

AMENDMENTS TO LB686

Introduced by Health and Human Services.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 29-2261, Revised Statutes Supplement, 2017, is
4 amended to read:

5 29-2261 (1) Unless it is impractical to do so, when an offender has
6 been convicted of a felony other than murder in the first degree, the
7 court shall not impose sentence without first ordering a presentence
8 investigation of the offender and according due consideration to a
9 written report of such investigation. When an offender has been convicted
10 of murder in the first degree and (a) a jury renders a verdict finding
11 the existence of one or more aggravating circumstances as provided in
12 section 29-2520 or (b)(i) the information contains a notice of
13 aggravation as provided in section 29-1603 and (ii) the offender waives
14 his or her right to a jury determination of the alleged aggravating
15 circumstances, the court shall not commence the sentencing determination
16 proceeding as provided in section 29-2521 without first ordering a
17 presentence investigation of the offender and according due consideration
18 to a written report of such investigation.

19 (2) A court may order a presentence investigation in any case,
20 except in cases in which an offender has been convicted of a Class IIIA
21 misdemeanor, a Class IV misdemeanor, a Class V misdemeanor, a traffic
22 infraction, or any corresponding city or village ordinance.

23 (3) The presentence investigation and report shall include, when
24 available, an analysis of the circumstances attending the commission of
25 the crime, the offender's history of delinquency or criminality, physical
26 and mental condition, family situation and background, economic status,
27 education, occupation, and personal habits, and any other matters that

1 the probation officer deems relevant or the court directs to be included.
2 All local and state police agencies and Department of Correctional
3 Services adult correctional facilities shall furnish to the probation
4 officer copies of such criminal records, in any such case referred to the
5 probation officer by the court of proper jurisdiction, as the probation
6 officer shall require without cost to the court or the probation officer.

7 Such investigation shall also include:

8 (a) Any written statements submitted to the county attorney by a
9 victim; and

10 (b) Any written statements submitted to the probation officer by a
11 victim.

12 (4) If there are no written statements submitted to the probation
13 officer, he or she shall certify to the court that:

14 (a) He or she has attempted to contact the victim; and

15 (b) If he or she has contacted the victim, such officer offered to
16 accept the written statements of the victim or to reduce such victim's
17 oral statements to writing.

18 For purposes of subsections (3) and (4) of this section, the term
19 victim shall be as defined in section 29-119.

20 (5) Before imposing sentence, the court may order the offender to
21 submit to psychiatric observation and examination for a period of not
22 exceeding sixty days or such longer period as the court determines to be
23 necessary for that purpose. The offender may be remanded for this purpose
24 to any available clinic or mental hospital, or the court may appoint a
25 qualified psychiatrist to make the examination. The report of the
26 examination shall be submitted to the court.

27 (6)(a) (6) Any presentence report, substance abuse evaluation, or
28 psychiatric examination shall be privileged and shall not be disclosed
29 directly or indirectly to anyone other than a judge; τ probation officers
30 to whom an offender's file is duly transferred; τ the probation
31 administrator or his or her designee; τ alcohol and drug counselors,

1 mental health practitioners, psychiatrists, and psychologists licensed or
2 certified under the Uniform Credentialing Act to conduct substance abuse
3 evaluations and treatment; or others entitled by law to receive such
4 information, including personnel and mental health professionals for the
5 Nebraska State Patrol specifically assigned to sex offender registration
6 and community notification for the sole purpose of using such report,
7 evaluation, or examination for assessing risk and for community
8 notification of registered sex offenders.

9 **(b)** For purposes of this subsection, mental health professional
10 means (i) (a) a practicing physician licensed to practice medicine in
11 this state under the Medicine and Surgery Practice Act, (ii) (b) a
12 practicing psychologist licensed to engage in the practice of psychology
13 in this state as provided in section 38-3111or as provided under similar
14 provisions of the Psychology Interjurisdictional Compact, or (iii) (c) a
15 practicing mental health professional licensed or certified in this state
16 as provided in the Mental Health Practice Act.

17 (7) The court shall permit inspection of the presentence report,
18 substance abuse evaluation, or psychiatric examination or parts of the
19 report, evaluation, or examination, as determined by the court, by the
20 prosecuting attorney and defense counsel. Beginning July 1, 2016, such
21 inspection shall be by electronic access only unless the court determines
22 such access is not available to the prosecuting attorney or defense
23 counsel. The State Court Administrator shall determine and develop the
24 means of electronic access to such presentence reports, evaluations, and
25 examinations. Upon application by the prosecuting attorney or defense
26 counsel, the court may order that addresses, telephone numbers, and other
27 contact information for victims or witnesses named in the report,
28 evaluation, or examination be redacted upon a showing by a preponderance
29 of the evidence that such redaction is warranted in the interests of
30 public safety. The court may permit inspection of the presentence report,
31 substance abuse evaluation, or psychiatric examination or examination of

1 parts of the report, evaluation, or examination by any other person
2 having a proper interest therein whenever the court finds it is in the
3 best interest of a particular offender. The court may allow fair
4 opportunity for an offender to provide additional information for the
5 court's consideration.

6 (8) If an offender is sentenced to imprisonment, a copy of the
7 report of any presentence investigation, substance abuse evaluation, or
8 psychiatric examination shall be transmitted immediately to the
9 Department of Correctional Services. Upon request, the Board of Parole or
10 the Office of Parole Administration may receive a copy of the report from
11 the department.

12 (9) Notwithstanding subsections (6) and (7) of this section, the
13 Supreme Court or an agent of the Supreme Court acting under the direction
14 and supervision of the Chief Justice shall have access to psychiatric
15 examinations, substance abuse evaluations, and presentence investigations
16 and reports for research purposes. The Supreme Court and its agent shall
17 treat such information as confidential, and nothing identifying any
18 individual shall be released.

19 Sec. 2. Section 38-131, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 38-131 (1) An applicant for an initial license to practice as a
22 registered nurse, or a licensed practical nurse, or a psychologist or to
23 practice a profession which is authorized to prescribe controlled
24 substances shall be subject to a criminal background check. Except as
25 provided in subsection (3) of this section, the applicant shall submit
26 with the application a full set of fingerprints which shall be forwarded
27 to the Nebraska State Patrol to be submitted to the Federal Bureau of
28 Investigation for a national criminal history record information check.
29 The applicant shall authorize release of the results of the national
30 criminal history record information check to the department. The
31 applicant shall pay the actual cost of the fingerprinting and criminal

1 background check.

2 (2) This section shall not apply to a dentist who is an applicant
3 for a dental locum tenens under section 38-1122, to a physician or
4 osteopathic physician who is an applicant for a physician locum tenens
5 under section 38-2036, or to a veterinarian who is an applicant for a
6 veterinarian locum tenens under section 38-3335.

7 (3) An applicant for a temporary educational permit as defined in
8 section 38-2019 shall have ninety days from the issuance of the permit to
9 comply with subsection (1) of this section and shall have his or her
10 permit suspended after such ninety-day period if the criminal background
11 check is not complete or revoked if the criminal background check reveals
12 that the applicant was not qualified for the permit.

