

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 686

Introduced by Blood, 3; Brewer, 43.

Read first time January 03, 2018

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to psychologists; to amend sections 38-131,
2 38-2025, 38-2112, 38-2115, 38-3101, 38-3111, 44-792, and 71-906,
3 Reissue Revised Statutes of Nebraska, and section 29-2261, Revised
4 Statutes Supplement, 2017; to adopt the Psychology
5 Interjurisdictional Compact; to require criminal background checks;
6 to provide for a compact administrator; to authorize practice in
7 certain circumstances; to redefine terms; to harmonize provisions;
8 and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

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

3 29-2261 (1) Unless it is impractical to do so, when an offender has
4 been convicted of a felony other than murder in the first degree, the
5 court shall not impose sentence without first ordering a presentence
6 investigation of the offender and according due consideration to a
7 written report of such investigation. When an offender has been convicted
8 of murder in the first degree and (a) a jury renders a verdict finding
9 the existence of one or more aggravating circumstances as provided in
10 section 29-2520 or (b)(i) the information contains a notice of
11 aggravation as provided in section 29-1603 and (ii) the offender waives
12 his or her right to a jury determination of the alleged aggravating
13 circumstances, the court shall not commence the sentencing determination
14 proceeding as provided in section 29-2521 without first ordering a
15 presentence investigation of the offender and according due consideration
16 to a written report of such investigation.

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

21 (3) The presentence investigation and report shall include, when
22 available, an analysis of the circumstances attending the commission of
23 the crime, the offender's history of delinquency or criminality, physical
24 and mental condition, family situation and background, economic status,
25 education, occupation, and personal habits, and any other matters that
26 the probation officer deems relevant or the court directs to be included.
27 All local and state police agencies and Department of Correctional
28 Services adult correctional facilities shall furnish to the probation
29 officer copies of such criminal records, in any such case referred to the
30 probation officer by the court of proper jurisdiction, as the probation
31 officer shall require without cost to the court or the probation officer.

1 Such investigation shall also include:

2 (a) Any written statements submitted to the county attorney by a
3 victim; and

4 (b) Any written statements submitted to the probation officer by a
5 victim.

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

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

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

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

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

21 (6)(a) ~~(6)~~ Any presentence report, substance abuse evaluation, or
22 psychiatric examination shall be privileged and shall not be disclosed
23 directly or indirectly to anyone other than a judge; ~~τ~~ probation officers
24 to whom an offender's file is duly transferred; ~~τ~~ the probation
25 administrator or his or her designee; ~~τ~~ alcohol and drug counselors,
26 mental health practitioners, psychiatrists, and psychologists licensed or
27 certified under the Uniform Credentialing Act to conduct substance abuse
28 evaluations and treatment; ~~τ~~ or others entitled by law to receive such
29 information, including personnel and mental health professionals for the
30 Nebraska State Patrol specifically assigned to sex offender registration
31 and community notification for the sole purpose of using such report,

1 evaluation, or examination for assessing risk and for community
2 notification of registered sex offenders.

3 (b) For purposes of this subsection, mental health professional
4 means (i) ~~(a)~~ a practicing physician licensed to practice medicine in
5 this state under the Medicine and Surgery Practice Act, (ii) ~~(b)~~ a
6 practicing psychologist licensed to engage in the practice of psychology
7 in this state as provided in section 38-3111 or as provided under similar
8 provisions of the Psychology Interjurisdictional Compact, or (iii) ~~(c)~~ a
9 practicing mental health professional licensed or certified in this state
10 as provided in the Mental Health Practice Act.

11 (7) The court shall permit inspection of the presentence report,
12 substance abuse evaluation, or psychiatric examination or parts of the
13 report, evaluation, or examination, as determined by the court, by the
14 prosecuting attorney and defense counsel. Beginning July 1, 2016, such
15 inspection shall be by electronic access only unless the court determines
16 such access is not available to the prosecuting attorney or defense
17 counsel. The State Court Administrator shall determine and develop the
18 means of electronic access to such presentence reports, evaluations, and
19 examinations. Upon application by the prosecuting attorney or defense
20 counsel, the court may order that addresses, telephone numbers, and other
21 contact information for victims or witnesses named in the report,
22 evaluation, or examination be redacted upon a showing by a preponderance
23 of the evidence that such redaction is warranted in the interests of
24 public safety. The court may permit inspection of the presentence report,
25 substance abuse evaluation, or psychiatric examination or examination of
26 parts of the report, evaluation, or examination by any other person
27 having a proper interest therein whenever the court finds it is in the
28 best interest of a particular offender. The court may allow fair
29 opportunity for an offender to provide additional information for the
30 court's consideration.

