10 commission grants a multistate license to cover the cost of the operations and
11 activities of the commission and its staff, which must be in a total amount
12 sufficient to cover its annual budget as approved each year for which revenue is
13 not provided by other sources. The aggregate annual assessment amount for
14 member states must be allocated based on a formula the commission shall adopt
15 by rule.

16 d. The commission may not incur obligations before securing the funds required to
17 meet those obligations. The commission may not pledge the credit of any of the
18 member states, except by and with the authority of the member state.

19 e. The commission shall keep accurate accounts of all receipts and disbursements.
20 The receipts and disbursements of the commission are subject to the financial
21 review and accounting procedures established under its bylaws. However, all
22 receipts and disbursements of funds handled by the commission are subject to
23 an annual financial review by a certified or licensed public accountant, and the
24 report of the financial review must be included in the annual report of the
25 commission.

26 8. Qualified immunity, defense, and indemnification.

27 a. The members, officers, executive director, employees, and representatives of the
28 commission are immune from suit and liability, both personally and in their official
29 capacity, for any claim for damage to or loss of property or personal injury or
30 other civil liability caused by or arising out of any actual or alleged act, error, or
31 omission that occurred, or that the person against whom the claim is made had a

1 reasonable basis for believing occurred, within the scope of commission
2 employment, duties, or responsibilities.

3 (1) This subdivision may not be construed to protect any person from suit or
4 liability for any damage, loss, injury, or liability caused by the intentional or
5 willful or wanton misconduct by that person.

6 (2) The procurement of insurance of any type by the commission may not
7 compromise or limit the immunity granted under this subsection.

8 b. The commission shall defend any member, officer, executive director, employee,
9 and representative of the commission in any civil action seeking to impose
10 liability arising out of any actual or alleged act, error, or omission that occurred
11 within the scope of commission employment, duties, or responsibilities, or as
12 determined by the commission that the person against whom the claim is made
13 had a reasonable basis for believing occurred within the scope of commission
14 employment, duties, or responsibilities. This subsection may not be construed to
15 prohibit that person from retaining their own counsel at their own expense and
16 that the actual or alleged act, error, or omission did not result from that person's
17 intentional or willful or wanton misconduct.

18 c. The commission shall indemnify and hold harmless any member, officer,
19 executive director, employee, and representative of the commission for the
20 amount of any settlement or judgment obtained against that person arising out of
21 any actual or alleged act, error, or omission that occurred within the scope of
22 commission employment, duties, or responsibilities, or that the person had a
23 reasonable basis for believing occurred within the scope of commission
24 employment, duties, or responsibilities, provided the actual or alleged act, error,
25 or omission did not result from the intentional or willful or wanton misconduct by
26 that person.

27 d. This compact may not be construed to limit the liability of a licensee for
28 professional malpractice or misconduct, which is solely governed by any other
29 applicable state laws.

30 e. This compact may not be interpreted to waive or otherwise abrogate a member
31 state's state action immunity or state action affirmative defense with respect to

1 antitrust claims under the Sherman Act, Clayton Act, or any other state or federal
2 antitrust or anticompetitive law or regulation.

3 f. This compact may not be construed to be a waiver of sovereign immunity by the
4 member states or by the commission.

5 **ARTICLE XI - DATA SYSTEM**

6 1. The commission shall provide for the development, maintenance, operation, and
7 utilization of a coordinated data system.

8 2. The commission shall assign each applicant for a multistate license a unique identifier,
9 as determined by the rules of the commission.

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

13 a. Identifying information;

14 b. Licensure data;

15 c. Adverse actions against a license and information related thereto;

16 d. Nonconfidential information related to alternative program participation, the
17 beginning and ending dates of the participation, and other information related to
18 the participation not made confidential under member state law;

19 e. Any denial of an application for licensure, and the reason for the denial;

20 f. The presence of current significant investigative information; and

21 g. Other information that may facilitate the administration of this compact or the
22 protection of the public, as determined by the rules of the commission.

23 4. The records and information provided to a member state under this compact or
24 through the data system, when certified by the commission or an agent of the
25 commission, constitutes the authenticated business records of the commission, and is
26 entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or
27 administrative proceedings in a member state.

28 5. Current significant investigative information pertaining to a licensee in any member
29 state only will be available to other member states. It is the responsibility of the
30 member states to report any adverse action against a licensee and to monitor the
31 database to determine whether adverse action has been taken against a licensee.

1 Adverse action information pertaining to a licensee in any member state will be
2 available to any other member state.

3 6. Member states contributing information to the data system may designate information
4 that may not be shared with the public without the express permission of the
5 contributing state.

