



December 7, 2021

To: Melissa Renick, Assistant Director for Research

From: Dayton LaMunyon, Legislative Fellow

Re: Survey of Interstate Compacts Concerning Licensure of Counselors and Marriage and Family Therapists

INTERSTATE LICENSURE OF COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

At its November 17, 2021, meeting, the 2021 Special Committee on Mental Health Modernization and Reform heard testimony from a representative of the National Conference of States Legislatures regarding interstate compacts regulating the licensure of licensed counselors (LC) and marriage and family therapists (LMFT). The representative stated many states are utilizing interstate licensure compacts to address occupational licensing issues. Licensure compacts allow providers licensed in one state to provide services in another state without repeating the entire licensure process in the other states. An interstate compact for LCs, the Counseling Compact, has been enacted in two states and has been passed, introduced, or prefiled in six other state legislatures, but has yet to reach the ten-state threshold required for activation of the compact. A LMFT interstate compact has not been introduced in any state; however, efforts are underway to address interstate licensure of LMFTs.

Professional Counselors Licensure Compact

The Professional Counselors Licensure Compact (Counseling Compact) project was facilitated by the National Center for Interstate Compacts at the Council of State Governments. The Counseling Compact project team approved the final draft of the enabling legislation in December 2019. The draft legislation was distributed to states for enactment beginning with the 2021 legislative sessions. The Counseling Compact is a mutual recognition compact, meaning applicants do not need to go through the entire application process in the states that are not their home licensure state.

The Counseling Compact will become active once the enabling legislation has been enacted in ten different states. The Counseling Compact has been enacted by two states and has been prefiled, introduced, or partially passed in six other states. The following table sets forth the status of the enabling legislation in states that have considered joining the Counseling Compact:

STATE	STATUS	MOST RECENT ACTION	LEGISLATION	NOTES
Georgia	Passed; enacted	05/10/21	HB 395	First state to enter into Counseling Compact.
Maryland	Passed; chaptered	05/18/21	HB 0736 ; SB 0571	Second state to enter into Counseling Compact.
Ohio	Passed Senate; in House Committee on Behavioral Health and Recovery Supports	November 2021	S 204	Adjourns December 31, 2021.
North Carolina	Passed House; in Senate Committee on Rules and Operations of the Senate	July 2021	H 791	Adjourns July 8, 2022.
Nebraska	Referred to Legislative Committee on Health and Human Services	January 2021	L 554	Adjourned in May 2021. Eligible for carryover. Reconvenes on January 5, 2022.
Tennessee	Passed Senate; in House, held at desk	April 2021	S 1027	Original bill only authorized boards to conduct electronic meetings. Amended to include compact enacting language. Eligible for carryover. Reconvenes on January 11, 2022.
Florida	In Senate Appropriations Subcommittee on Health and Human Services	November 2021	S 590	Adjourns on March 11, 2022.
Kentucky	Prefiled	September 2021	Bill Request 334	Adjourns on April 15, 2022.

Interstate Licensure of LMFTs

No interstate compact currently exists for the licensure of marriage and family therapists, although the Center for Connected Health Policy notes that a compact is in development. States have taken a variety of other approaches to address interstate LFMT reciprocity.

Model of LMFT License Portability

The American Association for Marriage and Family Therapy's (AAMFT) stated goal, with respect to license portability, is to promote objectivity in assessing the qualifications of a LMFT who applies for a license in another state. Currently, many states assess whether a candidate's qualifications are "substantially equivalent" to the assessing state's requirements. AAMFT states this standard creates additional barriers for candidates due to the subjectivity of the phrase. AAMFT has introduced the following model of marriage and family therapist license portability:

A state licensure board shall issue a full and unrestricted license to an out-of-state applicant to practice as an LMFT if the applicant:

- Has a valid and unrestricted license to practice as a LMFT in one state or territory; and
- Has completed an application for licensure in the non-home state and paid any required fees.

This is a full endorsement model, meaning that a state will license the LMFT if the applicant satisfies the above requirements. AAMFT notes the model is not meant to restrict a state from implementing additional requirements, such as passing a background check or passing a state-specific exam.¹

Registration States

Some states, such as Arizona, Florida and West Virginia, have amended their laws to allow out-of-state behavioral health providers, including LMFTs, to register in their state. The providers do not need to complete the entire application process for licensure in the state, so long as they meet the state's requirements for registration as out-of-state providers.