13 Sec. 3. Section 38-2025, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 38-2025 The following classes of persons shall not be construed to
16 be engaged in the unauthorized practice of medicine:

17 (1) Persons rendering gratuitous services in cases of emergency;

18 (2) Persons administering ordinary household remedies;

19 (3) The members of any church practicing its religious tenets,
20 except that they shall not prescribe or administer drugs or medicines,
21 perform surgical or physical operations, nor assume the title of or hold
22 themselves out to be physicians, and such members shall not be exempt
23 from the quarantine laws of this state;

24 (4) Students of medicine who are studying in an accredited school or
25 college of medicine and who gratuitously prescribe for and treat disease
26 under the supervision of a licensed physician;

27 (5) Physicians who serve in the armed forces of the United States or
28 the United States Public Health Service or who are employed by the United
29 States Department of Veterans Affairs or other federal agencies, if their
30 practice is limited to that service or employment;

31 (6) Physicians who are licensed in good standing to practice

1 medicine under the laws of another state when incidentally called into
2 this state or contacted via electronic or other medium for consultation
3 with a physician licensed in this state. For purposes of this
4 subdivision, consultation means evaluating the medical data of the
5 patient as provided by the treating physician and rendering a
6 recommendation to such treating physician as to the method of treatment
7 or analysis of the data. The interpretation of a radiological image by a
8 physician who specializes in radiology is not a consultation;

9 (7) Physicians who are licensed in good standing to practice
10 medicine in another state but who, from such other state, order
11 diagnostic or therapeutic services on an irregular or occasional basis,
12 to be provided to an individual in this state, if such physicians do not
13 maintain and are not furnished for regular use within this state any
14 office or other place for the rendering of professional services or the
15 receipt of calls;

16 (8) Physicians who are licensed in good standing to practice
17 medicine in another state and who, on an irregular and occasional basis,
18 are granted temporary hospital privileges to practice medicine and
19 surgery at a hospital or other medical facility licensed in this state;

20 (9) Persons providing or instructing as to use of braces, prosthetic
21 appliances, crutches, contact lenses, and other lenses and devices
22 prescribed by a physician licensed to practice medicine while working
23 under the direction of such physician;

24 (10) Dentists practicing their profession when licensed and
25 practicing in accordance with the Dentistry Practice Act;

26 (11) Optometrists practicing their profession when licensed and
27 practicing under and in accordance with the Optometry Practice Act;

28 (12) Osteopathic physicians practicing their profession if licensed
29 and practicing under and in accordance with sections 38-2029 to 38-2033;

30 (13) Chiropractors practicing their profession if licensed and
31 practicing under the Chiropractic Practice Act;

1 (14) Podiatrists practicing their profession when licensed and
2 practicing under and in accordance with the Podiatry Practice Act;

3 (15) Psychologists practicing their profession when licensed to
4 practice in this state and practicing under and in accordance with the
5 Psychology Interjurisdictional Compact or the Psychology Practice Act;

6 (16) Advanced practice registered nurses practicing in their
7 clinical specialty areas when licensed under the Advanced Practice
8 Registered Nurse Practice Act and practicing under and in accordance with
9 their respective practice acts;

10 (17) Surgical first assistants practicing in accordance with the
11 Surgical First Assistant Practice Act;

12 (18) Persons licensed or certified under the laws of this state to
13 practice a limited field of the healing art, not specifically named in
14 this section, when confining themselves strictly to the field for which
15 they are licensed or certified, not assuming the title of physician,
16 surgeon, or physician and surgeon, and not professing or holding
17 themselves out as qualified to prescribe drugs in any form or to perform
18 operative surgery;

19 (19) Persons obtaining blood specimens while working under an order
20 of or protocols and procedures approved by a physician, registered nurse,
21 or other independent health care practitioner licensed to practice by the
22 state if the scope of practice of that practitioner permits the
23 practitioner to obtain blood specimens; and

24 (20) Other trained persons employed by a licensed health care
25 facility or health care service defined in the Health Care Facility
26 Licensure Act or clinical laboratory certified pursuant to the federal
27 Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII
28 or XIX of the federal Social Security Act to withdraw human blood for
29 scientific or medical purposes.

30 Any person who has held or applied for a license to practice
31 medicine and surgery in this state, and such license or application has

1 been denied or such license has been refused renewal or disciplined by
2 order of limitation, suspension, or revocation, shall be ineligible for
3 the exceptions described in subdivisions (5) through (8) of this section
4 until such license or application is granted or such license is renewed
5 or reinstated. Every act or practice falling within the practice of
6 medicine and surgery as defined in section 38-2024 and not specially
7 excepted in this section shall constitute the practice of medicine and
8 surgery and may be performed in this state only by those licensed by law
9 to practice medicine in Nebraska.

10 Sec. 4. Section 38-2112, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 38-2112 Consultation means a professional collaborative relationship
13 between a licensed mental health practitioner and a consultant who is a
14 psychologist licensed to engage in the practice of psychology in this
15 state as provided in section 38-3111 or as provided in similar provisions
16 of the Psychology Interjurisdictional Compact, a qualified physician, or
17 a licensed independent mental health practitioner in which (1) the
18 consultant makes a diagnosis based on information supplied by the
19 licensed mental health practitioner and any additional assessment deemed
20 necessary by the consultant and (2) the consultant and the licensed
21 mental health practitioner jointly develop a treatment plan which
22 indicates the responsibility of each professional for implementing
23 elements of the plan, updating the plan, and assessing the client's
24 progress.

25 Sec. 5. Section 38-2115, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 38-2115 (1) Mental health practice means the provision of treatment,
28 assessment, psychotherapy, counseling, or equivalent activities to
29 individuals, couples, families, or groups for behavioral, cognitive,
30 social, mental, or emotional disorders, including interpersonal or
31 personal situations.

1 (2) Mental health practice does not include:
2 (a) The practice of psychology or medicine;
3 (b) Prescribing drugs or electroconvulsive therapy;
4 (c) Treating physical disease, injury, or deformity;
5 (d) Diagnosing major mental illness or disorder except in
6 consultation with a qualified physician, a psychologist licensed to
7 engage in the practice of psychology in this state as provided in section
8 38-3111 or as provided in similar provisions of the Psychology
9 Interjurisdictional Compact, or a licensed independent mental health
10 practitioner;

11 (e) Measuring personality or intelligence for the purpose of
12 diagnosis or treatment planning;

13 (f) Using psychotherapy with individuals suspected of having major
14 mental or emotional disorders except in consultation with a qualified
15 physician, a licensed psychologist, or a licensed independent mental
16 health practitioner; or

17 (g) Using psychotherapy to treat the concomitants of organic illness
18 except in consultation with a qualified physician or licensed
19 psychologist.

20 (3) Mental health practice includes the initial assessment of
21 organic mental or emotional disorders for the purpose of referral or
22 consultation.

23 (4) Nothing in sections 38-2114, 38-2118, and 38-2119 shall be
24 deemed to constitute authorization to engage in activities beyond those
25 described in this section. Persons certified under the Mental Health
26 Practice Act but not licensed under section 38-2122 shall not engage in
27 mental health practice.

28 Sec. 6. Section 38-3101, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 38-3101 Sections 38-3101 to 38-3132 and section 8 of this act shall
31 be known and may be cited as the Psychology Practice Act.

1 Sec. 7. Section 38-3111, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-3111 (1) Unless otherwise expressly stated, references to
4 licensed psychologists in the Nebraska Mental Health Commitment Act, in
5 the Psychology Practice Act, in the Sex Offender Commitment Act, and in
6 section 44-513 means only psychologists licensed to practice psychology
7 in this state under section 38-3114 or under similar provisions of the
8 Psychology Interjurisdictional Compact and does not mean persons holding
9 a special license under section 38-3116 or holding a provisional license
10 under the Psychology Practice Act.