6 7. Any information submitted to the data system that is subsequently expunged under
7 federal law or the laws of the member state contributing the information must be
8 removed from the data system.

9 **ARTICLE XII - RULEMAKING**

10 1. The commission shall adopt reasonable rules to effectively and efficiently implement
11 and administer the purpose and provisions of the compact. A rule is invalid if a court of
12 competent jurisdiction holds the rule is invalid because the commission exercised its
13 rulemaking authority in a manner beyond the scope and purpose of the compact, or
14 the powers granted hereunder, or based upon another applicable standard of review.

15 2. The rules of the commission have the force of law in each member state. If the rules of
16 the commission conflict with the laws of the member state that establish the member
17 state's laws, regulations, and applicable standards that govern the practice of social
18 work as held by a court of competent jurisdiction, the rules of the commission are
19 ineffective in that state to the extent of the conflict.

20 3. The commission shall exercise its rulemaking powers under the criteria provided in
21 this section and the rules adopted thereunder. Rules are binding on the day following
22 adoption or the date specified in the rule or amendment, whichever is later.

23 4. If a majority of the legislatures of the member states reject a rule or portion of a rule,
24 by enactment of a statute or resolution in the same manner used to adopt the compact
25 within four years of the date of adoption of the rule, then the rule has no further force
26 and effect in any member state.

27 5. Rules must be adopted at a regular or special meeting of the commission.

28 6. Before the adoption of a proposed rule, the commission shall hold a public hearing
29 and allow individuals to provide oral and written comments.

- 1 7. Before the adoption of a proposed rule by the commission, and at least thirty days
2 before the meeting at which the commission will hold a public hearing on the proposed
3 rule, the commission shall provide a notice of proposed rulemaking:
 - 4 a. On the website of the commission or other publicly accessible platform;
 - 5 b. To persons who have requested notice of the commission's notices of proposed
6 rulemaking; and
 - 7 c. In other ways as the commission may by rule specify.
- 8 8. The notice of proposed rulemaking must include:
 - 9 a. The time, date, and location of the public hearing at which the commission will
10 hear public comments on the proposed rule and, if different, the time, date, and
11 location of the meeting where the commission will consider and vote on the
12 proposed rule;
 - 13 b. If the hearing is held via telecommunication, video conference, or other electronic
14 means, the mechanism for access to the hearing in the notice of proposed
15 rulemaking;
 - 16 c. The text of the proposed rule and the reason for the rule;
 - 17 d. A request for comments on the proposed rule from any interested person; and
 - 18 e. The manner in which interested persons may submit written comments.
- 19 9. All hearings will be recorded. A copy of the recording and all written comments and
20 documents received by the commission in response to the proposed rule must be
21 available to the public.
- 22 10. This article may not be construed to require a separate hearing on each rule. Rules
23 may be grouped for the convenience of the commission at hearings required by this
24 article.
- 25 11. The commission shall, by majority vote of all members, take final action on the
26 proposed rule based on the rulemaking record and the full text of the rule.
 - 27 a. The commission may adopt changes to the proposed rule provided the changes
28 do not enlarge the original purpose of the proposed rule.
 - 29 b. The commission shall provide an explanation of the reasons for substantive
30 changes made to the proposed rule and reasons for substantive changes not
31 made that were recommended by commenters.

1 c. The commission shall determine a reasonable effective date for the rule. Except
2 for an emergency as provided in subsection 12, the effective date of the rule may
3 not be sooner than thirty days after issuing the notice that the commission
4 adopted or amended the rule.

5 12. Upon determination that an emergency exists, the commission may consider and
6 adopt an emergency rule with forty-eight hours' notice, with opportunity to comment,
7 provided the usual rulemaking procedures provided in the compact and in this section
8 is to be applied retroactively to the rule as soon as reasonably possible, no later than
9 ninety days after the effective date of the rule. For the purposes of this subsection, an
10 emergency rule is one that must be adopted immediately in order to:

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

12 b. Prevent a loss of commission or member state funds;

13 c. Meet a deadline for the adoption of a rule that is established by federal law or
14 rule; or

15 d. Protect public health and safety.

16 13. The commission or an authorized committee of the commission may direct revisions to
17 a previously adopted rule for purposes of correcting typographical errors, errors in
18 format, errors in consistency, or grammatical errors. Public notice of any revisions
19 must be posted on the commission's website. The revision is subject to challenge by
20 any person for a period of thirty days after posting. The revision may be challenged if
21 the revision results in a material change to a rule. A challenge must be made in writing
22 and delivered to the commission before the end of the notice period. If no challenge is
23 made, the revision will take effect without further action. If the revision is challenged,
24 the revision may not take effect without the approval of the commission.