31 (8) If an offender is sentenced to imprisonment, a copy of the

1 report of any presentence investigation, substance abuse evaluation, or
2 psychiatric examination shall be transmitted immediately to the
3 Department of Correctional Services. Upon request, the Board of Parole or
4 the Office of Parole Administration may receive a copy of the report from
5 the department.

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

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

15 38-131 (1) An applicant for an initial license to practice as a
16 registered nurse, ~~or a licensed practical nurse,~~ or a psychologist or to
17 practice a profession which is authorized to prescribe controlled
18 substances shall be subject to a criminal background check. Except as
19 provided in subsection (3) of this section, the applicant shall submit
20 with the application a full set of fingerprints which shall be forwarded
21 to the Nebraska State Patrol to be submitted to the Federal Bureau of
22 Investigation for a national criminal history record information check.
23 The applicant shall authorize release of the results of the national
24 criminal history record information check to the department. The
25 applicant shall pay the actual cost of the fingerprinting and criminal
26 background check.

27 (2) This section shall not apply to a dentist who is an applicant
28 for a dental locum tenens under section 38-1122, to a physician or
29 osteopathic physician who is an applicant for a physician locum tenens
30 under section 38-2036, or to a veterinarian who is an applicant for a
31 veterinarian locum tenens under section 38-3335.

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

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

9 38-2025 The following classes of persons shall not be construed to
10 be engaged in the unauthorized practice of medicine:

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

12 (2) Persons administering ordinary household remedies;

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

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

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

25 (6) Physicians who are licensed in good standing to practice
26 medicine under the laws of another state when incidentally called into
27 this state or contacted via electronic or other medium for consultation
28 with a physician licensed in this state. For purposes of this
29 subdivision, consultation means evaluating the medical data of the
30 patient as provided by the treating physician and rendering a
31 recommendation to such treating physician as to the method of treatment

1 or analysis of the data. The interpretation of a radiological image by a
2 physician who specializes in radiology is not a consultation;

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

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

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

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

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

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

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

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

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

31 (16) Advanced practice registered nurses practicing in their

1 clinical specialty areas when licensed under the Advanced Practice
2 Registered Nurse Practice Act and practicing under and in accordance with
3 their respective practice acts;

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

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

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

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

24 Any person who has held or applied for a license to practice
25 medicine and surgery in this state, and such license or application has
26 been denied or such license has been refused renewal or disciplined by
27 order of limitation, suspension, or revocation, shall be ineligible for
28 the exceptions described in subdivisions (5) through (8) of this section
29 until such license or application is granted or such license is renewed
30 or reinstated. Every act or practice falling within the practice of
31 medicine and surgery as defined in section 38-2024 and not specially

1 excepted in this section shall constitute the practice of medicine and
2 surgery and may be performed in this state only by those licensed by law
3 to practice medicine in Nebraska.

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

6 38-2112 Consultation means a professional collaborative relationship
7 between a licensed mental health practitioner and a consultant who is a
8 psychologist licensed to engage in the practice of psychology in this
9 state as provided in section 38-3111 or as provided in similar provisions
10 of the Psychology Interjurisdictional Compact, a qualified physician, or
11 a licensed independent mental health practitioner in which (1) the
12 consultant makes a diagnosis based on information supplied by the
13 licensed mental health practitioner and any additional assessment deemed
14 necessary by the consultant and (2) the consultant and the licensed
15 mental health practitioner jointly develop a treatment plan which
16 indicates the responsibility of each professional for implementing
17 elements of the plan, updating the plan, and assessing the client's
18 progress.

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

21 38-2115 (1) Mental health practice means the provision of treatment,
22 assessment, psychotherapy, counseling, or equivalent activities to
23 individuals, couples, families, or groups for behavioral, cognitive,
24 social, mental, or emotional disorders, including interpersonal or
25 personal situations.

26 (2) Mental health practice does not include:

27 (a) The practice of psychology or medicine;

28 (b) Prescribing drugs or electroconvulsive therapy;

29 (c) Treating physical disease, injury, or deformity;

30 (d) Diagnosing major mental illness or disorder except in
31 consultation with a qualified physician, a psychologist licensed to

1 engage in the practice of psychology in this state as provided in section
2 38-3111 or as provided in similar provisions of the Psychology
3 Interjurisdictional Compact, or a licensed independent mental health
4 practitioner;

5 (e) Measuring personality or intelligence for the purpose of
6 diagnosis or treatment planning;

7 (f) Using psychotherapy with individuals suspected of having major
8 mental or emotional disorders except in consultation with a qualified
9 physician, a licensed psychologist, or a licensed independent mental
10 health practitioner; or

11 (g) Using psychotherapy to treat the concomitants of organic illness
12 except in consultation with a qualified physician or licensed
13 psychologist.

14 (3) Mental health practice includes the initial assessment of
15 organic mental or emotional disorders for the purpose of referral or
16 consultation.

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

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

24 38-3101 Sections 38-3101 to 38-3132 and section 8 of this act shall
25 be known and may be cited as the Psychology Practice Act.

