

SENATE BILL REPORT

SHB 1069

As Passed Senate, April 5, 2023

Title: An act relating to the mental health counselor compact.

Brief Description: Adopting the mental health counselor compact.

Sponsors: House Committee on Postsecondary Education & Workforce (originally sponsored by Representatives Leavitt, Harris, Riccelli, Simmons, Barkis, Slatter, Ryu, Bateman, Rude, Schmidt, Rule, Goodman, Ybarra, Callan, Doglio, Orwall, Macri, Caldier, Senn, Tharinger, Bronoske, Gregerson, Paul, Wylie, Stonier, Kloba, Ormsby and Farivar).

Brief History: Passed House: 2/6/23, 93-0.

Committee Activity: Health & Long Term Care: 3/10/23, 3/21/23 [DP].

Floor Activity: Passed Senate: 4/5/23, 49-0.

Brief Summary of Bill

- Enacts the Counseling Compact in Washington State.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: Do pass.

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Rivers, Ranking Member; Muzzall, Assistant Ranking Member; Conway, Dhingra, Holy, Padden, Randall and Van De Wege.

Staff: Kevin Black (786-7747)

Background: Professionals Licensed Who May Provide Behavioral Health Treatment. The Department of Health (DOH) licenses health care professionals. A number of professional licenses in Washington with varying levels of required educational attainment include treatment of persons with behavioral health disorders within their scope of practice,

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including, but not limited to, doctoral-level professions including physicians, physician assistants, advanced registered nurse practitioners, and psychologists, master's level clinicians including mental health counselors, marriage and family therapists, advanced social workers, and independent clinical social workers, and professions which do not require a master's degree, including substance use disorder professionals, behavioral health technicians, agency affiliated counselors, and registered counselors.

Licensed Mental Health Counselors. Licensed mental health counselors (LMHCs) are authorized to apply principles of human development, learning theory, psychotherapy, group dynamics, and etiology of mental illness and dysfunctional behavior to individuals, couples, families, groups, and organizations, for the treatment of mental disorders and promoting optimal mental health and functionality. Mental health counseling also includes the assessment, diagnosis, and treatment of mental and emotional disorders, as well as the application of a wellness model of mental health.

An LMHC must graduate from a master's or doctoral program in mental health counseling, or a related discipline based on nationally recognized standards, without further specifications for number of credit hours or coursework required. An LMHC must also pass an approved examination, and complete a supervised experience requirement.

The Counseling Compact. The Counseling Compact (Compact) is an agreement between states promulgated by the Compact Commission (Commission), a division of the National Center for Interstate Compacts at the Council for State Governments. The Compact was completed in December 2020. When effective, the Compact will allow LMHCs and equivalent professionals in member states, who the Compact calls licensed professional counselors, to practice counseling across state lines. According to the Commission, 17 states have enacted the Compact, and the Compact is planned to be operational by the end of 2023.

Summary of Bill: The Counseling Compact. The Compact is enacted in Washington State. The Compact allows professional counselors residing in Washington whose license has been unencumbered for at least two years, and who meet other Compact requirements to practice outside their home state in other member states which have enacted the Compact. The Compact allows professional counselors outside Washington who are licensed by a member state whose license has been unencumbered by two years, regardless of the title used by that state, to practice in Washington, as long as their license includes the ability to independently assess, diagnose, and treat behavioral health conditions, and they meet other requirements of the Compact.

The nearest analog in Washington to a professional counselor as described in the Compact is an LMHC. LMHCs who qualify to exercise privileges under the Compact must apply for the privilege to practice in a remote state, and pay a fee to the Commission. These LMHCs must adhere to the laws and regulations of the remote state, even if inconsistent with the laws of Washington, and may be investigated, subpoenaed, disciplined, or fined by the

regulatory authority in the remote state, in accordance with due process and that state's laws. Member states must share information relating to disciplinary actions, but only a home state may take action against a counselor's home state license. The Commission must develop and maintain a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

Compact member states must allow remote state counselors to practice in their states by telemedicine. Active duty military personnel, or their spouses, may designate a home state for the purpose of the Compact where they maintain licensure, but do not reside, during periods when the service member is on active duty.

Requirements for Counseling Compact Participation. The Compact contains a number of requirements for participating states, including that the state must license professional counselors which meet specified requirements. Most of these of these requirements are consistent with existing Washington law, including:

- requiring licensees to pass a nationally recognized exam;
- requiring licensees to complete supervised postgraduate professional experience;
- having a mechanism to receive and investigate complaints against licensees; and
- considering the criminal history records of applicants for licensure, including a fingerprint-based background check with the Federal Bureau of Investigation.

Counseling Compact Educational Requirements. The Compact contains an educational requirement which exceeds current Washington law. Licensing standards for LMHCs are modified so that a person may meet LMHC licensure requirements by meeting the current law requirements or by meeting the educational requirements under the Compact. Only LMHCs who meet the educational requirements under the Compact are qualified to practice under the Compact in a remote state. The educational requirements under the Compact require the licensee to graduate from a master's degree or doctoral-level counseling program which includes at least 60 semester-hours, or 90 quarter-hours, or an equivalent number of hours of graduate coursework which includes the following topics:

- mental health counseling orientation and ethical practice;
- social and cultural diversity;
- human growth and development;
- career development;
- counseling and helping relationships;
- group counseling and group work;
- diagnosis and treatment;
- assessment and testing;
- research and program evaluation; and
- other areas determined by the Commission.

Duties Relating to the Compact Commission. Washington must comply with the rules established by the Commission that do not exceed the scope of the Compact, and pay dues to the Commission. Washington must enforce the Compact, and take all actions necessary

to effectuate its purposes and intent. The Commission is authorized to enforce the rules of the Compact and to take action against states which default against their Compact duties, including by taking legal action against a member state. The Commission may adopt rules by a majority vote of member states following specified processes including notice and a public hearing. Washington must appoint a delegate to attend Commission meetings, which must occur at least once during each calendar year. Indemnification and qualified immunity is provided for members and officers of the Commission for acts, errors, or omissions occurring within the scope of Commission duties.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: We have a workforce shortage in behavioral health across the state, which is alarming. Youth suicide is rising, especially in the LGBTQ community, and suicide among military service members is high. Workers and first responders need help. This Compact increases access by allowing workers who move into this state to get to work quickly, and by facilitating continuity of care via telehealth. Military spouses want to work. Individuals can enter a downward spiral when they can't access mental health professionals in a timely manner. Only two states in the nation do not meet the 60 semester-hour education standard for professional counselors. The Compact's educational requirements are more comprehensive than Washington's. Please amend the bill to adopt these educational standards. Having rigorous standards will ensure ethical and competent care. Washington stands alone in not having minimum standards for education. Passing the Compact will draw students to the state of Washington, knowing their license will be more valuable. Current rules require a counselor and client to be physically together in the same state.

Persons Testifying: PRO: Representative Mari Leavitt, Prime Sponsor; Tom Davis, Veterans Legislative Coalition; Shane Martin, Seattle University; Dominique Avery, Ph.D., LMHC, NCC, Washington Mental Health Counselors Association; Shannon Thompson LMHC, CMHS, NCC, Washington Mental Health Counselors Association; Meg Curtin Rey-Bear.

Persons Signed In To Testify But Not Testifying: No one.