

2 State of Arkansas

3 92nd General Assembly

4 Second Extraordinary Session, 2020

A Bill

JMB/JMB

HOUSE BILL

5
6 By: Representative L. Johnson

7 Filed with: House Committee on Public Health, Welfare, and Labor

8 pursuant to A.C.A. §10-3-217.

9 For An Act To Be Entitled

10 AN ACT TO ESTABLISH THE PSYCHOLOGICAL
11 INTERJURISDICTIONAL COMPACT IN ARKANSAS; AND FOR
12 OTHER PURPOSES.

13 Subtitle

14
15 TO ESTABLISH THE PSYCHOLOGICAL
16 INTERJURISDICTIONAL COMPACT IN ARKANSAS.
17
18

19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21
22 SECTION 1. Arkansas Code Title 17, Chapter 97, is amended to add an
23 additional subchapter to read as follows:

24 Subchapter 5 – Psychological Interjurisdictional Compact

25
26 17-97-501. Text of compact.

27 The Psychological Interjurisdictional Compact is enacted into law and
28 entered into by this state with all states legally joining therein and in the
29 form substantially as follows:

30
31 PSYCHOLOGICAL INTERJURISDICTIONAL COMPACT

32
33 Article I

34 Purpose

1 Whereas, states license psychologists, in order to protect the public
2 through verification of education, training and experience and ensure
3 accountability for professional practice; and
4

5 Whereas, this Compact is intended to regulate the day to day practice
6 of telepsychology (i.e. the provision of psychological services using
7 telecommunication technologies) by psychologists across state boundaries in
8 the performance of their psychological practice as assigned by an appropriate
9 authority; and

10 Whereas, this Compact is intended to regulate the temporary in-person,
11 face-to-face practice of psychology by psychologists across state boundaries
12 for 30 days within a calendar year in the performance of their psychological
13 practice as assigned by an appropriate authority;

14 Whereas, this Compact is intended to authorize State Psychology
15 Regulatory Authorities to afford legal recognition, in a manner consistent
16 with the terms of the Compact, to psychologists licensed in another state;

17 Whereas, this Compact recognizes that states have a vested interest in
18 protecting the public's health and safety through their licensing and
19 regulation of psychologists and that such state regulation will best protect
20 public health and safety;

21 Whereas, this Compact does not apply when a psychologist is licensed in
22 both the Home and Receiving States; and

23 Whereas, this Compact does not apply to permanent in-person, face-to-
24 face practice, it does allow for authorization of temporary psychological
25 practice.

26 Consistent with these principles, this Compact is designed to achieve
27 the following purposes and objectives:

28 1. Increase public access to professional psychological services
29 by allowing for telepsychological practice across state lines as well as
30 temporary in-person, face-to-face services into a state which the
31 psychologist is not licensed to practice psychology;

32 2. Enhance the states' ability to protect the public's health
33 and safety, especially client/patient safety;

34 3. Encourage the cooperation of Compact States in the areas of
35 psychology licensure and regulation;

1 activities related to psychology licensure laws, which is administered by the
2 recognized membership organization composed of State and Provincial
3 Psychology Regulatory Authorities.

4 I. "Confidentiality" means: the principle that data or information is
5 not made available or disclosed to unauthorized persons and/or processes.

6 J. "Day" means: any part of a day in which psychological work is
7 performed.

8 K. "Distant State" means: the Compact State where a psychologist is
9 physically present (not through the use of telecommunications technologies),
10 to provide temporary in-person, face-to-face psychological services.

11 L. "E.Passport" means: a certificate issued by the Association of
12 State and Provincial Psychology Boards (ASPPB) that promotes the
13 standardization in the criteria of interjurisdictional telepsychology
14 practice and facilitates the process for licensed psychologists to provide
15 telepsychological services across state lines.

16 M. "Executive Board" means: a group of directors elected or appointed
17 to act on behalf of, and within the powers granted to them by, the
18 Commission.

19 N. "Home State" means: a Compact State where a psychologist is
20 licensed to practice psychology. If the psychologist is licensed in more than
21 one Compact State and is practicing under the Authorization to Practice
22 Interjurisdictional Telepsychology, the Home State is the Compact State where
23 the psychologist is physically present when the telepsychological services
24 are delivered. If the psychologist is licensed in more than one Compact State
25 and is practicing under the Temporary Authorization to Practice, the Home
26 State is any Compact State where the psychologist is licensed.

27 O. "Identity History Summary" means: a summary of information retained
28 by the FBI, or other designee with similar authority, in connection with
29 arrests and, in some instances, federal employment, naturalization, or
30 military service.

31 P. "In-Person, Face-to-Face" means: interactions in which the
32 psychologist and the client/patient are in the same physical space and which
33 does not include interactions that may occur through the use of
34 telecommunication technologies.

35 Q. "Interjurisdictional Practice Certificate (IPC)" means: a
36 certificate issued by the Association of State and Provincial Psychology

1 Boards (ASPPB) that grants temporary authority to practice based on
2 notification to the State Psychology Regulatory Authority of intention to
3 practice temporarily, and verification of one's qualifications for such
4 practice.

5 R. "License" means: authorization by a State Psychology Regulatory
6 Authority to engage in the independent practice of psychology, which would be
7 unlawful without the authorization.