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

28 38-3111 (1) Unless otherwise expressly stated, references to
29 licensed psychologists in the Nebraska Mental Health Commitment Act, in
30 the Psychology Practice Act, in the Sex Offender Commitment Act, and in
31 section 44-513 means only psychologists licensed to practice psychology

1 in this state under section 38-3114 or under similar provisions of the
2 Psychology Interjurisdictional Compact and does not mean persons holding
3 a special license under section 38-3116 or holding a provisional license
4 under the Psychology Practice Act.

5 (2) Any reference to a person certified to practice clinical
6 psychology under the law in effect immediately prior to September 1,
7 1994, and any equivalent reference under the law of another jurisdiction,
8 including, but not limited to, certified clinical psychologist, health
9 care practitioner in psychology, or certified health care provider, shall
10 be construed to refer to a psychologist licensed under the Uniform
11 Credentialing Act except for persons licensed under section 38-3116 or
12 holding a provisional license under the Psychology Practice Act.

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

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

21 44-792 For purposes of sections 44-791 to 44-795:

22 (1) Health insurance plan means (a) any group sickness and accident
23 insurance policy, group health maintenance organization contract, or
24 group subscriber contract delivered, issued for delivery, or renewed in
25 this state and (b) any self-funded employee benefit plan to the extent
26 not preempted by federal law. Health insurance plan includes any group
27 policy, group contract, or group plan offered or administered by the
28 state or its political subdivisions. Health insurance plan does not
29 include group policies providing coverage for a specified disease,
30 accident-only coverage, hospital indemnity coverage, disability income
31 coverage, medicare supplement coverage, long-term care coverage, or other

1 limited-benefit coverage. Health insurance plan does not include any
2 policy, contract, or plan covering an employer group that covers fewer
3 than fifteen employees;

4 (2) Mental health condition means any condition or disorder
5 involving mental illness that falls under any of the diagnostic
6 categories listed in the Mental Disorders Section of the International
7 Classification of Disease;

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

16 (4) Rate, term, or condition means lifetime limits, annual payment
17 limits, and inpatient or outpatient service limits. Rate, term, or
18 condition does not include any deductibles, copayments, or coinsurance;
19 and

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

24 (b) Serious mental illness means, on and after January 1, 2002, any
25 mental health condition that current medical science affirms is caused by
26 a biological disorder of the brain and that substantially limits the life
27 activities of the person with the serious mental illness. Serious mental
28 illness includes, but is not limited to (i) schizophrenia, (ii)
29 schizoaffective disorder, (iii) delusional disorder, (iv) bipolar
30 affective disorder, (v) major depression, and (vi) obsessive compulsive
31 disorder.

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

3 71-906 Mental health professional means a person licensed to
4 practice medicine and surgery or psychology in this state under the
5 Psychology Interjurisdictional Compact or the Uniform Credentialing Act
6 or an advanced practice registered nurse licensed under the Advanced
7 Practice Registered Nurse Practice Act who has proof of current
8 certification in a psychiatric or mental health specialty.

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

11 ARTICLE I

12 PURPOSE

13 States license psychologists in order to protect the public through
14 verification of education, training, and experience and ensure
15 accountability for professional practice.

16 The Psychology Interjurisdictional Compact is intended to regulate
17 the day-to-day practice of telepsychology, the provision of psychological
18 services using telecommunication technologies, by psychologists across
19 state boundaries in the performance of their psychological practice as
20 assigned by an appropriate authority.

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

25 The Compact is intended to authorize state psychology regulatory
26 authorities to afford legal recognition, in a manner consistent with the
27 terms of the Compact, to psychologists licensed in another state.

28 The Compact recognizes that states have a vested interest in
29 protecting the public's health and safety through licensing and
30 regulation of psychologists and that such state regulation will best
31 protect public health and safety.

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

3 The Compact does not apply to permanent in-person, face-to-face
4 practice; it does allow for authorization of temporary psychological
5 practice.

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

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

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

14 3. Encourage the cooperation of compact states in the areas of
15 psychology licensure and regulation;

16 4. Facilitate the exchange of information between compact states
17 regarding psychologist licensure, adverse actions, and disciplinary
18 history;

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

21 6. Invest all compact states with the authority to hold licensed
22 psychologists accountable through the mutual recognition of compact state
23 licenses.

24 ARTICLE II

25 DEFINITIONS

26 A. Adverse action means any action taken by a state psychology
27 regulatory authority which finds a violation of a statute or regulation
28 that is identified by the state psychology regulatory authority as
29 discipline and is a matter of public record.

30 B. Association of State and Provincial Psychology Boards means the
31 recognized membership organization composed of State and Provincial

1 Psychology Regulatory Authorities responsible for the licensure and
2 registration of psychologists throughout the United States and Canada.

