



North Dakota Legislative Council

Prepared for the Workforce Committee

LC# 25.9090.01000

September 2023

SOCIAL WORK LICENSURE COMPACT STUDY - BACKGROUND MEMORANDUM

Section 52 of Senate Bill No. 2012 (2023) ([Appendix A](#)) directs the Legislative Management to study the feasibility and desirability of the Legislative Assembly enacting the interstate Social Work Licensure Compact (Compact) ([Appendix B](#)). The study may consider whether the public and the social work community support enactment and whether the North Dakota Board of Social Work Examiners has the capacity to participate in the Compact.

BACKGROUND

North Dakota Century Code Chapter 43-41 governs the licensure and practice procedures of social workers in North Dakota. The North Dakota Board of Social Work Examiners receives applications, conducts background checks, regulates and disciplines social workers, and ultimately decides whether to issue a license to an applicant.

The Council of State Governments has partnered with the Department of Defense and the Association of Social Work Boards (ASWB) to foster flexibility for licensed social workers through the Compact. The Compact aims to build a more cohesive social work licensing structure to allow professionals to be licensed seamlessly in multiple states simultaneously. The National Center for Interstate Compacts defines an interstate compact as a contractual arrangement between two or more states in which the assigned parties agree on a specific policy issue and either adopt a set of standards or cooperate on a particular regional or national matter.

North Dakota is a member of several compacts, some of which can be found in the following provisions of the Constitution of North Dakota and the Century Code:

- Article XIII, Compact with the United States;
- Chapter 8-11.1, Midwest Interstate Passenger Rail Compact;
- Chapter 12-65, Interstate Compact for Adult Offender Supervision;
- Chapter 12-66, Interstate Compact for Juveniles;
- Chapter 14-13, Interstate Child Placement Compact;
- Chapter 15-10.5, Midwestern Regional Higher Education Compact;
- Chapter 15.1-04, Compact for Education;
- Chapter 15.1-04.1, Compact on Educational Opportunity for Military Children;
- Chapter 18-14, Interstate Wildland Fire Compact;
- Chapter 20.1-16, Interstate Wildlife Violator Compact;
- Chapter 23-27.1, Emergency Medical Services Personnel Licensure Interstate Compact;
- Chapter 23.1-05, Southwestern Low-Level Radioactive Waste Disposal Compact;
- Chapter 25-11, Interstate Mental Health Compact;
- Chapter 25-14, Interstate Compact on Mentally Disordered Offenders;
- Section 37-17.1-14.5, Interstate Mutual Aid Agreement or Compact;
- Chapter 37-17.2, National Guard Counter-Drug Activities Compact;
- Chapter 38-20, Interstate Mining Compact;
- Chapter 43-12.4, Nurse Licensure Compact;
- Chapter 43-12.5, Advanced Practice Registered Nurse Licensure Compact;
- Chapter 43-17.4, Interstate Medical Licensure Compact;

- Chapter 43-26.2, Physical Therapy Licensure Compact;
- Chapter 54-03.3, Compact for a Balanced Budget;
- Chapter 54-21.4, Interstate Compact on Industrialized or Modular Buildings;
- Chapter 54-24.1, Interstate Library Compact;
- Chapter 54-58, Tribal-State Gaming Compact;
- Chapter 57-59, Multistate Tax Compact; and
- Chapter 61-23, Yellowstone River Compact.

SUMMARY OF COMPACT PROVISIONS

Section 1 of the Compact provides the objectives of the Compact are to:

- Increase public access to social work services;
- Reduce overly burdensome and duplicative requirements associated with holding multiple licenses;
- Enhance a member state's ability to protect the public's health and safety;
- Encourage the cooperation of member states in regulating multistate practice;
- Promote mobility and address workforce shortages by eliminating the necessity for licenses in multiple states by providing for the mutual recognition of other member state licenses;
- Support military families;
- Facilitate the exchange of licensure and disciplinary information among member states;
- Authorize all member states to hold a social worker accountable for abiding by the member state's laws, regulations, and applicable professional standards in a member state in which the client is located at the time care is rendered; and
- Allow for the use of telehealth to facilitate increased access to regulated social work services.