8 S. "Non-Compact State" means: any State which is not at the time a
9 Compact State.

10 T. "Psychologist" means: an individual licensed for the independent
11 practice of psychology.

12 U. "Psychology Interjurisdictional Compact Commission" also referred
13 to as "Commission" means: the national administration of which all Compact
14 States are members.

15 V. "Receiving State" means: a Compact State where the client/patient
16 is physically located when the telepsychological services are delivered.

17 W. "Rule" means: a written statement by the Psychology
18 Interjurisdictional Compact Commission promulgated pursuant to Article XI of
19 the Compact that is of general applicability, implements, interprets, or
20 prescribes a policy or provision of the Compact, or an organizational,
21 procedural, or practice requirement of the Commission and has the force and
22 effect of statutory law in a Compact State, and includes the amendment,
23 repeal or suspension of an existing rule.

24 X. "Significant Investigatory Information" means:

25 1. investigative information that a State Psychology Regulatory
26 Authority, after a preliminary inquiry that includes notification and an
27 opportunity to respond if required by state law, has reason to believe, if
28 proven true, would indicate more than a violation of state statute or ethics
29 code that would be considered more substantial than minor infraction; or

30 2. investigative information that indicates that the
31 psychologist represents an immediate threat to public health and safety
32 regardless of whether the psychologist has been notified and/or had an
33 opportunity to respond.

34 Y. "State" means: a state, commonwealth, territory, or possession of
35 the United States, the District of Columbia.

1 B. To exercise the Authority to Practice Interjurisdictional
2 Telepsychology under the terms and provisions of this Compact, a psychologist
3 licensed to practice in a Compact State must:

4 1. Hold a graduate degree in psychology from an institute of
5 higher education that was, at the time the degree was awarded:

6 a. Regionally accredited by an accrediting body recognized
7 by the U.S. Department of Education to grant graduate degrees, OR authorized
8 by Provincial Statute or Royal Charter to grant doctoral degrees; OR

9 b. A foreign college or university deemed to be equivalent
10 to 1 (a) above by a foreign credential evaluation service that is a member of
11 the National Association of Credential Evaluation Services (NACES) or by a
12 recognized foreign credential evaluation service; AND

13 2. Hold a graduate degree in psychology that meets the following
14 criteria:

15 a. The program, wherever it may be administratively
16 housed, must be clearly identified and labeled as a psychology program. Such
17 a program must specify in pertinent institutional catalogues and brochures
18 its intent to educate and train professional psychologists;

19 b. The psychology program must stand as a recognizable,
20 coherent, organizational entity within the institution;

21 c. There must be a clear authority and primary
22 responsibility for the core and specialty areas whether or not the program
23 cuts across administrative lines;

24 d. The program must consist of an integrated, organized
25 sequence of study;

26 e. There must be an identifiable psychology faculty
27 sufficient in size and breadth to carry out its responsibilities;

28 f. The designated director of the program must be a
29 psychologist and a member of the core faculty;

30 g. The program must have an identifiable body of students
31 who are matriculated in that program for a degree;

32 h. The program must include supervised practicum,
33 internship, or field training appropriate to the practice of psychology;

34 i. The curriculum shall encompass a minimum of three
35 academic years of full-time graduate study for doctoral degree and a minimum
36 of one academic year of full-time graduate study for master's degree;

1 j. The program includes an acceptable residency as defined
2 by the Rules of the Commission.

3 3. Possess a current, full and unrestricted license to practice
4 psychology in a Home State which is a Compact State;

5 4. Have no history of adverse action that violate the Rules of
6 the Commission;

7 5. Have no criminal record history reported on an Identity
8 History Summary that violates the Rules of the Commission;

9 6. Possess a current, active E.Passport;

10 7. Provide attestations in regard to areas of intended practice,
11 conformity with standards of practice, competence in telepsychology
12 technology; criminal background; and knowledge and adherence to legal
13 requirements in the home and receiving states, and provide a release of
14 information to allow for primary source verification in a manner specified by
15 the Commission; and

16 8. Meet other criteria as defined by the Rules of the
17 Commission.

18 C. The Home State maintains authority over the license of any
19 psychologist practicing into a Receiving State under the Authority to
20 Practice Interjurisdictional Telepsychology.

21 D. A psychologist practicing into a Receiving State under the
22 Authority to Practice Interjurisdictional Telepsychology will be subject to
23 the Receiving State's scope of practice. A Receiving State may, in accordance
24 with that state's due process law, limit or revoke a psychologist's Authority
25 to Practice Interjurisdictional Telepsychology in the Receiving State and may
26 take any other necessary actions under the Receiving State's applicable law
27 to protect the health and safety of the Receiving State's citizens. If a
28 Receiving State takes action, the state shall promptly notify the Home State
29 and the Commission.

30 E. If a psychologist's license in any Home State, another Compact
31 State, or any Authority to Practice Interjurisdictional Telepsychology in any
32 Receiving State, is restricted, suspended or otherwise limited, the
33 E.Passport shall be revoked and therefore the psychologist shall not be
34 eligible to practice telepsychology in a Compact State under the Authority to
35 Practice Interjurisdictional Telepsychology.