3 C. Authority to practice interjurisdictional telepsychology means a
4 licensed psychologist's authority to practice telepsychology, within the
5 limits authorized under the Psychology Interjurisdictional Compact, in
6 another compact state.

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

10 E. Client or patient means the recipient of psychological services,
11 whether psychological services are delivered in the context of
12 healthcare, corporate, supervision, and/or consulting services.

13 F. Commission means the Psychology Interjurisdictional Compact
14 Commission which is the national administration of which all compact
15 states are members.

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

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

22 I. Coordinated Licensure Information System means an integrated
23 process for collecting, storing, and sharing information on
24 psychologists' licensure and enforcement activities related to psychology
25 licensure laws, which is administered by the recognized membership
26 organization composed of state and provincial psychology regulatory
27 authorities.

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

30 K. Day means any part of a day in which psychological work is
31 performed.

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

4 M. E.Passport means a certificate issued by the Association of State
5 and Provincial Psychology Boards that promotes the standardization in the
6 criteria of interjurisdictional telepsychology practice and facilitates
7 the process for licensed psychologists to provide telepsychological
8 services across state lines.

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

12 O. Home state means a compact state where a psychologist is licensed
13 to practice psychology. If the psychologist is licensed in more than one
14 compact state and is practicing under the authorization to practice
15 interjurisdictional telepsychology, the home state is the compact state
16 where the psychologist is physically present when the telepsychology
17 services are delivered. If the psychologist is licensed in more than one
18 compact state and is practicing under the temporary authorization to
19 practice, the home state is any compact state where the psychologist is
20 licensed.

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

25 Q. In-person, face-to-face means interactions in which the
26 psychologist and the client or patient are in the same physical space and
27 which does not include interactions that may occur through the use of
28 telecommunication technologies.

29 R. Interjurisdictional Practice Certificate means a certificate
30 issued by the Association of State and Provincial Psychology Boards that
31 grants temporary authority to practice based on notification to the state

1 psychology regulatory authority of intention to practice temporarily and
2 verification of one's qualifications for such practice.

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

6 T. Noncompact state means any state which is not at the time a
7 compact state.

8 U. Psychologist means an individual licensed for the independent
9 practice of psychology.

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

12 W. Rule means a written statement by the Commission promulgated
13 pursuant to Article XI that is of general applicability, implements,
14 interprets, or prescribes a policy or provision of the Compact, or an
15 organizational, procedural, or practice requirement of the Commission and
16 has the force and effect of statutory law in a compact state, and
17 includes the amendment, repeal, or suspension of an existing rule.

18 X. Significant investigatory information means:

19 1. Investigative information that a state psychology regulatory
20 authority, after a preliminary inquiry that includes notification and an
21 opportunity to respond if required by state law, has reason to believe,
22 if proven true, would indicate more than a violation of state statute or
23 ethics code that would be considered more substantial than minor
24 infraction; or

25 2. Investigative information that indicates that the psychologist
26 represents an immediate threat to public health and safety regardless of
27 whether the psychologist has been notified or had an opportunity to
28 respond.

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

31 Z. State psychology regulatory authority means the board, office, or

1 other agency with the legislative mandate to license and regulate the
2 practice of psychology.

3 AA. Telepsychology means the provision of psychological services
4 using telecommunication technologies.

5 BB. Temporary authorization to practice means a licensed
6 psychologist's authority to conduct temporary in-person, face-to-face
7 practice, within the limits authorized under the Compact, in another
8 compact state.

9 CC. Temporary in-person, face-to-face practice means the practice of
10 psychology in which a psychologist is physically present, not through
11 using telecommunications technologies, in the distant state to provide
12 for the practice of psychology for thirty days within a calendar year and
13 based on notification to the distant state.

14 ARTICLE III

15 HOME STATE LICENSURE

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

18 B. A psychologist may hold one or more compact state licenses at a
19 time. If the psychologist is licensed in more than one compact state, the
20 home state is the compact state where the psychologist is physically
21 present when the services are delivered as authorized by the authority to
22 practice interjurisdictional telepsychology under the terms of the
23 Psychology Interjurisdictional Compact.

24 C. Any compact state may require a psychologist not previously
25 licensed in a compact state to obtain and retain a license to be
26 authorized to practice in the compact state under circumstances not
27 authorized by the authority to practice interjurisdictional
28 telepsychology under the terms of the Psychology Interjurisdictional
29 Compact.

30 D. Any compact state may require a psychologist to obtain and retain
31 a license to be authorized to practice in a compact state under

1 circumstances not authorized by temporary authorization to practice under
2 the terms of the Compact.