Section 2 of the Compact provides the definitions used throughout the Compact. Some of the notable definitions in the Compact are as follows:

- "Compact commission" or "commission" means the government agency whose membership consists of all states that have enacted the Compact, which is known as the Social Work Licensure Compact Commission (Commission), and which must operate as an instrumentality of the member states.
- "Domicile" is defined as the jurisdiction in which the licensee resides and intends to remain indefinitely.
- "Home state" is defined as the member state that is the licensee's primary domicile.
- "Licensee" is defined as an individual who currently holds a license from a state to practice as a regulated social worker.
- "Licensing authority" means the board or agency of a member state, or equivalent, that is responsible for the licensing and regulation of regulated social workers.
- "Multistate license" is defined as a license to practice as a regulated social worker issued by a home state licensing authority that authorizes the regulated social worker to practice in all member states under a multistate authorization to practice.
- "Multistate authorization to practice" is defined as a legally authorized privilege to practice, which is equivalent to a license, associated with a multistate license permitting the practice of social work in a remote state.
- "Qualifying national exam" means a national licensing examination approved by the Commission.
- "Regulated social worker" means any clinical, master's, or bachelor's social worker licensed by a member state regardless of the title used by that member state.
- "Remote state" is defined as a member state other than the licensee's home state.
- "Social work" or "social work services" means the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities through the care and services provided by a regulated social worker as set forth in the member state's statutes and regulations in the state where the services are being provided.

Section 3 of the Compact provides the eligibility requirements for states to join the Compact and compliance requirements for member states. To enact the Compact, a state must:

- License and regulate the practice of social work at either the clinical, master's, or bachelor's category;
- Require applicants for licensure to graduate from an accredited program or in candidacy by an institution that subsequently becomes accredited and corresponds to the licensure sought; and
- Require applicants for clinical licensure to complete a period of supervised practice.

Under the terms of the Compact, to maintain membership in the Compact, a state must:

- Require applicants for a multistate license to pass a qualifying national exam corresponding to the category of multistate license sought; and
- Implement procedures for considering the criminal history records of applicants for a multistate license.

Section 4 of the Compact provides three categories of multistate licenses--bachelor's, master's, and clinical. To receive a multistate license, regardless of category, all applicants in a member state must:

- Hold, or be eligible for, an active, unencumbered license to practice social work in the Compact member state in which they are domiciled;
- Agree to abide by the laws, regulations, and rules of the state in which the client is located at the time service is provided;
- Submit to a review of criminal history, including a background check; and
- Pay all required fees related to the application and process and any other fees the Commission may require by rule.

To receive a clinical-category multistate license, an applicant must:

- Fulfill a competency requirement, which may be satisfied by either:
 - Passing a clinical-category qualifying national exam;
 - Holding and continuously maintaining a clinical-category social work license in their home state before a qualifying national exam was required by the home state as further governed by the rules of the Commission; or
 - Proving clinical competency through a substantially equivalent standard, which the Commission may determine by rule.
- Attain at least a master's degree in social work from an accredited program or be a candidate at an institution that subsequently becomes accredited.
- Fulfill a supervised practice requirement, which must be satisfied by either:
 - Demonstrating completion of 3,000 or more hours of postgraduate supervised clinical practice;
 - Demonstrating completion of 2 years or more of full-time postgraduate supervised clinical practice; or
 - Being found to have proven clinical competency through a substantially equivalent standard, which the Commission may determine by rule.

To receive a master's-category multistate license, an applicant must:

- Fulfill a competency requirement, which may be satisfied by either:
 - Passing a master's-category qualifying national exam;
 - Holding and continuously maintaining a master's-category social work license in their home state before a qualifying national exam was required by the home state as further governed by the rules of the Commission; or
 - Proving master's-category competency through a substantially equivalent standard, which the Commission may determine by rule.
- Attain at least a master's degree in social work from an accredited program or be a candidate at an institution that subsequently becomes accredited.

To receive a bachelor's-category multistate license, an applicant must:

- Fulfill a competency requirement, which may be satisfied by either:
 - Passing a bachelor's-category qualifying national exam;
 - Holding and continuously maintaining a bachelor's-category social work license in their home state before a qualifying national exam was required by the home state as further governed by the rules of the Commission; or
 - Proving bachelor's-category competency through a substantially equivalent standard, which the Commission may determine by rule.
- Attain at least a bachelor's degree in social work from an accredited program or be a candidate at an institution that subsequently becomes accredited.

According to the National Center for Interstate Compacts, the only national licensing examination is produced and administered by the ASWB. To be eligible for licensure under the Compact, social workers must have passed the ASWB exam corresponding to the category of license sought. Social workers who already have passed the ASWB exam corresponding to the category of license sought will not be required to take an additional licensing exam. Using the broad term "qualifying national exam" allows the Commission flexibility in the event social work licensing examination practices change.

Section 5 of the Compact describes the license issuance process. Section 6 of the Compact outlines and describes the relationship between the Commission and the member state's lawmaking and rulemaking bodies. Section 7 of the Compact provides an expedited reissuance mechanism for social workers who hold a multistate license in a member state but choose to relocate to another member state. Section 8 of the Compact allows an active military member or their spouse to designate a home state where the individual has a current license in good standing and allows the designated state to serve as the individual's home state for as long as the service member is on active duty.