11 (2) Any reference to a person certified to practice clinical
12 psychology under the law in effect immediately prior to September 1,
13 1994, and any equivalent reference under the law of another jurisdiction,
14 including, but not limited to, certified clinical psychologist, health
15 care practitioner in psychology, or certified health care provider, shall
16 be construed to refer to a psychologist licensed under the Uniform
17 Credentialing Act except for persons licensed under section 38-3116 or
18 holding a provisional license under the Psychology Practice Act.

19 Sec. 8. The chairperson of the board or his or her designee shall
20 serve as the administrator of the Psychology Interjurisdictional Compact
21 for the State of Nebraska. The administrator shall give notice of
22 withdrawal to the executive heads of all other party states within thirty
23 days after the effective date of any statute repealing the compact
24 enacted by the Legislature pursuant to Article XIII of the compact.

25 Sec. 9. Section 44-792, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 44-792 For purposes of sections 44-791 to 44-795:

28 (1) Health insurance plan means (a) any group sickness and accident
29 insurance policy, group health maintenance organization contract, or
30 group subscriber contract delivered, issued for delivery, or renewed in
31 this state and (b) any self-funded employee benefit plan to the extent

1 not preempted by federal law. Health insurance plan includes any group
2 policy, group contract, or group plan offered or administered by the
3 state or its political subdivisions. Health insurance plan does not
4 include group policies providing coverage for a specified disease,
5 accident-only coverage, hospital indemnity coverage, disability income
6 coverage, medicare supplement coverage, long-term care coverage, or other
7 limited-benefit coverage. Health insurance plan does not include any
8 policy, contract, or plan covering an employer group that covers fewer
9 than fifteen employees;

10 (2) Mental health condition means any condition or disorder
11 involving mental illness that falls under any of the diagnostic
12 categories listed in the Mental Disorders Section of the International
13 Classification of Disease;

14 (3) Mental health professional means (a) a practicing physician
15 licensed to practice medicine in this state under the Medicine and
16 Surgery Practice Act, (b) a practicing psychologist licensed to engage in
17 the practice of psychology in this state as provided in section 38-3111
18 or as provided in similar provisions of the Psychology
19 Interjurisdictional Compact, or (c) a practicing mental health
20 professional licensed or certified in this state as provided in the
21 Mental Health Practice Act;

22 (4) Rate, term, or condition means lifetime limits, annual payment
23 limits, and inpatient or outpatient service limits. Rate, term, or
24 condition does not include any deductibles, copayments, or coinsurance;
25 and

26 (5)(a) Serious mental illness means, prior to January 1, 2002, (i)
27 schizophrenia, (ii) schizoaffective disorder, (iii) delusional disorder,
28 (iv) bipolar affective disorder, (v) major depression, and (vi) obsessive
29 compulsive disorder; and

30 (b) Serious mental illness means, on and after January 1, 2002, any
31 mental health condition that current medical science affirms is caused by

1 a biological disorder of the brain and that substantially limits the life
2 activities of the person with the serious mental illness. Serious mental
3 illness includes, but is not limited to (i) schizophrenia, (ii)
4 schizoaffective disorder, (iii) delusional disorder, (iv) bipolar
5 affective disorder, (v) major depression, and (vi) obsessive compulsive
6 disorder.

7 Sec. 10. Section 71-906, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 71-906 Mental health professional means a person licensed to
10 practice medicine and surgery or psychology in this state under the
11 Psychology Interjurisdictional Compact or the Uniform Credentialing Act
12 or an advanced practice registered nurse licensed under the Advanced
13 Practice Registered Nurse Practice Act who has proof of current
14 certification in a psychiatric or mental health specialty.

15 Sec. 11. The State of Nebraska adopts the Psychology
16 Interjurisdictional Compact substantially as follows:

17 ARTICLE I

18 PURPOSE

19 States license psychologists in order to protect the public through
20 verification of education, training, and experience and ensure
21 accountability for professional practice.

22 The Psychology Interjurisdictional Compact is intended to regulate
23 the day-to-day practice of telepsychology, the provision of psychological
24 services using telecommunication technologies, by psychologists across
25 state boundaries in the performance of their psychological practice as
26 assigned by an appropriate authority.

27 The Compact is intended to regulate the temporary in-person, face-
28 to-face practice of psychology by psychologists across state boundaries
29 for thirty days within a calendar year in the performance of their
30 psychological practice as assigned by an appropriate authority.

31 The Compact is intended to authorize state psychology regulatory

1 authorities to afford legal recognition, in a manner consistent with the
2 terms of the Compact, to psychologists licensed in another state.

3 The Compact recognizes that states have a vested interest in
4 protecting the public's health and safety through licensing and
5 regulation of psychologists and that such state regulation will best
6 protect public health and safety.

7 The Compact does not apply when a psychologist is licensed in both
8 the home and receiving states.

9 The Compact does not apply to permanent in-person, face-to-face
10 practice; it does allow for authorization of temporary psychological
11 practice.

12 Consistent with these principles, the Compact is designed to achieve
13 the following purposes and objectives:

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

18 2. Enhance the states' ability to protect the public's health and
19 safety, especially client or patient safety;

20 3. Encourage the cooperation of compact states in the areas of
21 psychology licensure and regulation;

22 4. Facilitate the exchange of information between compact states
23 regarding psychologist licensure, adverse actions, and disciplinary
24 history;

25 5. Promote compliance with the laws governing psychological practice
26 in each compact state; and

27 6. Invest all compact states with the authority to hold licensed
28 psychologists accountable through the mutual recognition of compact state
29 licenses.

30 ARTICLE II
31 DEFINITIONS

1 A. Adverse action means any action taken by a state psychology
2 regulatory authority which finds a violation of a statute or regulation
3 that is identified by the state psychology regulatory authority as
4 discipline and is a matter of public record.

5 B. Association of State and Provincial Psychology Boards means the
6 recognized membership organization composed of State and Provincial
7 Psychology Regulatory Authorities responsible for the licensure and
8 registration of psychologists throughout the United States and Canada.

9 C. Authority to practice interjurisdictional telepsychology means a
10 licensed psychologist's authority to practice telepsychology, within the
11 limits authorized under the Psychology Interjurisdictional Compact, in
12 another compact state.

13 D. Bylaws means those bylaws established by the Commission pursuant
14 to Article X for its governance, or for directing and controlling its
15 actions and conduct.

16 E. Client or patient means the recipient of psychological services,
17 whether psychological services are delivered in the context of
18 healthcare, corporate, supervision, and/or consulting services.

19 F. Commission means the Psychology Interjurisdictional Compact
20 Commission which is the national administration of which all compact
21 states are members.

22 G. Commissioner means the voting representative appointed by each
23 state psychology regulatory authority pursuant to Article X.

24 H. Compact state means a state, the District of Columbia, or a
25 United States territory that has enacted the Compact and which has not
26 withdrawn pursuant to Article XIII, subsection C or been terminated
27 pursuant to Article XII, subsection B.

28 I. Coordinated Licensure Information System means an integrated
29 process for collecting, storing, and sharing information on
30 psychologists' licensure and enforcement activities related to psychology
31 licensure laws, which is administered by the recognized membership

1 organization composed of state and provincial psychology regulatory
2 authorities.

3 J. Confidentiality means the principle that data or information is
4 not made available or disclosed to unauthorized persons or processes.

5 K. Day means any part of a day in which psychological work is
6 performed.

7 L. Distant state means the compact state where a psychologist is
8 physically present, not through using telecommunications technologies, to
9 provide temporary in-person, face-to-face psychological services.

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

15 N. Executive board means a group of directors elected or appointed
16 to act on behalf of, and within the powers granted to them by, the
17 commission.