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

6 1. Currently requires the psychologist to hold an active E.Passport;

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

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

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

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

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

20 1. Currently requires the psychologist to hold an active
21 Interjurisdictional Practice Certificate;

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

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

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

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

2 ARTICLE IV

3 COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

4 A. Compact states shall recognize the right of a psychologist,
5 licensed in a compact state in conformance with Article III, to practice
6 telepsychology in other compact states (receiving states) in which the
7 psychologist is not licensed, under the authority to practice
8 interjurisdictional telepsychology as provided in the Psychology
9 Interjurisdictional Compact.

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

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

15 a. Regionally accredited by an accrediting body recognized by the
16 United States Department of Education to grant graduate degrees, or
17 authorized by provincial statute or Royal Charter to grant doctoral
18 degrees; or

19 b. A foreign college or university deemed to be equivalent to
20 subdivision 1a of this subsection by a foreign credential evaluation
21 service that is a member of the National Association of Credential
22 Evaluation Services or by a recognized foreign credential evaluation
23 service; and

24 2. Hold a graduate degree in psychology that meets the following
25 criteria:

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

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

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

4 d. The program must consist of an integrated, organized sequence of
5 study;

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

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

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

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

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

17 j. The program includes an acceptable residency as defined by the
18 rules of the Commission.

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

21 4. Have no history of adverse action that violates the rules of the
22 Commission;

23 5. Have no criminal record history reported on an identity history
24 summary that violates the rules of the Commission;

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

26 7. Provide attestations in regard to areas of intended practice,
27 conformity with standards of practice, competence in telepsychology
28 technology; criminal background; and knowledge and adherence to legal
29 requirements in the home and receiving states, and provide a release of
30 information to allow for primary source verification in a manner
31 specified by the Commission; and

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

2 C. The home state maintains authority over the license of any
3 psychologist practicing into a receiving state under the authority to
4 practice interjurisdictional telepsychology.

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

14 E. If a psychologist's license in any home state, another compact
15 state, or any authority to practice interjurisdictional telepsychology in
16 any receiving state, is restricted, suspended, or otherwise limited, the
17 E.Passport shall be revoked and therefor the psychologist shall not be
18 eligible to practice telepsychology in a compact state under the
19 authority to practice interjurisdictional telepsychology.

20 ARTICLE V

21 COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

22 A. Compact states shall also recognize the right of a psychologist,
23 licensed in a compact state in conformance with Article III, to practice
24 temporarily in other compact states (distant states) in which the
25 psychologist is not licensed, as provided in the Psychology
26 Interjurisdictional Compact.

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

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

1 a. Regionally accredited by an accrediting body recognized by the
2 United States Department of Education to grant graduate degrees, or
3 authorized by provincial statute or Royal Charter to grant doctoral
4 degrees; or

5 b. A foreign college or university deemed to be equivalent to
6 subdivision 1a of this subsection by a foreign credential evaluation
7 service that is a member of the National Association of Credential
8 Evaluation Services or by a recognized foreign credential evaluation
9 service; and

10 2. Hold a graduate degree in psychology that meets the following
11 criteria:

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

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

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

21 d. The program must consist of an integrated, organized sequence of
22 study;

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

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

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

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

31 i. The curriculum shall encompass a minimum of three academic years

1 of full-time graduate study for doctoral degrees and a minimum of one
2 academic year of full-time graduate study for master's degrees;

3 j. The program includes an acceptable residency as defined by the
4 rules of the Commission.

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

7 4. No history of adverse action that violates the rules of the
8 Commission;

9 5. No criminal record history that violates the rules of the
10 Commission;

11 6. Possess a current, active Interjurisdictional Practice
12 Certificate;

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

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

17 C. A psychologist practicing into a distant state under the
18 temporary authorization to practice shall practice within the scope of
19 practice authorized by the distant state.

20 D. A psychologist practicing into a distant state under the
21 temporary authorization to practice will be subject to the distant
22 state's authority and law. A distant state may, in accordance with that
23 state's due process law, limit or revoke a psychologist's temporary
24 authorization to practice in the distant state and may take any other
25 necessary actions under the distant state's applicable law to protect the
26 health and safety of the distant state's citizens. If a distant state
27 takes action, the state shall promptly notify the home state and the
28 Commission.

29 E. If a psychologist's license in any home state, another compact
30 state, or any temporary authorization to practice in any distant state,
31 is restricted, suspended, or otherwise limited, the Interjurisdictional

1 Practice Certificate shall be revoked and therefor the psychologist shall
2 not be eligible to practice in a compact state under the temporary
3 authorization to practice.

4 ARTICLE VI

5 CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

6 A psychologist may practice in a receiving state under the authority
7 to practice interjurisdictional telepsychology only in the performance of
8 the scope of practice for psychology as assigned by an appropriate state
9 psychology regulatory authority, as defined in the rules of the
10 Commission, and under the following circumstances:

11 1. The psychologist initiates a client or patient contact in a home
12 state via telecommunications technologies with a client or patient in a
13 receiving state;

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

16 ARTICLE VII

17 ADVERSE ACTIONS

18 A. A home state shall have the power to impose adverse action
19 against a psychologist's license issued by the home state. A distant
20 state shall the power to take adverse action on a psychologist's
21 temporary authorization to practice within that distant state.