36

1 Article V

2 Compact Temporary Authorization to Practice

3 A. Compact States shall also recognize the right of a psychologist,
4 licensed in a Compact State in conformance with Article III, to practice
5 temporarily in other Compact States (Distant States) in which the
6 psychologist is not licensed, as provided in the Compact.

7 B. To exercise the Temporary Authorization to Practice under the terms
8 and provisions of this Compact, a psychologist licensed to practice in a
9 Compact State must:

10 1. Hold a graduate degree in psychology from an institute of
11 higher education that was, at the time the degree was awarded:

12 a. Regionally accredited by an accrediting body recognized
13 by the U.S. Department of Education to grant graduate degrees, OR authorized
14 by Provincial Statute or Royal Charter to grant doctoral degrees; OR

15 b. A foreign college or university deemed to be equivalent
16 to 1 (a) above by a foreign credential evaluation service that is a member of
17 the National Association of Credential Evaluation Services (NACES) or by a
18 recognized foreign credential evaluation service; AND

19 2. Hold a graduate degree in psychology that meets the following
20 criteria:

21 a. The program, wherever it may be administratively
22 housed, must be clearly identified and labeled as a psychology program. Such
23 a program must specify in pertinent institutional catalogues and brochures
24 its intent to educate and train professional psychologists;

25 b. The psychology program must stand as a recognizable,
26 coherent, organizational entity within the institution;

27 c. There must be a clear authority and primary
28 responsibility for the core and specialty areas whether or not the program
29 cuts across administrative lines;

30 d. The program must consist of an integrated, organized
31 sequence of study;

32 e. There must be an identifiable psychology faculty
33 sufficient in size and breadth to carry out its responsibilities;

34 f. The designated director of the program must be a
35 psychologist and a member of the core faculty;

1 g. The program must have an identifiable body of students
2 who are matriculated in that program for a degree;

3 h. The program must include supervised practicum,
4 internship, or field training appropriate to the practice of psychology;

5 i. The curriculum shall encompass a minimum of three
6 academic years of full- time graduate study for doctoral degrees and a
7 minimum of one academic year of full-time graduate study for master's degree;

8 j. The program includes an acceptable residency as defined
9 by the Rules of the Commission.

10 3. Possess a current, full and unrestricted license to practice
11 psychology in a Home State which is a Compact State;

12 4. No history of adverse action that violate the Rules of the
13 Commission;

14 5. No criminal record history that violates the Rules of the
15 Commission;

16 6. Possess a current, active IPC;

17 7. Provide attestations in regard to areas of intended practice
18 and work experience and provide a release of information to allow for primary
19 source verification in a manner specified by the Commission; and

20 8. Meet other criteria as defined by the Rules of the
21 Commission.

22 C. A psychologist practicing into a Distant State under the Temporary
23 Authorization to Practice shall practice within the scope of practice
24 authorized by the Distant State.

25 D. A psychologist practicing into a Distant State under the Temporary
26 Authorization to Practice will be subject to the Distant State's authority
27 and law. A Distant State may, in accordance with that state's due process
28 law, limit or revoke a psychologist's Temporary Authorization to Practice in
29 the Distant State and may take any other necessary actions under the Distant
30 State's applicable law to protect the health and safety of the Distant
31 State's citizens. If a Distant State takes action, the state shall promptly
32 notify the Home State and the Commission.

33 E. If a psychologist's license in any Home State, another Compact
34 State, or any Temporary Authorization to Practice in any Distant State, is
35 restricted, suspended or otherwise limited, the IPC shall be revoked and

1 therefore the psychologist shall not be eligible to practice in a Compact
2 State under the Temporary Authorization to Practice.

4 Article VI

5 Conditions of Telepsychology Practice in A Receiving State

6 A. A psychologist may practice in a Receiving State under the
7 Authority to Practice Interjurisdictional Telepsychology only in the
8 performance of the scope of practice for psychology as assigned by an
9 appropriate State Psychology Regulatory Authority, as defined in the Rules of
10 the Commission, and under the following circumstances:

11 1. The psychologist initiates a client/patient contact in a Home
12 State via telecommunications technologies with a client/patient in a
13 Receiving State;

14 2. Other conditions regarding telepsychology as determined by
15 Rules promulgated by the Commission.

17 Article VII

18 Adverse Actions

19 A. A Home State shall have the power to impose adverse action against
20 a psychologist's license issued by the Home State. A Distant State shall have
21 the power to take adverse action on a psychologist's Temporary Authorization
22 to Practice within that Distant State.

23 B. A Receiving State may take adverse action on a psychologist's
24 Authority to Practice Interjurisdictional Telepsychology within that
25 Receiving State. A Home State may take adverse action against a psychologist
26 based on an adverse action taken by a Distant State regarding temporary in-
27 person, face-to-face practice.

28 C. If a Home State takes adverse action against a psychologist's
29 license, that psychologist's Authority to Practice Interjurisdictional
30 Telepsychology is terminated and the E.Passport is revoked. Furthermore, that
31 psychologist's Temporary Authorization to Practice is terminated and the IPC
32 is revoked.

