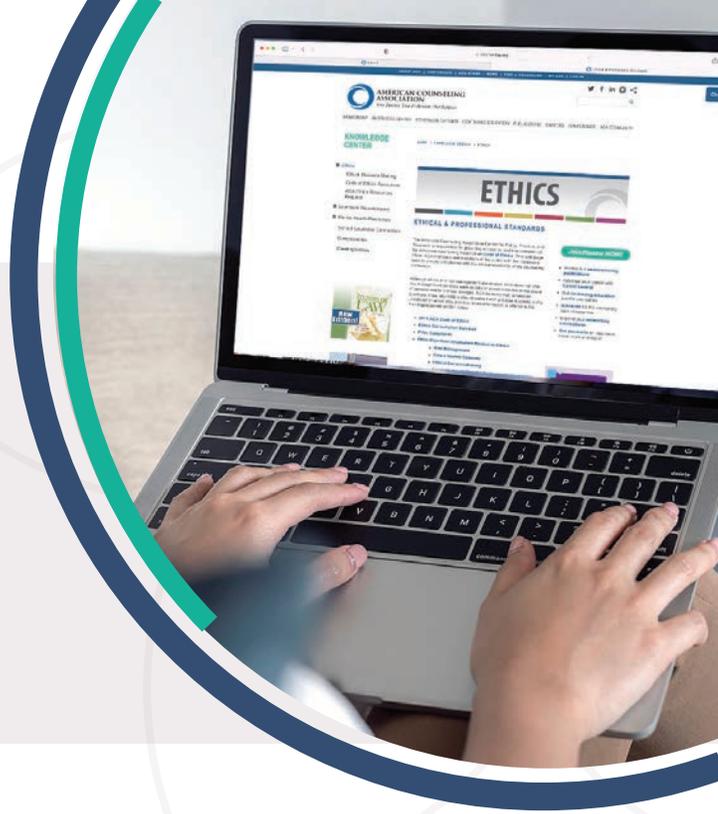


Interstate Compact for Counselor Licensure: Background, Current Status and Next Steps

April 26, 2022



Summary

In January 2019, the American Counseling Association (ACA) signed a contract with the National Center for Interstate Compacts (NCIC), which is part of the Council of State Governments, to facilitate the development and implementation of an interstate compact for licensure portability. Once 10 states enact the legislation, a commission will be created that will oversee the facilitation of interstate practice. Through the compact, counselors who hold an unencumbered license to practice independently in a home state can seek a privilege to practice in one or more other states; this includes the provision of services via telehealth. Additionally, the compact will facilitate the process for counselors to obtain a license in a new state when they move and will allow military spouses to practice in any compact state using their home state license.

Background

Counselors have difficulty transferring their licenses from one state/jurisdiction to another because of the independent nature of jurisdictional licensing rules and regulations. There is variation regarding the requirements for licensure, specifically relating to the number of required graduate hours, the type of graduate program, supervision of clinical experience and mandated examination. These varying requirements and scopes of practice make it difficult to transfer one's license. To date, few licensing boards have been willing to accept a license from another state, and they usually mandate the applicant meet additional prerequisites.

Interstate compacts address this issue. Compacts provide a pathway for counselors to move seamlessly from one state to another through an agreement among states to recognize another state's license. The ACA Governing Council approved funding to pursue an interstate compact for licensure portability in October 2018 and signed a contract January 1, 2019, with NCIC.

Process

NCIC uses a three-phase process:

- Phase 1:** Create an advisory group and compact drafting team. Create a draft compact. Obtain stakeholder feedback and finalize the draft compact.
- Phase 2:** Introduce the compact (bill) into state legislatures and supporting legislative efforts.
- Phase 3:** Once 10 states have joined the compact, create a commission to oversee the compact implementation, identify/develop the database and develop rules.

Because of the pandemic, the timelines outlined in the contract needed to be extended, and in-person activities transitioned to virtual.

Phase 1

January – December 2020

The goal of this phase was to create the compact legislation. To achieve that goal, an advisory group was created and convened. They reviewed relevant data about licensing and licensing regulations and made suggestions about the essential elements that needed to be part of the compact legislation. The advisory group consisted of state legislators who are also licensed counselors; leaders in the counseling field with specific knowledge of licensing regulations; practicing counselors who hold a license in more than one state; a representative of the American Association of State Counseling Boards; and executive directors, board chairs and attorneys for state licensing boards. The advisory group comprised approximately 20 people, supplemented by NCIC and ACA staff.

The drafting team met for the first time in March 2020. This team consisted of the lawyers who were part of the advisory group and the NCIC lawyers who specialize in compacts, along with staff. Using the recommendations of the advisory group, members of the drafting team proposed language and created the draft legislation, which went through several iterations. The advisory group then had the opportunity to review the draft legislation and give feedback. More than 40 stakeholder sessions were held over the summer to solicit feedback on the draft legislation. During the fall, the drafting team finalized the draft legislation, which was then approved by the advisory group. The final document was ready for state legislatures in January 2021.

Phase 2

January 2021 – March 2023

The major activities during Phase 2 focused on the development of the counseling compact webpage on the Council of State Governments' site ([counselingcompact.org](https://www.counselingcompact.org)), virtual legislative summits for interested states (summer 2021) and introduction of legislation in states wishing to participate. A comprehensive online resource kit that serves as the principal information resource on the new compact can be found on the compact webpage, along with a copy of the legislation and section analysis. NCIC tracks the legislation and provides testimony and support as needed.