25 14. A member state's rulemaking requirements do not apply under this compact.

26 **ARTICLE XIII - OVERSIGHT,**

27 **DISPUTE RESOLUTION, AND ENFORCEMENT**

28 1. Oversight.

29 a. The executive and judicial branches of state government in each member state
30 shall effectuate this compact and take all actions necessary and appropriate to
31 implement the compact.

1 b. Except as otherwise provided in this compact, venue is proper and judicial
2 proceedings by or against the commission must be brought in a court of
3 competent jurisdiction where the principal office of the commission is located.
4 The commission may waive venue and jurisdictional defenses to the extent the
5 commission adopts or consents to participate in alternative dispute resolution
6 proceedings. This article may not affect or limit the selection or propriety of venue
7 in any action against a licensee for professional malpractice, misconduct, or any
8 similar matter.

9 c. The commission is entitled to receive service of process in any proceeding
10 regarding the enforcement or interpretation of the compact and has standing to
11 intervene in the proceeding for all purposes. Failure to provide the commission
12 service of process renders a judgment or order void as to the commission, this
13 compact, or adopted rules.

14 2. Default, technical assistance, and termination.

15 a. If the commission determines a member state has defaulted in the performance
16 of its obligations or responsibilities under this compact or the adopted rules, the
17 commission shall provide written notice to the defaulting state. The notice of
18 default must describe the default, the proposed means of curing the default, and
19 any other action the commission may take, and must offer training and specific
20 technical assistance regarding the default.

21 b. The commission shall provide a copy of the notice of default to the other member
22 states.

23 3. If a state in default fails to cure the default, the defaulting state may be terminated
24 from the compact upon an affirmative vote of a majority of the delegates of the
25 member states, and all rights, privileges, and benefits conferred on that state by this
26 compact may be terminated on the effective date of termination. A cure of the default
27 does not relieve the offending state of obligations or liabilities incurred during the
28 period of default.

29 4. Termination of membership in the compact must be imposed only after all other means
30 of securing compliance have been exhausted. Notice of intent to suspend or terminate
31 must be given by the commission to the governor, the majority and minority leaders of

1 the defaulting state's legislature, the defaulting state's state licensing authority, and
2 each of the member states' state licensing authority.

3 5. A state that has its membership terminated is responsible for all assessments,
4 obligations, and liabilities incurred through the effective date of termination, including
5 obligations extending beyond the effective date of termination.

6 6. Upon the termination of a state's membership from this compact, that state
7 immediately shall provide notice to all licensees within that state of the termination.

8 The terminated state shall continue to recognize all licenses granted under this
9 compact for a minimum of six months after the date of the notice of termination.

10 7. The commission may not incur any costs related to a state that is found to be in
11 default or that has been terminated from the compact, unless agreed upon in writing
12 between the commission and the defaulting state.

13 8. The defaulting state may appeal the action of the commission by petitioning the United
14 States district court for the District of Columbia or the federal district where the
15 commission's principal office is located. The prevailing party must be awarded all costs
16 of the litigation, including reasonable attorney's fees.

17 9. Dispute resolution.

18 a. Upon request by a member state, the commission shall attempt to resolve
19 disputes related to the compact which arise among member states and between
20 member and nonmember states.

21 b. The commission shall adopt a rule providing for both mediation and binding
22 dispute resolution for disputes as appropriate.

23 10. Enforcement.

24 a. By majority vote as provided by rule, the commission may initiate legal action
25 against a member state in default in the United States district court for the District
26 of Columbia or the federal district where the commission's principal office is
27 located to enforce compliance with the provisions of the compact and its adopted
28 rules. The relief sought may include both injunctive relief and damages. If judicial
29 enforcement is necessary, the prevailing party must be awarded all costs of the
30 litigation, including reasonable attorney's fees. The remedies herein may not be

- 1 the exclusive remedies of the commission. The commission may pursue any
2 other remedies available under federal law or the defaulting member state's law.
3 b. A member state may initiate legal action against the commission in the United
4 States district court for the District of Columbia or the federal district where the
5 commission's principal office is located to enforce compliance with the provisions
6 of the compact and its adopted rules. The relief sought may include both
7 injunctive relief and damages. If judicial enforcement is necessary, the prevailing
8 party must be awarded all costs of the litigation, including reasonable attorney's
9 fees.
10 c. Only a member state may enforce this compact against the commission.