33 1. All Home State disciplinary orders which impose adverse
34 action shall be reported to the Commission in accordance with the Rules
35 promulgated by the Commission. A Compact State shall report adverse actions
36 in accordance with the Rules of the Commission.

1 2. In the event discipline is reported on a psychologist, the
2 psychologist will not be eligible for telepsychology or temporary in-person,
3 face-to-face practice in accordance with the Rules of the Commission.

4 3. Other actions may be imposed as determined by the Rules
5 promulgated by the Commission.

6 D. A Home State's Psychology Regulatory Authority shall investigate
7 and take appropriate action with respect to reported inappropriate conduct
8 engaged in by a licensee which occurred in a Receiving State as it would if
9 such conduct had occurred by a licensee within the Home State. In such cases,
10 the Home State's law shall control in determining any adverse action against
11 a psychologist's license.

12 E. A Distant State's Psychology Regulatory Authority shall investigate
13 and take appropriate action with respect to reported inappropriate conduct
14 engaged in by a psychologist practicing under Temporary Authorization
15 Practice which occurred in that Distant State as it would if such conduct had
16 occurred by a licensee within the Home State. In such cases, Distant State's
17 law shall control in determining any adverse action against a psychologist's
18 Temporary Authorization to Practice.

19 F. Nothing in this Compact shall override a Compact State's decision
20 that a psychologist's participation in an alternative program may be used in
21 lieu of adverse action and that such participation shall remain nonpublic if
22 required by the Compact State's law. Compact States must require
23 psychologists who enter any alternative programs to not provide
24 telepsychology services under the Authority to Practice Interjurisdictional
25 Telepsychology or provide temporary psychological services under the
26 Temporary Authorization to Practice in any other Compact State during the
27 term of the alternative program.

28 G. No other judicial or administrative remedies shall be available to
29 a psychologist in the event a Compact State imposes an adverse action
30 pursuant to subsection C, above.

31
32 Article VIII

33 Additional Authorities Invested in a Compact State's Psychology Regulatory
34 Authority

1 all psychologists individuals to whom this Compact is applicable in all
2 Compact States as defined by the Rules of the Commission.

3 B. Notwithstanding any other provision of state law to the contrary, a
4 Compact State shall submit a uniform data set to the Coordinated Database on
5 all licensees as required by the Rules of the Commission, including:

6 1. Identifying information;

7 2. Licensure data;

8 3. Significant investigatory information;

9 4. Adverse actions against a psychologist's license;

10 5. An indicator that a psychologist's Authority to Practice
11 Interjurisdictional Telepsychology and/or Temporary Authorization to Practice
12 is revoked;

13 6. Non-confidential information related to alternative program
14 participation information;

15 7. Any denial of application for licensure, and the reasons for
16 such denial; and

17 8. Other information which may facilitate the administration of
18 this Compact, as determined by the Rules of the Commission.

19 C. The Coordinated Database administrator shall promptly notify all
20 Compact States of any adverse action taken against, or significant
21 investigative information on, any licensee in a Compact State.

22 D. Compact States reporting information to the Coordinated Database
23 may designate information that may not be shared with the public without the
24 express permission of the Compact State reporting the information.

25 E. Any information submitted to the Coordinated Database that is
26 subsequently required to be expunged by the law of the Compact State
27 reporting the information shall be removed from the Coordinated Database.

28
29 Article X

30 Establishment of the Psychology Interjurisdictional Compact Commission

31 A. The Compact States hereby create and establish a joint public
32 agency known as the Psychology Interjurisdictional Compact Commission.

33 1. The Commission is a body politic and an instrumentality of
34 the Compact States.

35 2. Venue is proper and judicial proceedings by or against the
36 Commission shall be brought solely and exclusively in a court of competent

1 jurisdiction where the principal office of the Commission is located. The
2 Commission may waive venue and jurisdictional defenses to the extent it
3 adopts or consents to participate in alternative dispute resolution
4 proceedings.

5 3. Nothing in this Compact shall be construed to be a waiver of
6 sovereign immunity.

7 B. Membership, Voting, and Meetings

8 1. The Commission shall consist of one voting representative
9 appointed by each Compact State who shall serve as that state's Commissioner.
10 The State Psychology Regulatory Authority shall appoint its delegate. This
11 delegate shall be empowered to act on behalf of the Compact State. This
12 delegate shall be limited to:

13 a. Executive Director, Executive Secretary or similar
14 executive;

15 b. Current member of the State Psychology Regulatory
16 Authority of a Compact State; OR

17 c. Designee empowered with the appropriate delegate
18 authority to act on behalf of the Compact State.

19 2. Any Commissioner may be removed or suspended from office as
20 provided by the law of the state from which the Commissioner is appointed.
21 Any vacancy occurring in the Commission shall be filled in accordance with
22 the laws of the Compact State in which the vacancy exists.

23 3. Each Commissioner shall be entitled to one (1) vote with
24 regard to the promulgation of Rules and creation of Bylaws and shall
25 otherwise have an opportunity to participate in the business and affairs of
26 the Commission. A Commissioner shall vote in person or by such other means as
27 provided in the Bylaws. The Bylaws may provide for Commissioners'
28 participation in meetings by telephone or other means of communication.

29 4. The Commission shall meet at least once during each calendar
30 year. Additional meetings shall be held as set forth in the Bylaws.

