

§18560. Establishment of counseling compact commission

1. Commission established. The compact member states hereby create and establish a joint public agency known as the counseling compact commission.

A. The commission is an instrumentality of the compact states. [PL 2021, c. 547, §1 (NEW).]

B. Venue is proper and judicial proceedings by or against the commission must be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. [PL 2021, c. 547, §1 (NEW).]

C. Nothing in this compact may be construed to be a waiver of sovereign immunity. [PL 2021, c. 547, §1 (NEW).]

[PL 2021, c. 547, §1 (NEW).]

2. Membership, voting and meetings. Membership, voting and meetings are governed by this subsection.

A. Each member state has and is limited to one delegate selected by that member state's licensing board. [PL 2021, c. 547, §1 (NEW).]

B. The delegate must be either:

(1) A current member of the licensing board at the time of appointment, who is a licensed professional counselor or public member; or

(2) An administrator of the licensing board. [PL 2021, c. 547, §1 (NEW).]

C. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. [PL 2021, c. 547, §1 (NEW).]

D. The member state licensing board shall fill any vacancy occurring on the commission within 60 days. [PL 2021, c. 547, §1 (NEW).]

E. Each delegate is entitled to one vote with regard to the promulgation of rules and creation of bylaws and must otherwise have an opportunity to participate in the business and affairs of the commission. [PL 2021, c. 547, §1 (NEW).]

F. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication. [PL 2021, c. 547, §1 (NEW).]

G. The commission shall meet at least once during each calendar year. Additional meetings must be held as set forth in the bylaws. [PL 2021, c. 547, §1 (NEW).]

H. The commission shall by rule establish a term of office for delegates and may by rule establish term limits. [PL 2021, c. 547, §1 (NEW).]

[PL 2021, c. 547, §1 (NEW).]

3. Powers and duties. The commission has the following powers and duties:

A. Establish the fiscal year of the commission; [PL 2021, c. 547, §1 (NEW).]

B. Establish bylaws; [PL 2021, c. 547, §1 (NEW).]

C. Maintain its financial records in accordance with the bylaws; [PL 2021, c. 547, §1 (NEW).]

D. Meet and take such actions as are consistent with the provisions of this compact and the bylaws; [PL 2021, c. 547, §1 (NEW).]

- E. Promulgate rules that are binding to the extent and in the manner provided for in the compact; [PL 2021, c. 547, §1 (NEW).]
 - F. Bring and prosecute legal proceedings or actions in the name of the commission, as long as the standing of any state licensing board to sue or be sued under applicable law is not affected; [PL 2021, c. 547, §1 (NEW).]
 - G. Purchase and maintain insurance and bonds; [PL 2021, c. 547, §1 (NEW).]
 - H. Borrow, accept or contract for services of personnel, including, but not limited to, employees of a member state; [PL 2021, c. 547, §1 (NEW).]
 - I. Hire employees, elect or appoint officers, fix compensation, define duties and grant such individuals appropriate authority to carry out the purposes of the compact and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters; [PL 2021, c. 547, §1 (NEW).]
 - J. Accept appropriate donations and grants of money, equipment, supplies, materials and services and receive, utilize and dispose of the same, as long as at all times the commission avoids any appearance of impropriety or conflict of interest; [PL 2021, c. 547, §1 (NEW).]
 - K. Lease, purchase, accept appropriate gifts or donations of or otherwise own, hold, improve or use any property, real, personal or mixed, as long as at all times the commission avoids any appearance of impropriety; [PL 2021, c. 547, §1 (NEW).]
 - L. Sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed; [PL 2021, c. 547, §1 (NEW).]
 - M. Establish a budget and make expenditures; [PL 2021, c. 547, §1 (NEW).]
 - N. Borrow money; [PL 2021, c. 547, §1 (NEW).]
 - O. Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives and consumer representatives and such other interested persons as may be designated in this compact and the bylaws; [PL 2021, c. 547, §1 (NEW).]
 - P. Provide and receive information from, and cooperate with, law enforcement agencies; [PL 2021, c. 547, §1 (NEW).]
 - Q. Establish and elect an executive committee; and [PL 2021, c. 547, §1 (NEW).]
 - R. Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of professional counseling licensure and practice. [PL 2021, c. 547, §1 (NEW).]
- [PL 2021, c. 547, §1 (NEW).]