Section 9 of the Compact discusses adverse actions against regulated social workers. The Compact defines an "adverse action" as any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing authority or other authority against a regulated social worker, including actions against an individual's license or multistate authorization to practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a regulated social worker's authorization to practice, including the issuance of a cease and desist action. This section provides only a licensee's home state may take adverse action against a multistate license. However, a remote state may take adverse action against the multistate authorization to practice in that state and issue enforceable subpoenas for witnesses and evidence from other member states. Notably, a home state may consider any reported adverse actions in any member state and rely on factual findings from any member state when considering discipline on a multistate license. All adverse actions must be reported to the data system provided under Section 11 of the Compact.

Section 10 of the Compact establishes the Commission. This section outlines the composition and powers of the Compact Commission and executive committee. Each member state is entitled to one delegate. The delegate must be a regulated social worker who is a current member or public member of the member state's licensing authority at the time of appointment. The delegate also may be the administrator, executive director, or equivalent of the member state's licensing authority or their designee. Each delegate has one vote on Commission rules and bylaws. The Commission may establish a term of office, code of ethics, bylaws, rules, a budget, and financial records to fulfill the purpose of the Compact. The Commission must meet at least once per calendar year. The Commission shall elect an executive committee composed of seven voting members. The executive committee shall include up to four ex-officio, nonvoting members from four national social work organizations. All Commission and executive committee meetings must be open to the public unless confidential or privileged information is to be discussed.

Section 11 of the Compact requires the Commission to provide for developing, maintaining, operating, and utilizing a coordinated data system. All member states must submit a uniform data set to the coordinated data system on all individuals to whom the Compact is applicable as required by the rules of the Commission. A member state may assign information submitted to the data system as inaccessible to the public without the express permission of that member state. The information submitted to the data system includes:

- Identifying information;
- Licensure data;

- Adverse actions against a license and related information regarding the adverse action;
- Nonconfidential information related to alternative program participation, the beginning and ending dates of participation, and other information related to participation not made confidential under member state law;
- Any denial of application for licensure and the reasons for such denial;
- The presence of significant investigative information; and
- Other information that may facilitate the Compact's administration or the public's protection, as determined by the rules of the Commission.

Section 12 of the Compact provides the Commission the power to adopt and promulgate rules to execute the provisions of the Compact. The rules enacted by the Commission are legally binding in all member states. However, a simple majority of member state legislatures may veto a rule of the Commission. Any amendments to a rule require a 30-day notice of proposed rulemaking, with an opportunity for a public hearing. If the Commission takes an action exceeding the ambit of the Compact, the action is deemed invalid and has no effect.

Section 13 of the Compact discusses the Compact's oversight, dispute resolution, and enforcement procedures. In the event of a default by a member state, and if the member state fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the delegates of the member states. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the default period. Termination of membership in the Compact must be imposed only after all other means of securing compliance have been exhausted. Upon the termination of a state's membership from the Compact, that state immediately shall notify all licensees within that state of the termination. The terminated state shall continue to recognize all licenses granted pursuant to the Compact for a minimum of 6 months after the date of the notice of termination. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact which arise among member states and between member and nonmember states.

Section 14 provides an effective date as well as withdrawal and amendment procedures. The Compact becomes effective on the date the seventh member state enacts the Compact. States that join after the Commission's first meeting are subject to the rules of the Commission on the date the Compact becomes law in that state. Member states may enact a law to repeal their membership in the Compact. A state's withdrawal does not take effect immediately. A state's withdrawal is effective 180 days after enactment of a law repealing the Compact.

Section 15 of the Compact requires a liberal construction of the Compact to effectuate its purposes. This section also requires any phrase, clause, sentence, or provision held unconstitutional or unlawful by a court of competent jurisdiction to be severed from the Compact. If a provision is severed, the remainder of the Compact remains in full force and effect.

Section 16 addresses conflicts of laws with other member states. This section allows member states to retain sovereignty over all laws. Furthermore, any laws, statutes, regulations, or other legal requirements in a member state that conflict with the Compact are to be superseded to the extent of the conflict.

As of August 2023, the Compact has been adopted by Missouri. Proposed legislation for adoption of the Compact is pending in Georgia, Ohio, New Jersey, North Carolina, South Carolina, and Wisconsin. According to the National Center for Interstate Compacts, legislation to adopt the Compact has not been introduced in any other state, territory, or Washington D.C.

SUGGESTED STUDY APPROACH

In conducting this study, the committee may wish to receive testimony from representatives from:

- The North Dakota Board of Social Work Examiners;
- The Council of State Governments' National Center for Interstate Compacts;
- The Department of Defense;
- The North Dakota social work community; and
- The social work community from other states that have adopted or are considering adopting the Compact.

ATTACH:2