31 5. All meetings shall be open to the public, and public notice
32 of meetings shall be given in the same manner as required under the
33 rulemaking provisions in Article XI.

34 6. The Commission may convene in a closed, non-public meeting if
35 the Commission must discuss:

1 a. Non-compliance of a Compact State with its obligations
2 under the Compact;

3 b. The employment, compensation, discipline or other
4 personnel matters, practices or procedures related to specific employees or
5 other matters related to the Commission's internal personnel practices and
6 procedures;

7 c. Current, threatened, or reasonably anticipated
8 litigation against the Commission;

9 d. Negotiation of contracts for the purchase or sale of
10 goods, services or real estate;

11 e. Accusation against any person of a crime or formally
12 censuring any person;

13 f. Disclosure of trade secrets or commercial or financial
14 information which is privileged or confidential;

15 g. Disclosure of information of a personal nature where
16 disclosure would constitute a clearly unwarranted invasion of personal
17 privacy;

18 h. Disclosure of investigatory records compiled for law
19 enforcement purposes;

20 i. Disclosure of information related to any investigatory
21 reports prepared by or on behalf of or for use of the Commission or other
22 committee charged with responsibility for investigation or determination of
23 compliance issues pursuant to the Compact; or

24 j. Matters specifically exempted from disclosure by
25 federal and state statute.

26 7. If a meeting, or portion of a meeting, is closed pursuant to
27 this provision, the Commission's legal counsel or designee shall certify that
28 the meeting may be closed and shall reference each relevant exempting
29 provision. The Commission shall keep minutes which fully and clearly describe
30 all matters discussed in a meeting and shall provide a full and accurate
31 summary of actions taken, of any person participating in the meeting, and the
32 reasons therefore, including a description of the views expressed. All
33 documents considered in connection with an action shall be identified in such
34 minutes. All minutes and documents of a closed meeting shall remain under
35 seal, subject to release only by a majority vote of the Commission or order
36 of a court of competent jurisdiction.

1 C. The Commission shall, by a majority vote of the Commissioners,
2 prescribe Bylaws and/or Rules to govern its conduct as may be necessary or
3 appropriate to carry out the purposes and exercise the powers of the Compact,
4 including but not limited to:

5 1. Establishing the fiscal year of the Commission;

6 2. Providing reasonable standards and procedures:

7 a. for the establishment and meetings of other committees;

8 and

9 b. governing any general or specific delegation of any
10 authority or function of the Commission;

11 3. Providing reasonable procedures for calling and conducting
12 meetings of the Commission, ensuring reasonable advance notice of all
13 meetings and providing an opportunity for attendance of such meetings by
14 interested parties, with enumerated exceptions designed to protect the
15 public's interest, the privacy of individuals of such proceedings, and
16 proprietary information, including trade secrets. The Commission may meet in
17 closed session only after a majority of the Commissioners vote to close a
18 meeting to the public in whole or in part. As soon as practicable, the
19 Commission must make public a copy of the vote to close the meeting revealing
20 the vote of each Commissioner with no proxy votes allowed;

21 4. Establishing the titles, duties and authority and reasonable
22 procedures for the election of the officers of the Commission;

23 5. Providing reasonable standards and procedures for the
24 establishment of the personnel policies and programs of the Commission.
25 Notwithstanding any civil service or other similar law of any Compact State,
26 the Bylaws shall exclusively govern the personnel policies and programs of
27 the Commission;

28 6. Promulgating a Code of Ethics to address permissible and
29 prohibited activities of Commission members and employees;

30 7. Providing a mechanism for concluding the operations of the
31 Commission and the equitable disposition of any surplus funds that may exist
32 after the termination of the Compact after the payment and/or reserving of
33 all of its debts and obligations;

34 8. The Commission shall publish its Bylaws in a convenient form
35 and file a copy thereof and a copy of any amendment thereto, with the
36 appropriate agency or officer in each of the Compact States;

1 9. The Commission shall maintain its financial records in
2 accordance with the Bylaws; and

3 10. The Commission shall meet and take such actions as are
4 consistent with the provisions of this Compact and the Bylaws.

5 D. The Commission shall have the following powers:

6 1. The authority to promulgate uniform rules to facilitate and
7 coordinate implementation and administration of this Compact. The rule shall
8 have the force and effect of law and shall be binding in all Compact States;

9 2. To bring and prosecute legal proceedings or actions in the
10 name of the Commission, provided that the standing of any State Psychology
11 Regulatory Authority or other regulatory body responsible for psychology
12 licensure to sue or be sued under applicable law shall not be affected;

13 3. To purchase and maintain insurance and bonds;

14 4. To borrow, accept or contract for services of personnel,
15 including, but not limited to, employees of a Compact State;

16 5. To hire employees, elect or appoint officers, fix
17 compensation, define duties, grant such individuals appropriate authority to
18 carry out the purposes of the Compact, and to establish the Commission's
19 personnel policies and programs relating to conflicts of interest,
20 qualifications of personnel, and other related personnel matters;

21 6. To accept any and all appropriate donations and grants of
22 money, equipment, supplies, materials and services, and to receive, utilize
23 and dispose of the same; provided that at all times the Commission shall
24 strive to avoid any appearance of impropriety and/or conflict of interest;