22 B. A receiving state may take adverse action on a psychologist's
23 authority to practice interjurisdictional telepsychology within that
24 receiving state. A home state may take adverse action against a
25 psychologist based on an adverse action taken by a distant state
26 regarding temporary in-person, face-to-face practice.

27 C. If a home state takes adverse action against a psychologist's
28 license, that psychologist's authority to practice interjurisdictional
29 telepsychology is terminated and the E.Passport is revoked. Furthermore,
30 that psychologist's temporary authorization to practice is terminated and
31 the Interjurisdictional Practice Certificate is revoked.

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

5 2. In the event discipline is reported on a psychologist, the
6 psychologist will not be eligible for telepsychology or temporary in-
7 person, face-to-face practice in accordance with the rules of the
8 Commission.

9 3. Other actions may be imposed as determined by the rules
10 promulgated by the Commission.

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

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

25 F. Nothing in the Psychology Interjurisdictional Compact shall
26 override a compact state's decision that a psychologist's participation
27 in an alternative program may be used in lieu of adverse action and that
28 such participation shall remain nonpublic if required by the compact
29 state's law. Compact states must require psychologists who enter any
30 alternative programs to not provide telepsychology services under the
31 authority to practice interjurisdictional telepsychology or provide

1 temporary psychological services under the temporary authorization to
2 practice in any other compact state during the term of the alternative
3 program.

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

7 ARTICLE VIII

8 ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S STATE
9 PSYCHOLOGY REGULATORY AUTHORITY

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

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

24 2. Issue cease and desist orders, injunctive relief orders, or both
25 to revoke a psychologist's authority to practice interjurisdictional
26 telepsychology, temporary authorization to practice, or both.

27 3. During the course of any investigation, a psychologist may not
28 change his or her home state licensure. A home state's state psychology
29 regulatory authority is authorized to complete any pending investigations
30 of a psychologist and to take any actions appropriate under its law. The
31 home state's state psychology regulatory authority shall promptly report

1 the conclusions of such investigations to the Commission. Once an
2 investigation has been completed, and pending the outcome of the
3 investigation, the psychologist may change his or her home state
4 licensure. The Commission shall promptly notify the new home state of any
5 such decisions as provided in the rules of the Commission. All
6 information provided to the Commission or distributed by compact states
7 pursuant to the psychologist shall be confidential, filed under seal, and
8 used for investigatory or disciplinary matters. The Commission may create
9 additional rules for mandated or discretionary sharing of information by
10 compact states.

11 ARTICLE IX

12 COORDINATED LICENSURE INFORMATION SYSTEM

13 A. The Commission shall provide for the development and maintenance
14 of a Coordinated Licensure Information System (Coordinated Database) and
15 reporting system containing licensure and disciplinary action information
16 on all psychologists or individuals to whom the Psychology
17 Interjurisdictional Compact is applicable in all compact states as
18 defined by the rules of the Commission.

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

23 1. Identifying information;

24 2. Licensure data;

25 3. Significant investigatory information;

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

27 5. An indicator that a psychologist's authority to practice
28 interjurisdictional telepsychology or temporary authorization to practice
29 is revoked;

30 6. Nonconfidential information related to alternative program
31 participation information;

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

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

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

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

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

14 ARTICLE X

15 ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT
16 COMMISSION

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

19 1. The Commission is a body politic and an instrumentality of the
20 compact states.

21 2. Venue is proper and judicial proceedings by or against the
22 Commission shall be brought solely and exclusively in a court of
23 competent jurisdiction where the principal office of the Commission is
24 located. The Commission may waive venue and jurisdictional defenses to
25 the extent it adopts or consents to participate in alternative dispute
26 resolution proceedings.

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

29 B. Membership, Voting, and Meetings

30 1. The Commission shall consist of one voting representative
31 appointed by each compact state who shall serve as that state's

1 Commissioner. The state psychology regulatory authority shall appoint the
2 state's delegate. This delegate shall be empowered to act on behalf of
3 the compact state. This delegate shall be limited to:

4 a. Executive director, executive secretary, or similar executive;

5 b. Current member of the state psychology regulatory authority of a
6 compact state; or

7 c. Designee empowered with the appropriate delegate authority to act
8 on behalf of the compact state.

9 2. Any Commissioner may be removed or suspended from office as
10 provided by the law of the state from which the Commissioner is
11 appointed. Any vacancy occurring in the Commission shall be filled in
12 accordance with the laws of the compact state in which the vacancy
13 exists.

