

2022 Regular Session

HOUSE BILL NO. 582

BY REPRESENTATIVE STAGNI

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

1 AN ACT

2 To amend and reenact R.S. 37:1103(introductory paragraph) and to enact R.S. 37:1131

3 through 1145, relative to adding the state of Louisiana to the Licensed Professional

4 Counselors Interstate Compact; to provide for the increase of public access to

5 professional counseling services; to provide for the enhancement of public health and

6 safety; to provide for multistate practice regulations; to provide for spousal support

7 for relocating active duty military personnel; to provide for the exchange of licensure

8 among member states; to provide for use of telehealth technology; to provide for

9 uniformity of professional counseling licensure requirements; to eliminate the

10 requirement for licenses in multiple states, to provide for opportunities for interstate

11 practice by licensed professional counselors who meet uniform licensure

12 requirements; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

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

16 §1103. Definitions

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

19 \* \* \*

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".

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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)]

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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)