25 7. To lease, purchase, accept appropriate gifts or donations of,
26 or otherwise to own, hold, improve or use, any property, real, personal or
27 mixed; provided that at all times the Commission shall strive to avoid any
28 appearance of impropriety;

29 8. To sell, convey, mortgage, pledge, lease, exchange, abandon
30 or otherwise dispose of any property real, personal or mixed;

31 9. To establish a budget and make expenditures;

32 10. To borrow money;

33 11. To appoint committees, including advisory committees
34 comprised of Members, State regulators, State legislators or their
35 representatives, and consumer representatives, and such other interested
36 persons as may be designated in this Compact and the Bylaws;

1 12. To provide and receive information from, and to cooperate
2 with, law enforcement agencies;

3 13. To adopt and use an official seal; and

4 14. To perform such other functions as may be necessary or
5 appropriate to achieve the purposes of this Compact consistent with the state
6 regulation of psychology licensure, temporary in-person, face-to-face
7 practice and telepsychology practice.

8 E. The Executive Board

9 The elected officers shall serve as the Executive Board, which shall have the
10 power to act on behalf of the Commission according to the terms of this
11 Compact.

12 1. The Executive Board shall be comprised of six members:

13 a. Five voting members who are elected from the current
14 membership of the Commission by the Commission;

15 b. One ex-officio, nonvoting member from the recognized
16 membership organization composed of State and Provincial Psychology
17 Regulatory Authorities.

18 2. The ex-officio member must have served as staff or member on
19 a State Psychology Regulatory Authority and will be selected by its
20 respective organization.

21 3. The Commission may remove any member of the Executive Board
22 as provided in Bylaws.

23 4. The Executive Board shall meet at least annually.

24 5. The Executive Board shall have the following duties and
25 responsibilities:

26 a. Recommend to the entire Commission changes to the Rules
27 or Bylaws, changes to this Compact legislation, fees paid by Compact States
28 such as annual dues, and any other applicable fees;

29 b. Ensure Compact administration services are
30 appropriately provided, contractual or otherwise;

31 c. Prepare and recommend the budget;

32 d. Maintain financial records on behalf of the Commission;

33 e. Monitor Compact compliance of member states and provide
34 compliance reports to the Commission;

35 f. Establish additional committees as necessary; and

36 g. Other duties as provided in Rules or Bylaws.

1 F. Financing of the Commission

2 1. The Commission shall pay, or provide for the payment of the
3 reasonable expenses of its establishment, organization and ongoing
4 activities.

5 2. The Commission may accept any and all appropriate revenue
6 sources, donations and grants of money, equipment, supplies, materials and
7 services.

8 3. The Commission may levy on and collect an annual assessment
9 from each Compact State or impose fees on other parties to cover the cost of
10 the operations and activities of the Commission and its staff which must be
11 in a total amount sufficient to cover its annual budget as approved each year
12 for which revenue is not provided by other sources. The aggregate annual
13 assessment amount shall be allocated based upon a formula to be determined by
14 the Commission which shall promulgate a rule binding upon all Compact States.

15 4. The Commission shall not incur obligations of any kind prior
16 to securing the funds adequate to meet the same; nor shall the Commission
17 pledge the credit of any of the Compact States, except by and with the
18 authority of the Compact State.

19 5. The Commission shall keep accurate accounts of all receipts
20 and disbursements. The receipts and disbursements of the Commission shall be
21 subject to the audit and accounting procedures established under its Bylaws.
22 However, all receipts and disbursements of funds handled by the Commission
23 shall be audited yearly by a certified or licensed public accountant and the
24 report of the audit shall be included in and become part of the annual report
25 of the Commission.

26 G. Qualified Immunity, Defense, and Indemnification

27 1. The members, officers, Executive Director, employees and
28 representatives of the Commission shall be immune from suit and liability,
29 either personally or in their official capacity, for any claim for damage to
30 or loss of property or personal injury or other civil liability caused by or
31 arising out of any actual or alleged act, error or omission that occurred, or
32 that the person against whom the claim is made had a reasonable basis for
33 believing occurred within the scope of Commission employment, duties or
34 responsibilities; provided that nothing in this paragraph shall be construed
35 to protect any such person from suit and/or liability for any damage, loss,

1 injury or liability caused by the intentional or willful or wanton misconduct
2 of that person.

3 2. The Commission shall defend any member, officer, Executive
4 Director, employee or representative of the Commission in any civil action
5 seeking to impose liability arising out of any actual or alleged act, error
6 or omission that occurred within the scope of Commission employment, duties
7 or responsibilities, or that the person against whom the claim is made had a
8 reasonable basis for believing occurred within the scope of Commission
9 employment, duties or responsibilities; provided that nothing herein shall be
10 construed to prohibit that person from retaining his or her own counsel; and
11 provided further, that the actual or alleged act, error or omission did not
12 result from that person's intentional or willful or wanton misconduct.