18 O. Home state means a compact state where a psychologist is licensed
19 to practice psychology. If the psychologist is licensed in more than one
20 compact state and is practicing under the authorization to practice
21 interjurisdictional telepsychology, the home state is the compact state
22 where the psychologist is physically present when the telepsychology
23 services are delivered. If the psychologist is licensed in more than one
24 compact state and is practicing under the temporary authorization to
25 practice, the home state is any compact state where the psychologist is
26 licensed.

27 P. Identity history summary means a summary of information retained
28 by the Federal Bureau of Investigation, or other designee with similar
29 authority, in connection with arrests and, in some instances, federal
30 employment, naturalization, or military service.

31 Q. In-person, face-to-face means interactions in which the

1 psychologist and the client or patient are in the same physical space and
2 which does not include interactions that may occur through the use of
3 telecommunication technologies.

4 R. Interjurisdictional Practice Certificate means a certificate
5 issued by the Association of State and Provincial Psychology Boards that
6 grants temporary authority to practice based on notification to the state
7 psychology regulatory authority of intention to practice temporarily and
8 verification of one's qualifications for such practice.

9 S. License means authorization by a state psychology regulatory
10 authority to engage in the independent practice of psychology, which
11 would be unlawful without the authorization.

12 T. Noncompact state means any state which is not at the time a
13 compact state.

14 U. Psychologist means an individual licensed for the independent
15 practice of psychology.

16 V. Receiving state means a compact state where the client or patient
17 is physically located when the telepsychology services are delivered.

18 W. Rule means a written statement by the Commission promulgated
19 pursuant to Article XI that is of general applicability, implements,
20 interprets, or prescribes a policy or provision of the Compact, or an
21 organizational, procedural, or practice requirement of the Commission and
22 has the force and effect of statutory law in a compact state, and
23 includes the amendment, 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,
28 if proven true, would indicate more than a violation of state statute or
29 ethics code that would be considered more substantial than minor
30 infraction; or

31 2. Investigative information that indicates that the psychologist

1 represents an immediate threat to public health and safety regardless of
2 whether the psychologist has been notified or had an opportunity to
3 respond.

4 Y. State means a state, commonwealth, territory, or possession of
5 the United States or the District of Columbia.

6 Z. State psychology regulatory authority means the board, office, or
7 other agency with the legislative mandate to license and regulate the
8 practice of psychology.

9 AA. Telepsychology means the provision of psychological services
10 using telecommunication technologies.

11 BB. Temporary authorization to practice means a licensed
12 psychologist's authority to conduct temporary in-person, face-to-face
13 practice, within the limits authorized under the Compact, in another
14 compact state.

15 CC. Temporary in-person, face-to-face practice means the practice of
16 psychology in which a psychologist is physically present, not through
17 using telecommunications technologies, in the distant state to provide
18 for the practice of psychology for thirty days within a calendar year and
19 based on notification to the distant state.

20 **ARTICLE III**

21 **HOME STATE LICENSURE**

22 A. The home state shall be a compact state where a psychologist is
23 licensed to practice psychology.

24 B. A psychologist may hold one or more compact state licenses at a
25 time. If the psychologist is licensed in more than one compact state, the
26 home state is the compact state where the psychologist is physically
27 present when the services are delivered as authorized by the authority to
28 practice interjurisdictional telepsychology under the terms of the
29 Psychology Interjurisdictional Compact.

30 C. Any compact state may require a psychologist not previously
31 licensed in a compact state to obtain and retain a license to be

1 authorized to practice in the compact state under circumstances not
2 authorized by the authority to practice interjurisdictional
3 telepsychology under the terms of the Psychology Interjurisdictional
4 Compact.

5 D. Any compact state may require a psychologist to obtain and retain
6 a license to be authorized to practice in a compact state under
7 circumstances not authorized by temporary authorization to practice under
8 the terms of the Compact.

9 E. A home state's license authorizes a psychologist to practice in a
10 receiving state under the authority to practice interjurisdictional
11 telepsychology only if the compact state:

12 1. Currently requires the psychologist to hold an active E.Passport;
13 2. Has a mechanism in place for receiving and investigating
14 complaints about licensed individuals;

15 3. Notifies the Commission, in compliance with the terms of the
16 Compact, of any adverse action or significant investigatory information
17 regarding a licensed individual;

18 4. Requires an identity history summary of all applicants at initial
19 licensure, including the use of the results of fingerprints or other
20 biometric data checks compliant with the requirements of the Federal
21 Bureau of Investigation, or other designee with similar authority, no
22 later than ten years after activation of the Compact; and

23 5. Complies with the bylaws and rules of the Commission.

24 F. A home state's license grants temporary authorization to practice
25 to a psychologist in a distant state only if the compact state:

26 1. Currently requires the psychologist to hold an active
27 Interjurisdictional Practice Certificate;

28 2. Has a mechanism in place for receiving and investigating
29 complaints about licensed individuals;

30 3. Notifies the Commission, in compliance with the terms of the
31 Compact, of any adverse action or significant investigatory information

1 regarding a licensed individual;
2 4. Requires an identity history summary of all applicants at initial
3 licensure, including the use of the results of fingerprints or other
4 biometric data checks compliant with the requirements of the Federal
5 Bureau of Investigation, or other designee with similar authority, no
6 later than ten years after activation of the Compact; and
7 5. Complies with the bylaws and rules of the Commission.

8 ARTICLE IV

9 COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

10 A. Compact states shall recognize the right of a psychologist,
11 licensed in a compact state in conformance with Article III, to practice
12 telepsychology in other compact states (receiving states) in which the
13 psychologist is not licensed, under the authority to practice
14 interjurisdictional telepsychology as provided in the Psychology
15 Interjurisdictional Compact.

16 B. To exercise the authority to practice interjurisdictional
17 telepsychology under the terms and provisions of the Compact, a
18 psychologist licensed to practice in a compact state must:

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

21 a. Regionally accredited by an accrediting body recognized by the
22 United States Department of Education to grant graduate degrees, or
23 authorized by provincial statute or Royal Charter to grant doctoral
24 degrees; or

25 b. A foreign college or university deemed to be equivalent to
26 subdivision 1a of this subsection by a foreign credential evaluation
27 service that is a member of the National Association of Credential
28 Evaluation Services or by a recognized foreign credential evaluation
29 service; and

30 2. Hold a graduate degree in psychology that meets the following
31 criteria:

- 1 a. The program, wherever it may be administratively housed, must be
 - 2 clearly identified and labeled as a psychology program. Such a program
 - 3 must specify in pertinent institutional catalogues and brochures its
 - 4 intent to educate and train professional psychologists;
 - 5 b. The psychology program must stand as a recognizable, coherent,
 - 6 organizational entity within the institution;
 - 7 c. There must be a clear authority and primary responsibility for
 - 8 the core and specialty areas whether or not the program cuts across
 - 9 administrative lines;
 - 10 d. The program must consist of an integrated, organized sequence of
 - 11 study;
 - 12 e. There must be an identifiable psychology faculty sufficient in
 - 13 size and breadth to carry out its responsibilities;
 - 14 f. The designated director of the program must be a psychologist and
 - 15 a member of the core faculty;
 - 16 g. The program must have an identifiable body of students who are
 - 17 matriculated in that program for a degree;
 - 18 h. The program must include supervised practicum, internship, or
 - 19 field training appropriate to the practice of psychology;
 - 20 i. The curriculum shall encompass a minimum of three academic years
 - 21 of full-time graduate study for doctoral degrees and a minimum of one
 - 22 academic year of full-time graduate study for master's degrees;
 - 23 j. The program includes an acceptable residency as defined by the
 - 24 rules of the Commission.
- 25 3. Possess a current, full, and unrestricted license to practice
 - 26 psychology in a home state which is a compact state;
 - 27 4. Have no history of adverse action that violates the rules of the
 - 28 Commission;
 - 29 5. Have no criminal record history reported on an identity history
 - 30 summary that violates the rules of the Commission;
 - 31 6. Possess a current, active E.Passport;

1 7. Provide attestations in regard to areas of intended practice,
2 conformity with standards of practice, competence in telepsychology
3 technology; criminal background; and knowledge and adherence to legal
4 requirements in the home and receiving states, and provide a release of
5 information to allow for primary source verification in a manner
6 specified by the Commission; and

7 8. Meet other criteria as defined by the rules of the Commission.