11 **ARTICLE XIV - EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT**

- 12 1. The compact is effective on the date on which the compact statute is enacted into law
13 in the seventh member state.
14 a. On or after the effective date of the compact, the commission shall convene and
15 review the enactment of each of the first seven member states, known as the
16 charter member states, to determine if the statute enacted by each charter
17 member state is materially different than the model compact statute.
18 (1) A charter member state whose enactment is found to be materially different
19 from the model compact statute is entitled to the default process in
20 accordance with article XIII.
21 (2) If any member state is later found to be in default, or is terminated or
22 withdraws from the compact, the commission shall remain in existence and
23 the compact shall remain in effect even if the number of member states is
24 fewer than seven.
25 b. Member states enacting the compact subsequent to the seven initial charter
26 member states are subject to the process provided in subdivision u of
27 subsection 3 of article X to determine if their enactments are materially different
28 from the model compact statute and whether they qualify for participation in the
29 compact.
30 c. All actions taken for the benefit of the commission or in furtherance of the
31 purposes of the administration of the compact before the effective date of the

- 1 compact or the commission coming into existence must be considered to be
2 actions of the commission unless specifically repudiated by the commission.
3 d. Any state that joins the compact after the commission's initial adoption of the
4 rules and bylaws is subject to the rules and bylaws as they exist on the date the
5 compact becomes law in that state. Any rule that has been adopted previously by
6 the commission has the full force and effect of law on the day the compact
7 becomes law in that state.
8 2. Any member state may withdraw from this compact by enacting a statute repealing the
9 compact.
10 a. A member state's withdrawal may not take effect until one hundred eighty days
11 after enactment of the repealing statute.
12 b. Withdrawal may not affect the continuing requirement of the withdrawing state's
13 licensing authority to comply with the investigative and adverse action reporting
14 requirements of this compact before the effective date of withdrawal.
15 c. Upon the enactment of a statute withdrawing from this compact, a state
16 immediately shall provide notice of the withdrawal to all licensees within that
17 state. Notwithstanding any subsequent statutory enactment to the contrary, the
18 withdrawing state shall continue to recognize all licenses granted under this
19 compact for a minimum of one hundred eighty days after the date of the notice of
20 withdrawal.
21 3. This compact may not be construed to invalidate or prevent any licensure agreement
22 or other cooperative arrangement between a member state and a nonmember state
23 that does not conflict with the provisions of this compact.
24 4. This compact may be amended by the member states. An amendment to this compact
25 may not become effective and binding upon any member state until the amendment is
26 enacted into the laws of all member states.

27 **ARTICLE XV - CONSTRUCTION AND SEVERABILITY**

- 28 1. This compact and the commission's rulemaking authority must be liberally construed
29 so as to effectuate the purpose, and the implementation and administration of the
30 compact. Provisions of the compact expressly authorizing or requiring the adoption of

1 rules may not be construed to limit the commission's rulemaking authority solely for
2 those purposes.

3 2. The provisions of this compact are severable and if any phrase, clause, sentence, or
4 provision of this compact is held by a court of competent jurisdiction to be contrary to
5 the constitution of any member state, a state seeking participation in the compact, or
6 of the United States, or the applicability thereof to any government, agency, person, or
7 circumstance is held to be unconstitutional by a court of competent jurisdiction, the
8 validity of the remainder of this compact and the applicability of the compact to any
9 other government, agency, person, or circumstance may not be affected thereby.

10 3. Notwithstanding subsection 2, the commission may deny a state's participation in the
11 compact or, in accordance with the requirements of subsection 2 of article XIII,
12 terminate a member state's participation in the compact, if the commission determines
13 a constitutional requirement of a member state is a material departure from the
14 compact. If this compact is held to be contrary to the constitution of any member state,
15 the compact must remain in full force and effect as to the remaining member states
16 and in full force and effect as to the member state affected as to all severable matters.

17 **ARTICLE XVI - CONSISTENT EFFECT**

18 **AND CONFLICT WITH OTHER STATE LAWS**

19 1. A licensee providing services in a remote state under a multistate authorization to
20 practice shall adhere to the laws and regulations, including laws, regulations, and
21 applicable standards, of the remote state where the client is located at the time care is
22 rendered.

23 2. This compact may not prevent the enforcement of any other law of a member state
24 that is not inconsistent with the compact.

25 3. Any law, statute, regulation, or other legal requirement in a member state in conflict
26 with the compact is superseded to the extent of the conflict.

27 4. All permissible agreements between the commission and the member states are
28 binding in accordance with the terms of the agreement.