13 3. The Commission shall indemnify and hold harmless any member,
14 officer, Executive Director, employee or representative of the Commission for
15 the amount of any settlement or judgment obtained against that person arising
16 out of any actual or alleged act, error or omission that occurred within the
17 scope of Commission employment, duties or responsibilities, or that such
18 person had a reasonable basis for believing occurred within the scope of
19 Commission employment, duties or responsibilities, provided that the actual
20 or alleged act, error or omission did not result from the intentional or
21 willful or wanton misconduct of that person.

22 Article XI

23 Rulemaking

24 A. The Commission shall exercise its rulemaking powers pursuant to the
25 criteria set forth in this Article and the Rules adopted thereunder. Rules
26 and amendments shall become binding as of the date specified in each rule or
27 amendment.

28 B. If a majority of the legislatures of the Compact States rejects a
29 rule, by enactment of a statute or resolution in the same manner used to
30 adopt the Compact, then such rule shall have no further force and effect in
31 any Compact State.

32 C. Rules or amendments to the rules shall be adopted at a regular or
33 special meeting of the Commission.

34 D. Prior to promulgation and adoption of a final rule or Rules by the
35 Commission, and at least sixty (60) days in advance of the meeting at which
36

1 the rule will be considered and voted upon, the Commission shall file a
2 Notice of Proposed Rulemaking:

- 3 1. On the website of the Commission; and
4 2. On the website of each Compact States' Psychology Regulatory
5 Authority or the publication in which each state would otherwise publish
6 proposed rules.

7 E. The Notice of Proposed Rulemaking shall include:

8 1. The proposed time, date, and location of the meeting in which
9 the rule will be considered and voted upon;

10 2. The text of the proposed rule or amendment and the reason for
11 the proposed rule;

12 3. A request for comments on the proposed rule from any
13 interested person; and

14 4. The manner in which interested persons may submit notice to
15 the Commission of their intention to attend the public hearing and any
16 written comments.

17 F. Prior to adoption of a proposed rule, the Commission shall allow
18 persons to submit written data, facts, opinions and arguments, which shall be
19 made available to the public.

20 G. The Commission shall grant an opportunity for a public hearing
21 before it adopts a rule or amendment if a hearing is requested by:

22 1. At least twenty-five (25) persons who submit comments
23 independently of each other;

24 2. A governmental subdivision or agency; or

25 3. A duly appointed person in an association that has having at
26 least twenty-five (25) members.

27 H. If a hearing is held on the proposed rule or amendment, the
28 Commission shall publish the place, time, and date of the scheduled public
29 hearing.

30 1. All persons wishing to be heard at the hearing shall notify
31 the Executive Director of the Commission or other designated member in
32 writing of their desire to appear and testify at the hearing not less than
33 five (5) business days before the scheduled date of the hearing.

34 2. Hearings shall be conducted in a manner providing each person
35 who wishes to comment a fair and reasonable opportunity to comment orally or
36 in writing.

1 3. No transcript of the hearing is required, unless a written
2 request for a transcript is made, in which case the person requesting the
3 transcript shall bear the cost of producing the transcript. A recording may
4 be made in lieu of a transcript under the same terms and conditions as a
5 transcript. This subsection shall not preclude the Commission from making a
6 transcript or recording of the hearing if it so chooses.

7 4. Nothing in this section shall be construed as requiring a
8 separate hearing on each rule. Rules may be grouped for the convenience of
9 the Commission at hearings required by this section.

10 I. Following the scheduled hearing date, or by the close of business
11 on the scheduled hearing date if the hearing was not held, the Commission
12 shall consider all written and oral comments received.

13 J. The Commission shall, by majority vote of all members, take final
14 action on the proposed rule and shall determine the effective date of the
15 rule, if any, based on the rulemaking record and the full text of the rule.

16 K. If no written notice of intent to attend the public hearing by
17 interested parties is received, the Commission may proceed with promulgation
18 of the proposed rule without a public hearing.

19 L. Upon determination that an emergency exists, the Commission may
20 consider and adopt an emergency rule without prior notice, opportunity for
21 comment, or hearing, provided that the usual rulemaking procedures provided
22 in the Compact and in this section shall be retroactively applied to the rule
23 as soon as reasonably possible, in no event later than ninety (90) days after
24 the effective date of the rule. For the purposes of this provision, an
25 emergency rule is one that must be adopted immediately in order to:

- 26 1. Meet an imminent threat to public health, safety, or welfare;
27 2. Prevent a loss of Commission or Compact State funds;
28 3. Meet a deadline for the promulgation of an administrative
29 rule that is established by federal law or rule; or
30 4. Protect public health and safety.

31 M. The Commission or an authorized committee of the Commission may
32 direct revisions to a previously adopted rule or amendment for purposes of
33 correcting typographical errors, errors in format, errors in consistency, or
34 grammatical errors. Public notice of any revisions shall be posted on the
35 website of the Commission. The revision shall be subject to challenge by any
36 person for a period of thirty (30) days after posting. The revision may be

1 challenged only on grounds that the revision results in a material change to
2 a rule. A challenge shall be made in writing, and delivered to the Chair of
3 the Commission prior to the end of the notice period. If no challenge is
4 made, the revision will take effect without further action. If the revision
5 is challenged, the revision may not take effect without the approval of the
6 Commission.