8 C. The home state maintains authority over the license of any
9 psychologist practicing into a receiving state under the authority to
10 practice interjurisdictional telepsychology.

11 D. A psychologist practicing into a receiving state under the
12 authority to practice interjurisdictional telepsychology will be subject
13 to the receiving state's authority and laws. A receiving state may, in
14 accordance with that state's due process law, limit or revoke a
15 psychologist's authority to practice interjurisdictional telepsychology
16 in the receiving state and may take any other necessary actions under the
17 receiving state's applicable law to protect the health and safety of the
18 receiving state's citizens. If a receiving state takes action, the state
19 shall promptly notify the home state and the Commission.

20 E. If a psychologist's license in any home state, another compact
21 state, or any authority to practice interjurisdictional telepsychology in
22 any receiving state, is restricted, suspended, or otherwise limited, the
23 E. Passport shall be revoked and therefor the psychologist shall not be
24 eligible to practice telepsychology in a compact state under the
25 authority to practice interjurisdictional telepsychology.

26 ARTICLE V

27 COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

28 A. Compact states shall also recognize the right of a psychologist,
29 licensed in a compact state in conformance with Article III, to practice
30 temporarily in other compact states (distant states) in which the
31 psychologist is not licensed, as provided in the Psychology

1 Interjurisdictional Compact.

2 B. To exercise the temporary authorization to practice under the
3 terms and provisions of the Compact, a psychologist licensed to practice
4 in a compact state must:

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

7 a. Regionally accredited by an accrediting body recognized by the
8 United States Department of Education to grant graduate degrees, or
9 authorized by provincial statute or Royal Charter to grant doctoral
10 degrees; or

11 b. A foreign college or university deemed to be equivalent to
12 subdivision 1a of this subsection by a foreign credential evaluation
13 service that is a member of the National Association of Credential
14 Evaluation Services or by a recognized foreign credential evaluation
15 service; and

16 2. Hold a graduate degree in psychology that meets the following
17 criteria:

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

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

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

27 d. The program must consist of an integrated, organized sequence of
28 study;

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

31 f. The designated director of the program must be a psychologist and

1 a member of the core faculty;

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

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

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

9 j. The program includes an acceptable residency as defined by the
10 rules of the Commission.

11 3. Possess a current, full, and unrestricted license to practice
12 psychology in a home state which is a compact state;

13 4. No history of adverse action that violates the rules of the
14 Commission;

15 5. No criminal record history that violates the rules of the
16 Commission;

17 6. Possess a current, active Interjurisdictional Practice
18 Certificate;

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

22 8. Meet other criteria as defined by the rules of the Commission.

23 C. A psychologist practicing into a distant state under the
24 temporary authorization to practice shall practice within the scope of
25 practice authorized by the distant state.

26 D. A psychologist practicing into a distant state under the
27 temporary authorization to practice will be subject to the distant
28 state's authority and law. A distant state may, in accordance with that
29 state's due process law, limit or revoke a psychologist's temporary
30 authorization to practice in the distant state and may take any other
31 necessary actions under the distant state's applicable law to protect the

1 health and safety of the distant state's citizens. If a distant state
2 takes action, the state shall promptly notify the home state and the
3 Commission.

4 E. If a psychologist's license in any home state, another compact
5 state, or any temporary authorization to practice in any distant state,
6 is restricted, suspended, or otherwise limited, the Interjurisdictional
7 Practice Certificate shall be revoked and therefor the psychologist shall
8 not be eligible to practice in a compact state under the temporary
9 authorization to practice.

10 ARTICLE VI

11 CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

12 A psychologist may practice in a receiving state under the authority
13 to practice interjurisdictional telepsychology only in the performance of
14 the scope of practice for psychology as assigned by an appropriate state
15 psychology regulatory authority, as defined in the rules of the
16 Commission, and under the following circumstances:

17 1. The psychologist initiates a client or patient contact in a home
18 state via telecommunications technologies with a client or patient in a
19 receiving state;

20 2. Other conditions regarding telepsychology as determined by rules
21 promulgated by the Commission.

22 ARTICLE VII

23 ADVERSE ACTIONS

24 A. A home state shall have the power to impose adverse action
25 against a psychologist's license issued by the home state. A distant
26 state shall the power to take adverse action on a psychologist's
27 temporary authorization to practice within that distant state.

28 B. A receiving state may take adverse action on a psychologist's
29 authority to practice interjurisdictional telepsychology within that
30 receiving state. A home state may take adverse action against a
31 psychologist based on an adverse action taken by a distant state

1 regarding temporary in-person, face-to-face practice.

2 C. If a home state takes adverse action against a psychologist's
3 license, that psychologist's authority to practice interjurisdictional
4 telepsychology is terminated and the E.Passport is revoked. Furthermore,
5 that psychologist's temporary authorization to practice is terminated and
6 the Interjurisdictional Practice Certificate is revoked.

7 1. All home state disciplinary orders which impose adverse action
8 shall be reported to the Commission in accordance with the rules
9 promulgated by the Commission. A compact state shall report adverse
10 actions in accordance with the rules of the Commission.

11 2. In the event discipline is reported on a psychologist, the
12 psychologist will not be eligible for telepsychology or temporary in-
13 person, face-to-face practice in accordance with the rules of the
14 Commission.

15 3. Other actions may be imposed as determined by the rules
16 promulgated by the Commission.

17 D. A home state's state psychology regulatory authority shall
18 investigate and take appropriate action with respect to reported
19 inappropriate conduct engaged in by a licensee which occurred in a
20 receiving state as it would if such conduct had occurred by a licensee
21 within the home state. In such cases, the home state's law shall control
22 in determining any adverse action against a psychologist's license.

23 E. A distant state's state psychology regulatory authority shall
24 investigate and take appropriate action with respect to reported
25 inappropriate conduct engaged in by a psychologist practicing under
26 temporary authorization practice which occurred in that distant state as
27 it would if such conduct had occurred by a licensee within the home
28 state. In such cases, distant state's law shall control in determining
29 any adverse action against a psychologist's temporary authorization to
30 practice.

31 F. Nothing in the Psychology Interjurisdictional Compact shall

1 override a compact state's decision that a psychologist's participation
2 in an alternative program may be used in lieu of adverse action and that
3 such participation shall remain nonpublic if required by the compact
4 state's law. Compact states must require psychologists who enter any
5 alternative programs to not provide telepsychology services under the
6 authority to practice interjurisdictional telepsychology or provide
7 temporary psychological services under the temporary authorization to
8 practice in any other compact state during the term of the alternative
9 program.

10 G. No other judicial or administrative remedies shall be available
11 to a psychologist in the event a compact state imposes an adverse action
12 pursuant to subsection C of this Article.