ACA staff worked closely and tirelessly with counselors in the states to identify potential sponsors; provide resources, information and testimony; and support states' efforts to get the legislation enacted. The Department of Defense is very supportive of this legislation. The staff from the Defense-State Liaison Office, Military Community and Family Policy group, have been instrumental in helping identify sponsors, providing testimony and letters of support.

Current Status

As of April 26, 2022, the legislation has been enacted in GA, MD, AL, MS, WVA, UT, FL, ME, KY and NE, which means that 10 states have enacted the legislation, thus triggering the establishment of the compact and the commission.

It is still possible the legislation will pass this session in CO, DE, OH, NH and TN. Bills have been introduced in IN, IA, LA, MN and NC. In WY, the bill did not pass before the session ended, and in VA, the bill was withdrawn and will be reintroduced next year. We are currently working with a number of other states that are interested in becoming part of the compact and are planning to introduce legislation next year.

Phase 3

July 2022 and ongoing

Now that 10 states have enacted the legislation, the commission will be created. In addition to the 10 states that have already enacted the legislation, any state that enacts the legislation prior to the initial commission meeting will be included in the foundational group and can participate in the development of the rules. We anticipate that the first meeting of the commission will occur next fall, probably in November. NCIC will convene the meeting, and their lawyers will provide assistance to the commission with developing the rules and procedures.

Funding will be needed to support the commission; staffing for the commission; and commission activities, specifically the database. The commission will decide where they wish to be housed. The commission for most existing compacts resides with the licensing boards group, but funding can come from any group or groups. NCIC does not recommend that the commission be housed with any professional association. The commission is a governmental agency, and there are potential legal implications if it resides with an association.

The commission consists of one representative from each participating state; each state has one commissioner and therefore one vote. The commission has several tasks that they need to address:

- Write the rules for the compact. The rules cannot supersede what is in the legislation but will provide some clarity for how the compact will operate.
- Identify which database will be used or contract with a vendor to develop one or adapt an existing one. There is a possibility one of the existing databases will be available at minimal cost.

- Develop the policies for the operation of the compact, including a budget and meeting schedule, among other things. The legislation allows for up to four national professional associations to be ad hoc members of the commission; the commission will select which groups will hold these seats.

It is anticipated that it will take between nine months and a year to get the commission up and running before applications will be accepted.

Any state that passes the compact legislation in years 2023 and beyond becomes part of the commission but cannot change the rules or policies.

Commonly Asked Questions

Does the compact affect whom a state can license?

No, the compact does not change the process or requirements of any state in licensing counselors. The compact does not apply to initial licensure.

Which states can be part of the compact?

Any state can be part of the compact as long as they currently license counselors under the requirements within the compact (see Section 3 of the compact).

How does the compact help counselors?

The compact allows counselors to apply for a privilege to practice (whether in person or via telehealth) in another state. The compact expedites the process for counselors to obtain a license in a new home state when they move, as long as that state is part of the compact.

What is a privilege to practice?

A privilege is the legal authorization to practice, equivalent to a license, which allows a counselor to practice in a state other than the state where they live or hold a license.

What is a home state?

The home state is where the counselor legally resides. Counselors who wish to apply for a privilege in another state must hold a home state license.

Which counselors can apply for a privilege to practice in another compact state?

Any counselor who holds an unencumbered license to practice at the highest level in a participating state may apply for a privilege. Licensed professional counselors who do not hold degrees in counseling but in a closely related field are eligible to apply for a privilege if they meet all requirements for licensure as a licensed professional counselor in their home state.

Do I get a privilege in all compact states?

Counselors may apply for a privilege to practice in any compact state, but the privilege is specific to that state and does not apply to other compact states. Counselors must apply separately to each state in which they want the privilege to practice.

Do I have to use the compact if I want a license in another state?

No, you can always apply directly to another state for a license.

What about grandparenting?

If a state currently licenses counselors according to the requirements delineated in Section 3 of the compact and a counselor holds a license from that state, they are eligible to apply for a privilege. According to the current requirements, this process accounts for the differences in licensing requirements over the years across states.

Why aren't CACREP and the NCE named in the compact?

Best practices indicate that names of specific tests and curricular requirements should not be included in a compact. That way, if the name of the test or the program changes, states do not have to revise their laws or regulations.

What if the state where I hold a privilege has a different scope of practice from my home state?

You must adhere to the scope of practice of the state where you are practicing (where your client currently resides). If your home state allows you to do something that the remote state does not, even if you are competent to do so, you must adhere to the remote state's scope of practice. If the remote state allows something your home state does not, you must continue to practice ethically and within the bounds of your competence.

What is this going to cost me?

States may charge for the privilege to practice in their state just as they would if you were applying for a license in that state. Fees will be set once the process begins, but they may be lower than the cost of a license and are unlikely to be higher. While the cost savings may be minimal, the savings in time and energy are significant.

What about military spouses?

Military spouses may decide which state they wish to designate as their home state. The designated state remains the home state so long as the spouse is on active duty or in the reserves, and the spouse can practice in any compact state using that license for as long as the spouse is active military or in the reserves. Once the spouse retires, the counselor must abide by the same rules as all other licensed counselors.

What about adverse actions?

Only the home state can take action against a counselor. But if there is a problem in a state where the counselor holds a privilege to practice, the remote state can suspend the privilege and will inform the board of the home state.

Will my license and privilege have different expiration dates?

No, counselors' privileges to practice will all have the same time period as their home license. This is logical as counselors must hold a valid license from their home state. Remote states would not want a counselor practicing in their state with an expired home state license.