- **Arizona.** An out-of-state provider wishing to register as a licensed behavioral health provider in Arizona must do the following:
 - Register with Arizona's applicable health care provider regulatory board or agency;
 - Register with the controlled substances prescription monitoring program, before the provider prescribes a controlled substance;
 - Pay the registration fee to the applicable health care provider regulatory board or agency;
 - Hold a current, valid, and unrestricted license to practice in another state that is substantially similar to Arizona's issued license;
 - Act in full compliance with Arizona's applicable laws and rules;
 - Maintain professional liability insurance in accordance with Arizona laws;

¹ ["Model of LMFT License Portability,"](#) *American Association of Marriage and Family Therapists*. Date accessed: 12/6/2021

- Consent to Arizona’s jurisdiction for disciplinary action or legal proceedings;
 - Follow Arizona’s standard of care applicable to providers of the applicant’s profession; and
 - Update annually the provider’s registration for accuracy and submit an annual report to the applicable provider regulatory board or agency regarding provider-patient encounters for the preceding year.²
- **Florida.** An out-of-state provider wishing to register as a licensed behavioral health provider in Florida must:
 - Provide health care services within Florida’s established scope of practice for the relevant profession; and
 - Register with the applicable board or department, which requires the applicant to certify they have done the following:
 - Completed the board or department’s application;
 - Been licensed with an active, unencumbered license that is substantially similar to the Florida-issued license;
 - Not been subject to disciplinary action relating to the license for five years prior to submitting the application;
 - Designated a duly appointed registered agent for service of process on the agency’s prescribed form; and
 - Secured professional liability insurance, including coverage for telehealth services outside the provider’s home state.³
- **West Virginia.** An out-of-state provider wishing to register as a licensed behavioral health provider in West Virginia must do the following:
 - Be licensed in good standing in all states where the applicant is licensed and not under investigation or subject to an administrative complaint;
 - Be registered as an interstate telehealth practitioner with the appropriate board in West Virginia;
 - Satisfy the standard of care, which requires that the patient visits an in-person health care practitioner within 12 months of using the initial telemedicine service or the provider refuses to provide telemedicine service to the patient until such in-person visit is obtained;
 - Not prescribe controlled substances, unless an exception applies;
 - Adhere to the board’s established rules of conduct;
 - Pay the registration fee;
 - Not practice in a physical location within the state;

2 Arizona 2021 [HB 2454](#)

3 Florida 2019 [HB 23](#)

- Adhere to all state laws, rules, and regulations governing the relevant profession;
- Be subject to the appropriate board's jurisdiction;
- Notify the appropriate board where the applicant is registered; and
- Immediately notify the appropriate board of any restrictions placed on the applicant's license to practice in any state or jurisdiction.⁴

New York Interstate Licensure Program

In 2021, New York state passed [SB 2507](#), which creates an interstate licensure program to authorize practitioners licensed by contiguous states, or states in the Northeast region, to provide telehealth services to patients located in New York state. This is meant to address practice areas with historical access issues. The regulations necessary to implement this program have not yet been promulgated. Such regulations must be promulgated by March 31, 2022.

Utah's Temporary Continuity of Care

Utah allows for continuity of care once a provider's client relocates to Utah. This includes LMFTs. An individual who is licensed, and in good standing, to practice mental health therapy in the United States may provide short-term transitional remote therapy to a client in Utah, if the following requirements are satisfied:

- The provider is present in the state where the provider is licensed to practice;
- The client relocates to Utah;
- The client is a client of the provider immediately prior to the client's relocation;
- The provider provides short-term transitional therapy to the client only during the 45-day period beginning on the day the client relocates to Utah;
- Within ten days after the client's relocation, the provider provides written notice to the Utah Division of Occupational and Professional Licensing of the provider's intent to provide short term transitional remote therapy to the client; and
- The provider does not engage in unlawful or unprofessional conduct.⁵

4 West Virginia 2021 [HB 2024](#)

5 Utah 2018 [SB 12](#)