13 ARTICLE VIII

14 ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S STATE
15 PSYCHOLOGY REGULATORY AUTHORITY

16 In addition to any other powers granted under state law, a compact
17 state's state psychology regulatory authority shall have the authority
18 under the Psychology Interjurisdictional Compact to:

19 1. Issue subpoenas, for both hearings and investigations, which
20 require the attendance and testimony of witnesses and the production of
21 evidence. Subpoenas issued by a compact state's state psychology
22 regulatory authority for the attendance and testimony of witnesses, or
23 the production of evidence from another compact state shall be enforced
24 in the latter state by any court of competent jurisdiction, according to
25 that court's practice and procedure in considering subpoenas issued in
26 its own proceedings. The issuing state psychology regulatory authority
27 shall pay any witness fees, travel expenses, mileage fees, and other fees
28 required by the service statutes of the state where the witnesses or
29 evidence are located; and

30 2. Issue cease and desist orders, injunctive relief orders, or both
31 to revoke a psychologist's authority to practice interjurisdictional

1 telepsychology, temporary authorization to practice, or both.

2 3. During the course of any investigation, a psychologist may not
3 change his or her home state licensure. A home state's state psychology
4 regulatory authority is authorized to complete any pending investigations
5 of a psychologist and to take any actions appropriate under its law. The
6 home state's state psychology regulatory authority shall promptly report
7 the conclusions of such investigations to the Commission. Once an
8 investigation has been completed, and pending the outcome of the
9 investigation, the psychologist may change his or her home state
10 licensure. The Commission shall promptly notify the new home state of any
11 such decisions as provided in the rules of the Commission. All
12 information provided to the Commission or distributed by compact states
13 pursuant to the psychologist shall be confidential, filed under seal, and
14 used for investigatory or disciplinary matters. The Commission may create
15 additional rules for mandated or discretionary sharing of information by
16 compact states.

17 ARTICLE IX

18 COORDINATED LICENSURE INFORMATION SYSTEM

19 A. The Commission shall provide for the development and maintenance
20 of a Coordinated Licensure Information System (Coordinated Database) and
21 reporting system containing licensure and disciplinary action information
22 on all psychologists or individuals to whom the Psychology
23 Interjurisdictional Compact is applicable in all compact states as
24 defined by the rules of the Commission.

25 B. Notwithstanding any other provision of state law to the contrary,
26 a compact state shall submit a uniform data set to the Coordinated
27 Database on all licensees as required by the rules of the Commission,
28 including:

- 29 1. Identifying information;
30 2. Licensure data;
31 3. Significant investigatory information;

1 4. Adverse actions against a psychologist's license;
2 5. An indicator that a psychologist's authority to practice
3 interjurisdictional telepsychology or temporary authorization to practice
4 is revoked;

5 6. Nonconfidential information related to alternative program
6 participation information;

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

9 8. Other information which may facilitate the administration of the
10 Compact, as determined by the rules of the Commission.

11 C. The Coordinated Database administrator shall promptly notify all
12 compact states of any adverse action taken against, or significant
13 investigative information on, any licensee in a compact state.

14 D. Compact states reporting information to the Coordinated Database
15 may designate information that may not be shared with the public without
16 the express permission of the compact state reporting the information.

17 E. Any information submitted to the Coordinated Database that is
18 subsequently required to be expunged by the law of the compact state
19 reporting the information shall be removed from the Coordinated Database.

20 ARTICLE X

21 ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT
22 COMMISSION

23 A. The compact states hereby create and establish a joint public
24 agency known as the Psychology Interjurisdictional Compact Commission.

25 1. The Commission is a body politic and an instrumentality of the
26 compact states.

27 2. Venue is proper and judicial proceedings by or against the
28 Commission shall be brought solely and exclusively in a court of
29 competent jurisdiction where the principal office of the Commission is
30 located. The Commission may waive venue and jurisdictional defenses to
31 the extent it adopts or consents to participate in alternative dispute

1 resolution proceedings.

2 3. Nothing in the Psychology Interjurisdictional Compact shall be
3 construed to be a waiver of sovereign immunity.

4 B. Membership, Voting, and Meetings

5 1. The Commission shall consist of one voting representative
6 appointed by each compact state who shall serve as that state's
7 Commissioner. The state psychology regulatory authority shall appoint the
8 state's delegate. This delegate shall be empowered to act on behalf of
9 the compact state. This delegate shall be limited to:

10 a. Executive director, executive secretary, or similar executive;
11 b. Current member of the state psychology regulatory authority of a
12 compact state; or
13 c. Designee empowered with the appropriate delegate authority to act
14 on behalf of the compact state.

15 2. Any Commissioner may be removed or suspended from office as
16 provided by the law of the state from which the Commissioner is
17 appointed. Any vacancy occurring in the Commission shall be filled in
18 accordance with the laws of the compact state in which the vacancy
19 exists.

20 3. Each Commissioner shall be entitled to one vote with regard to
21 the promulgation of rules and creation of bylaws and shall otherwise have
22 an opportunity to participate in the business and affairs of the
23 Commission. A Commissioner shall vote in person or by such other means as
24 provided in the bylaws. The bylaws may provide for Commissioners'
25 participation in meetings by telephone or other means of communication.

26 4. The Commission shall meet at least once during each calendar
27 year. Additional meetings shall be held as set forth in the bylaws.

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

31 6. The Commission may convene in a closed, nonpublic meeting if the

- 1 Commission must discuss:
- 2 a. Noncompliance of a compact state with its obligations under the
- 3 Compact;
- 4 b. The employment, compensation, discipline, or other personnel
- 5 matters, practices, or procedures related to specific employees or other
- 6 matters related to the Commission's internal personnel practices and
- 7 procedures;
- 8 c. Current, threatened, or reasonably anticipated litigation against
- 9 the Commission;
- 10 d. Negotiation of contracts for the purchase or sale of goods,
- 11 services, or real estate;
- 12 e. Accusation against any person of a crime or formally censuring
- 13 any person;
- 14 f. Disclosure of trade secrets or commercial or financial
- 15 information which is privileged or confidential;
- 16 g. Disclosure of information of a personal nature where disclosure
- 17 would constitute a clearly unwarranted invasion of personal privacy;
- 18 h. Disclosure of investigatory records compiled for law enforcement
- 19 purposes;
- 20 i. Disclosure of information related to any investigatory reports
- 21 prepared by or on behalf of or for use of the Commission or other
- 22 committee charged with responsibility for investigation or determination
- 23 of compliance issues pursuant to the Compact; or
- 24 j. Matters specifically exempted from disclosure by federal and
- 25 state statute.
- 26 7. If a meeting, or portion of a meeting, is closed pursuant to this
- 27 Article, 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
- 30 describe all matters discussed in a meeting and shall provide a full and
- 31 accurate summary of actions taken, of any person participating in the

1 meeting, and the reasons therefore, including a description of the views
2 expressed. All documents considered in connection with an action shall be
3 identified in such minutes. All minutes and documents of a closed meeting
4 shall remain under seal, subject to release only by a majority vote of
5 the Commission or order of a court of competent jurisdiction.