14 3. Each Commissioner shall be entitled to one vote with regard to
15 the promulgation of rules and creation of bylaws and shall otherwise have
16 an opportunity to participate in the business and affairs of the
17 Commission. A Commissioner shall vote in person or by such other means as
18 provided in the bylaws. The bylaws may provide for Commissioners'
19 participation in meetings by telephone or other means of communication.

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

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

25 6. The Commission may convene in a closed, nonpublic meeting if the
26 Commission must discuss:

27 a. Noncompliance of a compact state with its obligations under the
28 Compact;

29 b. The employment, compensation, discipline, or other personnel
30 matters, practices, or procedures related to specific employees or other
31 matters related to the Commission's internal personnel practices and

1 procedures;

2 c. Current, threatened, or reasonably anticipated litigation against
3 the Commission;

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

6 e. Accusation against any person of a crime or formally censuring
7 any person;

8 f. Disclosure of trade secrets or commercial or financial
9 information which is privileged or confidential;

10 g. Disclosure of information of a personal nature where disclosure
11 would constitute a clearly unwarranted invasion of personal privacy;

12 h. Disclosure of investigatory records compiled for law enforcement
13 purposes;

14 i. Disclosure of information related to any investigatory reports
15 prepared by or on behalf of or for use of the Commission or other
16 committee charged with responsibility for investigation or determination
17 of compliance issues pursuant to the Compact; or

18 j. Matters specifically exempted from disclosure by federal and
19 state statute.

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

31 C. The Commission shall, by a majority vote of the Commissioners,

1 prescribe bylaws or rules to govern its conduct as may be necessary or
2 appropriate to carry out the purposes and exercise the powers of the
3 Compact, including, but not limited to:

4 1. Establishing the fiscal year of the Commission;

5 2. Providing reasonable standards and procedures:

6 a. For the establishment and meetings of other committees; and

7 b. Governing any general or specific delegation of any authority or
8 function of the Commission;

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

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

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

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

29 7. Providing a mechanism for concluding the operations of the
30 Commission and the equitable disposition of any surplus funds that may
31 exist after the termination of the Compact after the payment, reserving,

1 or both of all of its debts and obligations;

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

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

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

9 D. The Commission shall have the following powers:

10 1. The authority to promulgate uniform rules to facilitate and
11 coordinate implementation and administration of the Compact. The rules
12 shall have the force and effect of law and shall be binding in all
13 compact states;

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

18 3. To purchase and maintain insurance and bonds;

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

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

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

30 7. To lease, purchase, accept appropriate gifts or donations of, or
31 otherwise to own, hold, improve or use, any property, real, personal, or

1 mixed; provided that at all times the Commission shall strive to avoid
2 any appearance of impropriety;

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

5 9. To establish a budget and make expenditures;

6 10. To borrow money;

7 11. To appoint committees, including advisory committees comprised
8 of members, state regulators, state legislators or their representatives,
9 and consumer representatives, and such other interested persons as may be
10 designated in the Compact and the bylaws;

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

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

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

18 E. The Executive Board

19 The elected officers shall serve as the Executive Board, which shall
20 have the power to act on behalf of the Commission according to the terms
21 of the Compact.

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

23 a. Five voting members who are elected from the current membership
24 of the Commission by the Commission; and

25 b. One ex-officio, nonvoting member from the recognized membership
26 organization composed of State and Provincial Psychology Regulatory
27 Authorities.

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

31 3. The Commission may remove any member of the Executive Board as

1 provided in bylaws.

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

3 5. The Executive Board shall have the following duties and
4 responsibilities:

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

8 b. Ensure Compact administration services are appropriately
9 provided, contractual or otherwise;

10 c. Prepare and recommend the budget;

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

12 e. Monitor Compact compliance of member states and provide
13 compliance reports to the Commission;

14 f. Establish additional committees as necessary; and

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

16 F. Financing of the Commission

17 1. The Commission shall pay, or provide for the payment of, the
18 reasonable expenses of its establishment, organization, and ongoing
19 activities.

20 2. The Commission may accept any and all appropriate revenue
21 sources, donations, and grants of money, equipment, supplies, materials,
22 and services.

23 3. The Commission may levy on and collect an annual assessment from
24 each compact state or impose fees on other parties to cover the cost of
25 the operations and activities of the Commission and its staff which must
26 be in a total amount sufficient to cover its annual budget as approved
27 each year for which revenue is not provided by other sources. The
28 aggregate annual assessment amount shall be allocated based upon a
29 formula to be determined by the Commission which shall promulgate a rule
30 binding upon all compact states.

31 4. The Commission shall not incur obligations of any kind prior to

1 securing the funds adequate to meet the same; nor shall the Commission
2 pledge the credit of any of the compact states, except by and with the
3 authority of the compact state.