8 Article XII

9 Oversight, Dispute Resolution and Enforcement

10 A. Oversight

11 1. The Executive, Legislative and Judicial branches of state
12 government in each Compact State shall enforce this Compact and take all
13 actions necessary and appropriate to effectuate the Compact's purposes and
14 intent. The provisions of this Compact and the rules promulgated hereunder
15 shall have standing as statutory law.

16 2. All courts shall take judicial notice of the Compact and the
17 rules in any judicial or administrative proceeding in a Compact State
18 pertaining to the subject matter of this Compact which may affect the powers,
19 responsibilities or actions of the Commission.

20 3. The Commission shall be entitled to receive service of
21 process in any such proceeding, and shall have standing to intervene in such
22 a proceeding for all purposes. Failure to provide service of process to the
23 Commission shall render a judgment or order void as to the Commission, this
24 Compact or promulgated rules.

25 B. Default, Technical Assistance, and Termination

26 1. If the Commission determines that a Compact State has
27 defaulted in the performance of its obligations or responsibilities under
28 this Compact or the promulgated rules, the Commission shall:

29 a. Provide written notice to the defaulting state and
30 other Compact States of the nature of the default, the proposed means of
31 remedying the default and/or any other action to be taken by the Commission;
32 and

33 b. Provide remedial training and specific technical
34 assistance regarding the default.

35 2. If a state in default fails to remedy the default, the
36 defaulting state may be terminated from the Compact upon an affirmative vote

1 of a majority of the Compact States, and all rights, privileges and benefits
2 conferred by this Compact shall be terminated on the effective date of
3 termination. A remedy of the default does not relieve the offending state of
4 obligations or liabilities incurred during the period of default.

5 3. Termination of membership in the Compact shall be imposed
6 only after all other means of securing compliance have been exhausted. Notice
7 of intent to suspend or terminate shall be submitted by the Commission to the
8 Governor, the majority and minority leaders of the defaulting state's
9 legislature, and each of the Compact States.

10 4. A Compact State which has been terminated is responsible for
11 all assessments, obligations and liabilities incurred through the effective
12 date of termination, including obligations which extend beyond the effective
13 date of termination.

14 5. The Commission shall not bear any costs incurred by the state
15 which is found to be in default or which has been terminated from the
16 Compact, unless agreed upon in writing between the Commission and the
17 defaulting state.

18 6. The defaulting state may appeal the action of the Commission
19 by petitioning the U.S. District Court for the state of Georgia or the
20 federal district where the Compact has its principal offices. The prevailing
21 member shall be awarded all costs of such litigation, including reasonable
22 attorney's fees.

23 C. Dispute Resolution

24 1. Upon request by a Compact State, the Commission shall attempt
25 to resolve disputes related to the Compact which arise among Compact States
26 and between Compact and Non-Compact States.

27 2. The Commission shall promulgate a rule providing for both
28 mediation and binding dispute resolution for disputes that arise before the
29 commission.

30 D. Enforcement

31 1. The Commission, in the reasonable exercise of its discretion,
32 shall enforce the provisions and Rules of this Compact.

33 2. By majority vote, the Commission may initiate legal action in
34 the United States District Court for the State of Georgia or the federal
35 district where the Compact has its principal offices against a Compact State
36 in default to enforce compliance with the provisions of the Compact and its

1 promulgated Rules and Bylaws. The relief sought may include both injunctive
2 relief and damages. In the event judicial enforcement is necessary, the
3 prevailing member shall be awarded all costs of such litigation, including
4 reasonable attorney's fees.

5 3. The remedies herein shall not be the exclusive remedies of
6 the Commission. The Commission may pursue any other remedies available under
7 federal or state law.

8 9 Article XIII

10 Date of Implementation of the Psychology Interjurisdictional Compact 11 Commission and Associated Rules, Withdrawal, and Amendments

12 A. The Compact shall come into effect on the date on which the Compact
13 is enacted into law in the seventh Compact State. The provisions which become
14 effective at that time shall be limited to the powers granted to the
15 Commission relating to assembly and the promulgation of rules. Thereafter,
16 the Commission shall meet and exercise rulemaking powers necessary to the
17 implementation and administration of the Compact.

18 B. Any state which joins the Compact subsequent to the Commission's
19 initial adoption of the rules shall be subject to the rules as they exist on
20 the date on which the Compact becomes law in that state. Any rule which has
21 been previously adopted by the Commission shall have the full force and
22 effect of law on the day the Compact becomes law in that state.

23 C. Any Compact State may withdraw from this Compact by enacting a
24 statute repealing the same.

25 1. A Compact State's withdrawal shall not take effect until six
26 (6) months after enactment of the repealing statute.

27 2. Withdrawal shall not affect the continuing requirement of the
28 withdrawing State's Psychology Regulatory Authority to comply with the
29 investigative and adverse action reporting requirements of this act prior to
30 the effective date of withdrawal.

31 D. Nothing contained in this Compact shall be construed to invalidate
32 or prevent any psychology licensure agreement or other cooperative
33 arrangement between a Compact State and a Non-Compact State which does not
34 conflict with the provisions of this Compact.

1 that the Legislative Council may consider the rule for approval before
2 January 1, 2022.

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5 Referred by Representative L. Johnson

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10 Prepared by: JMB/JMB

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