6 C. The Commission shall, by a majority vote of the Commissioners,
7 prescribe bylaws or rules to govern its conduct as may be necessary or
8 appropriate to carry out the purposes and exercise the powers of the
9 Compact, including, but not limited to:

10 1. Establishing the fiscal year of the Commission;
11 2. Providing reasonable standards and procedures:
12 a. For the establishment and meetings of other committees; and
13 b. Governing any general or specific delegation of any authority or
14 function of the Commission;
15 3. Providing reasonable procedures for calling and conducting
16 meetings of the Commission, ensuring reasonable advance notice of all
17 meetings and providing an opportunity for attendance of such meetings by
18 interested parties, with enumerated exceptions designed to protect the
19 public's interest, the privacy of individuals of such proceedings, and
20 proprietary information, including trade secrets. The Commission may meet
21 in closed session only after a majority of the Commissioners vote to
22 close a meeting to the public in whole or in part. As soon as
23 practicable, the Commission must make public a copy of the vote to close
24 the meeting revealing the vote of each Commissioner with no proxy votes
25 allowed;

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

28 5. Providing reasonable standards and procedures for the
29 establishment of the personnel policies and programs of the Commission.
30 Notwithstanding any civil service or other similar law of any compact
31 state, the bylaws shall exclusively govern the personnel policies and

1 programs of the Commission;

2 6. Promulgating a code of ethics to address permissible and
3 prohibited activities of Commission members and employees;

4 7. Providing a mechanism for concluding the operations of the
5 Commission and the equitable disposition of any surplus funds that may
6 exist after the termination of the Compact after the payment, reserving,
7 or both of all of its debts and obligations;

8 8. The Commission shall publish its bylaws in a convenient form and
9 file a copy thereof and a copy of any amendment thereto, with the
10 appropriate agency or officer in each of the compact states;

11 9. The Commission shall maintain its financial records in accordance
12 with the bylaws; and

13 10. The Commission shall meet and take such actions as are
14 consistent with the provisions of the Compact and the bylaws.

15 D. The Commission shall have the following powers:

16 1. The authority to promulgate uniform rules to facilitate and
17 coordinate implementation and administration of the Compact. The rules
18 shall have the force and effect of law and shall be binding in all
19 compact states;

20 2. To bring and prosecute legal proceedings or actions in the name
21 of the Commission, provided that the standing of any state psychology
22 regulatory authority or other regulatory body responsible for psychology
23 licensure to sue or be sued under applicable law shall not be affected;

24 3. To purchase and maintain insurance and bonds;

25 4. To borrow, accept, or contract for services of personnel,
26 including, but not limited to, employees of a compact state;

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

1 6. To accept any and all appropriate donations and grants of money,
2 equipment, supplies, materials, and services, and to receive, utilize,
3 and dispose of the same; provided that at all times the Commission shall
4 strive to avoid any appearance of impropriety or conflict of interest;
5 7. To lease, purchase, accept appropriate gifts or donations of, or
6 otherwise to own, hold, improve or use, any property, real, personal, or
7 mixed; provided that at all times the Commission shall strive to avoid
8 any appearance of impropriety;
9 8. To sell, convey, mortgage, pledge, lease, exchange, abandon, or
10 otherwise dispose of any property real, personal, or mixed;
11 9. To establish a budget and make expenditures;
12 10. To borrow money;
13 11. To appoint committees, including advisory committees comprised
14 of members, state regulators, state legislators or their representatives,
15 and consumer representatives, and such other interested persons as may be
16 designated in the Compact and the bylaws;
17 12. To provide and receive information from, and to cooperate with,
18 law enforcement agencies;
19 13. To adopt and use an official seal; and
20 14. To perform such other functions as may be necessary or
21 appropriate to achieve the purposes of the Compact consistent with the
22 state regulation of psychology licensure, temporary in-person, face-to-
23 face practice, and telepsychology practice.

24 E. The Executive Board

25 The elected officers shall serve as the Executive Board, which shall
26 have the power to act on behalf of the Commission according to the terms
27 of the Compact.

28 1. The Executive Board shall be comprised of six members:
29 a. Five voting members who are elected from the current membership
30 of the Commission by the Commission; and
31 b. One ex-officio, nonvoting member from the recognized membership

1 organization composed of State and Provincial Psychology Regulatory
2 Authorities.

3 2. The ex-officio member must have served as staff or member on a
4 state psychology regulatory authority and will be selected by its
5 respective organization.

6 3. The Commission may remove any member of the Executive Board as
7 provided in bylaws.

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

9 5. The Executive Board shall have the following duties and
10 responsibilities:

11 a. Recommend to the entire Commission changes to the rules or
12 bylaws, changes to the Compact, fees paid by compact states such as
13 annual dues, and any other applicable fees;

14 b. Ensure Compact administration services are appropriately
15 provided, contractual or otherwise;

16 c. Prepare and recommend the budget;

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

18 e. Monitor Compact compliance of member states and provide
19 compliance reports to the Commission;

20 f. Establish additional committees as necessary; and

21 g. Other duties as provided in rules or bylaws.

22 F. Financing of the Commission

23 1. The Commission shall pay, or provide for the payment of, the
24 reasonable expenses of its establishment, organization, and ongoing
25 activities.

26 2. The Commission may accept any and all appropriate revenue
27 sources, donations, and grants of money, equipment, supplies, materials,
28 and services.

29 3. The Commission may levy on and collect an annual assessment from
30 each compact state or impose fees on other parties to cover the cost of
31 the operations and activities of the Commission and its staff which must

1 be in a total amount sufficient to cover its annual budget as approved
2 each year for which revenue is not provided by other sources. The
3 aggregate annual assessment amount shall be allocated based upon a
4 formula to be determined by the Commission which shall promulgate a rule
5 binding upon all compact states.

6 4. The Commission shall not incur obligations of any kind prior to
7 securing the funds adequate to meet the same; nor shall the Commission
8 pledge the credit of any of the compact states, except by and with the
9 authority of the compact state.

10 5. The Commission shall keep accurate accounts of all receipts and
11 disbursements. The receipts and disbursements of the Commission shall be
12 subject to the audit and accounting procedures established under its
13 bylaws. However, all receipts and disbursements of funds handled by the
14 Commission shall be audited yearly by a certified or licensed public
15 accountant and the report of the audit shall be included in and become
16 part of the annual report of the Commission.

17 G. Qualified Immunity, Defense, and Indemnification

18 1. The members, officers, executive director, employees, and
19 representatives of the Commission shall have no greater liability, either
20 personally or in their official capacity, for any claim for damage to or
21 loss of property or personal injury or other civil liability caused by or
22 arising out of any actual or alleged act, error, or omission that
23 occurred, or that the person against whom the claim is made had a
24 reasonable basis for believing occurred, within the scope of Commission
25 employment, duties, or responsibilities, than a state employee would have
26 under the same or similar circumstances; provided that nothing in this
27 paragraph shall be construed to protect any such person from suit or
28 liability for any damage, loss, injury, or liability caused by the
29 intentional or willful or wanton misconduct of that person.

30 2. The Commission shall defend any member, officer, executive
31 director, employee, or representative of the Commission in any civil

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

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

20 **ARTICLE XI**

21 **RULEMAKING**

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

26 B. If a majority of the legislatures of the compact states rejects a
27 rule, by enactment of a statute or resolution in the same manner used to
28 adopt the Psychology Interjurisdictional Compact, then such rule shall
29 have no further force and effect in any compact state.

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

1 D. Prior to promulgation and adoption of a final rule or rules by
2 the Commission, and at least sixty days in advance of the meeting at
3 which the rule will be considered and voted upon, the Commission shall
4 file a notice of proposed rulemaking:

5 1. On the web site of the Commission; and
6 2. On the web site of each compact state's state psychology
7 regulatory authority or the publication in which each state would
8 otherwise publish proposed rules.