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

11 G. Qualified Immunity, Defense, and Indemnification

12 1. The members, officers, executive director, employees, and
13 representatives of the Commission shall be immune from suit and
14 liability, either personally or in their official capacity, for any claim
15 for damage to or loss of property or personal injury or other civil
16 liability caused by or arising out of any actual or alleged act, error,
17 or omission that occurred, or that the person against whom the claim is
18 made had a reasonable basis for believing occurred within the scope of
19 Commission employment, duties, or responsibilities; provided that nothing
20 in this paragraph shall be construed to protect any such person from suit
21 or liability for any damage, loss, injury, or liability caused by the
22 intentional or willful or wanton misconduct of that person.

23 2. The Commission shall defend any member, officer, executive
24 director, employee, or representative of the Commission in any civil
25 action seeking to impose liability arising out of any actual or alleged
26 act, error, or omission that occurred within the scope of Commission
27 employment, duties, or responsibilities, or that the person against whom
28 the claim is made had a reasonable basis for believing occurred within
29 the scope of Commission employment, duties, or responsibilities; provided
30 that nothing in this paragraph shall be construed to prohibit that person
31 from retaining his or her own counsel; and provided further, that the

1 actual or alleged act, error, or omission did not result from that
2 person's intentional or willful or wanton misconduct.

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

13 ARTICLE XI

14 RULEMAKING

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

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

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

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

29 1. On the web site of the Commission; and

30 2. On the web site of each compact state's state psychology
31 regulatory authority or the publication in which each state would

1 otherwise publish proposed rules.

2 E. The notice of proposed rulemaking shall include:

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

5 2. The text of the proposed rule or amendment and the reason for the
6 proposed rule;

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

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

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

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

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

19 2. A governmental subdivision or agency; or

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

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

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

29 2. Hearings shall be conducted in a manner providing each person who
30 wishes to comment a fair and reasonable opportunity to comment orally or
31 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
4 may be made in lieu of a transcript under the same terms and conditions
5 as a transcript. This subsection shall not preclude the Commission from
6 making a transcript or recording of the hearing if it so chooses.

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

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
16 rule.

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

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

- 28 1. Meet an imminent threat to public health, safety, or welfare;
29 2. Prevent a loss of Commission or compact state funds;
30 3. Meet a deadline for the promulgation of an administrative rule
31 that is established by federal law or rule; or

1 4. Protect public health and safety.

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

14 ARTICLE XII

15 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

16 A. Oversight

17 1. The executive, legislative, and judicial branches of state
18 government in each compact state shall enforce the Psychology
19 Interjurisdictional Compact and take all actions necessary and
20 appropriate to effectuate the Compact's purposes and intent. The Compact
21 and the rules promulgated under the Compact shall have standing as
22 statutory law.

23 2. All courts shall take judicial notice of the Compact and the
24 rules in any judicial or administrative proceeding in a compact state
25 pertaining to the subject matter of the Compact which may affect the
26 powers, responsibilities, or actions of the Commission.

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

1 B. Default, Technical Assistance, and Termination

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

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

8 b. Provide remedial training and specific technical assistance
9 regarding the default.

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

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

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

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

30 6. The defaulting state may appeal the action of the Commission by
31 petitioning the United States District Court for the State of Georgia or

1 the federal district where the Compact has its principal offices. The
2 prevailing member shall be awarded all costs of such litigation,
3 including reasonable attorney's fees.

4 C. Dispute Resolution

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

8 2. The Commission shall promulgate a rule providing for both
9 mediation and binding dispute resolution for disputes that arise before
10 the Commission.

11 D. Enforcement

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

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

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

25 ARTICLE XIII

26 DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT
27 COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENTS

28 A. The Psychology Interjurisdictional Compact shall come into effect
29 on the date on which the Compact is enacted into law in the seventh
30 compact state. The provisions which become effective at that time shall
31 be limited to the powers granted to the Commission relating to assembly

1 and the promulgation of rules. Thereafter, the Commission shall meet and
2 exercise rulemaking powers necessary to the implementation and
3 administration of the Compact.

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

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

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

13 2. Withdrawal shall not affect the continuing requirement of the
14 withdrawing state's state psychology regulatory authority to comply with
15 the investigative and adverse action reporting requirements of the
16 Compact prior to the effective date of withdrawal.

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

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

24 ARTICLE XIV

25 CONSTRUCTION AND SEVERABILITY

26 The Psychology Interjurisdictional Compact shall be liberally
27 construed so as to effectuate the purposes of the Compact. If the Compact
28 shall be held contrary to the constitution of any state which is a member
29 of the Compact, the Compact shall remain in full force and effect as to
30 the remaining compact states.

31 Sec. 12. Original sections 38-131, 38-2025, 38-2112, 38-2115,

1 38-3101, 38-3111, 44-792, and 71-906, Reissue Revised Statutes of
2 Nebraska, and section 29-2261, Revised Statutes Supplement, 2017, are
3 repealed.