4. Executive committee. The establishment of an executive committee is governed by this subsection.

- A. The executive committee has the power to act on behalf of the commission according to the terms of this compact. [PL 2021, c. 547, §1 (NEW).]
- B. The executive committee is composed of up to 11 members:
 - (1) Seven voting members who are elected by the commission from the current membership of the commission; and
 - (2) Up to 4 ex officio, nonvoting members from 4 recognized national professional counselor organizations.

The ex officio members must be selected by their respective organizations. [PL 2021, c. 547, §1 (NEW).]

C. The commission may remove any member of the executive committee as provided in bylaws. [PL 2021, c. 547, §1 (NEW).]

D. The executive committee shall meet at least annually. [PL 2021, c. 547, §1 (NEW).]

E. The executive committee has the following duties and responsibilities:

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

(2) Ensure compact administration services are appropriately provided, contractual or otherwise;

(3) Prepare and recommend the budget;

(4) Maintain financial records on behalf of the commission;

(5) Monitor compact compliance of member states and provide compliance reports to the commission;

(6) Establish additional committees as necessary; and

(7) Other duties as provided in rules or bylaws. [PL 2021, c. 547, §1 (NEW).]

[PL 2021, c. 547, §1 (NEW).]

5. Meetings of the commission. Meetings of the commission are governed by this subsection.

A. All meetings must be open to the public, and public notice of meetings must be given in the same manner as required under the rule-making provisions in section 18562. [PL 2021, c. 547, §1 (NEW).]

B. The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive committee or other committees of the commission must discuss:

(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 or other matters related to the commission's internal personnel practices and procedures;

(3) Current, threatened or reasonably anticipated litigation;

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

(5) Accusing any person of a crime or formally censuring any person;

(6) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(7) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(8) Disclosure of investigative records compiled for law enforcement purposes;

(9) Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

(10) Matters specifically exempted from disclosure by federal or member state statute. [PL 2021, c. 547, §1 (NEW).]

C. If a meeting, or portion of a meeting, is closed pursuant to paragraph B, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. [PL 2021, c. 547, §1 (NEW).]

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 therefor, 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 remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction. [PL 2021, c. 547, §1 (NEW).]

[PL 2021, c. 547, §1 (NEW).]

6. Financing of the commission. Financing of the commission is governed by this subsection.

A. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities. [PL 2021, c. 547, §1 (NEW).]

B. The commission may accept any appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services. [PL 2021, c. 547, §1 (NEW).]

C. The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states. [PL 2021, c. 547, §1 (NEW).]

D. The commission may not incur obligations of any kind prior to securing the funds adequate to meet the same, and the commission may not pledge the credit of any of the member states, except by and with the authority of the member state. [PL 2021, c. 547, §1 (NEW).]

E. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws; however, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the commission. [PL 2021, c. 547, §1 (NEW).]

[PL 2021, c. 547, §1 (NEW).]

7. Qualified immunity, defense and indemnification. Qualified immunity, defense and indemnification are governed by this subsection.

A. The members, officers, executive director, employees and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties or responsibilities, except that nothing in this paragraph may be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person. [PL 2021, c. 547, §1 (NEW).]

B. The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, except that nothing in this paragraph may be construed to prohibit that person from retaining that

person's own counsel, and as long as the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct. [PL 2021, c. 547, §1 (NEW).]

C. The commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person. [PL 2021, c. 547, §1 (NEW).]

[PL 2021, c. 547, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 547, §1 (NEW).

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