9 E. The notice of proposed rulemaking shall include:

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

12 2. The text of the proposed rule or amendment and the reason for the
13 proposed rule;

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

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

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

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

24 1. At least twenty-five persons who submit comments independently of
25 each other;

26 2. A governmental subdivision or agency; or

27 3. A duly appointed person in an association that has at least
28 twenty-five members.

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

1 1. All persons wishing to be heard at the hearing shall notify the
2 executive director of the Commission or other designated member in
3 writing of their desire to appear and testify at the hearing not less
4 than five business days before the scheduled date of the hearing.

5 2. Hearings shall be conducted in a manner providing each person who
6 wishes to comment a fair and reasonable opportunity to comment orally or
7 in writing.

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

14 4. Nothing in this Article shall be construed as requiring a
15 separate hearing on each rule. Rules may be grouped for the convenience
16 of the Commission at hearings required by this Article.

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

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

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

27 L. Upon determination that an emergency exists, the Commission may
28 consider and adopt an emergency rule without prior notice, opportunity
29 for comment, or hearing, provided that the usual rulemaking procedures
30 provided in the Compact and in this section shall be retroactively
31 applied to the rule as soon as reasonably possible, in no event later

1 than ninety days after the effective date of the rule. For the purposes
2 of this paragraph, an emergency rule is one that must be adopted
3 immediately in order to:

- 4 1. Meet an imminent threat to public health, safety, or welfare;
- 5 2. Prevent a loss of Commission or compact state funds;
- 6 3. Meet a deadline for the promulgation of an administrative rule
7 that is established by federal law or rule; or
- 8 4. Protect public health and safety.

9 M. The Commission or an authorized committee of the Commission may
10 direct revisions to a previously adopted rule or amendment for purposes
11 of correcting typographical errors, errors in format, errors in
12 consistency, or grammatical errors. Public notice of any revisions shall
13 be posted on the web site of the Commission. The revision shall be
14 subject to challenge by any person for a period of thirty days after
15 posting. The revision may be challenged only on grounds that the revision
16 results in a material change to a rule. A challenge shall be made in
17 writing, and delivered to the chair of the Commission prior to the end of
18 the notice period. If no challenge is made, the revision will take effect
19 without further action. If the revision is challenged, the revision may
20 not take effect without the approval of the Commission.

21 ARTICLE XII

22 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

23 A. Oversight

24 1. The executive, legislative, and judicial branches of state
25 government in each compact state shall enforce the Psychology
26 Interjurisdictional Compact and take all actions necessary and
27 appropriate to effectuate the Compact's purposes and intent. The Compact
28 and the rules promulgated under the Compact shall have standing as
29 statutory law.

30 2. All courts shall take judicial notice of the Compact and the
31 rules in any judicial or administrative proceeding in a compact state

1 pertaining to the subject matter of the Compact which may affect the
2 powers, responsibilities, or actions of the Commission.

3 3. The Commission shall be entitled to receive service of process in
4 any such proceeding and shall have standing to intervene in such a
5 proceeding for all purposes. Failure to provide service of process to the
6 Commission shall render a judgment or order void as to the Commission,
7 the Compact, or promulgated rules.

8 B. Default, Technical Assistance, and Termination

9 1. If the Commission determines that a compact state has defaulted
10 in the performance of its obligations or responsibilities under the
11 Compact or the promulgated rules, the Commission shall:

12 a. Provide written notice to the defaulting state and other compact
13 states of the nature of the default, the proposed means of remedying the
14 default, or any other action to be taken by the Commission; and

15 b. Provide remedial training and specific technical assistance
16 regarding the default.

17 2. If a state in default fails to remedy the default, the defaulting
18 state may be terminated from the Compact upon an affirmative vote of a
19 majority of the compact states, and all rights, privileges, and benefits
20 conferred by the Compact shall be terminated on the effective date of
21 termination. A remedy of the default does not relieve the offending state
22 of obligations or liabilities incurred during the period of default.

23 3. Termination of membership in the Compact shall be imposed only
24 after all other means of securing compliance have been exhausted. Notice
25 of intent to suspend or terminate shall be submitted by the Commission to
26 the Governor, the majority and minority leaders of the defaulting state's
27 legislature or the Speaker if no such leaders exist, and each of the
28 compact states.

29 4. A compact state which has been terminated is responsible for all
30 assessments, obligations, and liabilities incurred through the effective
31 date of termination, including obligations which extend beyond the

1 effective date of termination.

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

6 6. The defaulting state may appeal the action of the Commission by
7 petitioning the United States District Court for the State of Georgia or
8 the federal district where the Compact has its principal offices. The
9 prevailing member shall be awarded all costs of such litigation,
10 including reasonable attorney's fees.

11 C. Dispute Resolution

12 1. Upon request by a compact state, the Commission shall attempt to
13 resolve disputes related to the Compact which arise among compact states
14 and between Compact and noncompact states.

15 2. The Commission shall promulgate a rule providing for both
16 mediation and binding dispute resolution for disputes that arise before
17 the Commission.

18 D. Enforcement

19 1. The Commission, in the reasonable exercise of its discretion,
20 shall enforce the provisions and rules of the Compact.

21 2. By majority vote, the Commission may initiate legal action in the
22 United States District Court for the State of Georgia or the federal
23 district where the Compact has its principal offices against a compact
24 state in default to enforce compliance with the provisions of the Compact
25 and its promulgated rules and bylaws. The relief sought may include both
26 injunctive relief and damages. In the event judicial enforcement is
27 necessary, the prevailing member shall be awarded all costs of such
28 litigation, including reasonable attorney's fees.

29 3. The remedies in this Article shall not be the exclusive remedies
30 of the Commission. The Commission may pursue any other remedies available
31 under federal or state law.

1 ARTICLE XIII

2 DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT
3 COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENTS

4 A. The Psychology Interjurisdictional Compact shall come into effect
5 on the date on which the Compact is enacted into law in the seventh
6 compact state. The provisions which become effective at that time shall
7 be limited to the powers granted to the Commission relating to assembly
8 and the promulgation of rules. Thereafter, the Commission shall meet and
9 exercise rulemaking powers necessary to the implementation and
10 administration of the Compact.

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

16 C. Any compact state may withdraw from this Compact by enacting a
17 statute repealing the same.

18 1. A compact state's withdrawal shall not take effect until six
19 months after enactment of the repealing statute.

20 2. Withdrawal shall not affect the continuing requirement of the
21 withdrawing state's state psychology regulatory authority to comply with
22 the investigative and adverse action reporting requirements of the
23 Compact prior to the effective date of withdrawal.

24 D. Nothing contained in the Compact shall be construed to invalidate
25 or prevent any psychology licensure agreement or other cooperative
26 arrangement between a compact state and a noncompact state which does not
27 conflict with the Compact.

28 E. The Compact may be amended by the compact states. No amendment to
29 the Compact shall become effective and binding upon any compact state
30 until it is enacted into the law of all compact states.

31 ARTICLE XIV

1 CONSTRUCTION AND SEVERABILITY

2 The Psychology Interjurisdictional Compact shall be liberally
3 construed so as to effectuate the purposes of the Compact. If the Compact
4 shall be held contrary to the constitution of any state which is a member
5 of the Compact, the Compact shall remain in full force and effect as to
6 the remaining compact states.

7 Sec. 12. Original sections 38-131, 38-2025, 38-2112, 38-2115,
8 38-3101, 38-3111, 44-792, and 71-906, Reissue Revised Statutes of
9 Nebraska, and section 29-2261, Revised Statutes Supplement, 2017, are
10 repealed.