

SENATE BILL NO. 2205

Introduced by

Senators K. Roers, Hogan, Lee

Representatives Nelson, Schreiber-Beck, Strinden

1 A BILL for an Act to create and enact chapter 43-32.1 of the North Dakota Century Code,
2 relating to adoption of the psychology interjurisdictional compact.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** Chapter 43-32.1 of the North Dakota Century Code is created and enacted as
5 follows:

6 **43-32.1-01. Psychology interjurisdictional compact.**

7 **ARTICLE I - PURPOSE**

8 **WHEREAS**, states license psychologists, in order to protect the public through verification
9 of education, training and experience and ensure accountability for professional practice; and

10 **WHEREAS**, this compact is intended to regulate the day-to-day practice of telepsychology
11 (i.e. the provision of psychological services using telecommunication technologies) by
12 psychologists across state boundaries in the performance of their psychological practice as
13 assigned by appropriate authority; and

14 **WHEREAS**, this compact is intended to regulate the temporary in-person, face-to-face
15 practice of psychology by psychologists across state boundaries for thirty days within a
16 calendar year in the performance of their psychological practice as assigned by an appropriate
17 authority;

18 **WHEREAS**, this compact is intended to authorize state psychology regulatory authorities to
19 afford legal recognition, in a manner consistent with the terms of the compact, to psychologists
20 licensed in another state;

21 **WHEREAS**, this compact recognizes that states have a vested interest in protecting the
22 public's health and safety through their licensing and regulation of psychologists and that such
23 state regulation will best protect public health and safety;

- 1 4. "Bylaws" means those bylaws established by the psychology interjurisdictional
2 compact commission pursuant to article X for its governance, or for directing and
3 controlling its actions and conduct.
- 4 5. "Client/patient" means the recipient of psychological services, whether psychological
5 services are delivered in the context of health care, corporate, supervision, and/or
6 consulting services.
- 7 6. "Commissioner" means the voting representative appointed by each state psychology
8 regulatory authority pursuant to article X.
- 9 7. "Compact state" means a state, the District of Columbia, or United States territory that
10 has enacted this compact legislation and which has not withdrawn pursuant to
11 article XIII, subsection 3 or been terminated pursuant to article XII, subsection 2.
- 12 8. "Confidentiality" means the principle that data or information is not
13 made available or disclosed to unauthorized persons or processes.
- 14 9. "Coordinated licensure information system" also referred to as "coordinated database"
15 means an integrated process for collecting, storing, and sharing information on
16 psychologists' licensure and enforcement activities related to psychology licensure
17 laws, which is administered by the recognized, membership organization composed of
18 state and provincial psychology regulatory authorities.
- 19 10. "Day" means any part of a day in which psychological work is performed.
- 20 11. "Distant state" means the compact state where a psychologist is physically present
21 (not through the use of telecommunications technologies), to provide temporary
22 in-person, face-to-face psychological services.
- 23 12. "E.passport" means a certificate issued by the association of state and provincial
24 psychology boards that promotes the standardization in the criteria of interjurisdictional
25 telepsychology practice and facilitates the process for licensed psychologists to
26 provide telepsychological services across state lines.
- 27 13. "Executive board" means a group of directors elected or appointed to act on behalf of,
28 and within the powers granted to them by, the commission.
- 29 14. "Home state" means a compact state where a psychologist is licensed to practice
30 psychology. If the psychologist is licensed in more than one compact state and is
31 practicing under the authorization to practice interjurisdictional telepsychology, the

- 1 home state is the compact state where the psychologist is physically present when the
2 telepsychological services are delivered. If the psychologist is licensed in more than
3 one compact state and is practicing under the temporary authorization to practice, the
4 home state is any compact state where the psychologist is licensed.
- 5 15. "Identity history summary" means a summary of information retained by the federal
6 bureau of investigation, or other designee with similar authority, in connection with
7 arrests and, in some instances, federal employment, naturalization, or military service.
- 8 16. "In-person, face-to-face" means interactions in which the psychologist and the
9 client/patient are in the same physical space and which does not include interactions
10 that may occur through the use of telecommunication technologies.
- 11 17. "Interjurisdictional practice certificate" means a certificate issued by the association of
12 state and provincial psychology boards that grants temporary authority to practice
13 based on notification to the state psychology regulatory authority of intention to
14 practice temporarily, and verification of one's qualifications for such practice.
- 15 18. "License" means authorization by a state psychology regulatory authority to engage in
16 the independent practice of psychology, which would be unlawful without the
17 authorization.
- 18 19. "Noncompact state" means any state which is not at the time a compact state.
- 19 20. "Psychologist" means an individual licensed for the independent practice of
20 psychology.
- 21 21. "Psychology interjurisdictional compact commission" also referred to as "commission"
22 means the national administration of which all compact states are members.
- 23 22. "Receiving state" means a compact state where the client/patient is physically located
24 when the telepsychological services are delivered.
- 25 23. "Rule" means a written statement by the psychology interjurisdictional compact
26 commission promulgated pursuant to article XI of the compact that is of general
27 applicability, implements, interprets, or prescribes a policy or provision of the compact,
28 or an organizational, procedural, or practice requirement of the commission and has
29 the force and effect of statutory law in a compact state, and includes the amendment,
30 repeal, or suspension of an existing rule.
- 31 24. "Significant investigatory information" means:

- 1 a. Investigative information that a state psychology regulatory authority, after a
2 preliminary inquiry that includes notification and an opportunity to respond if
3 required by state law, has reason to believe, if proven true, would indicate more
4 than a violation of state statute or ethics code that would be considered more
5 substantial than minor infraction; or
6 b. Investigative information that indicates that the psychologist represents an
7 immediate threat to public health and safety regardless of whether the
8 psychologist has been notified and/or had an opportunity to respond.
9 25. "State" means a state, commonwealth, territory, or possession of the United States,
10 the District of Columbia.
11 26. "State psychology regulatory authority" means the board, office, or other agency with
12 the legislative mandate to license and regulate the practice of psychology.
13 27. "Telepsychology" means the provision of psychological services using
14 telecommunication technologies.
15 28. "Temporary authorization to practice" means a licensed psychologist's authority to
16 conduct temporary in-person, face-to-face practice, within the limits authorized under
17 this compact, in another compact state.
18 29. "Temporary in-person, face-to-face practice" means where a psychologist is physically
19 present (not through the use of telecommunications technologies), in the distant state
20 to provide for the practice of psychology for thirty days within a calendar year and
21 based on notification to the distant state.

ARTICLE III - HOME STATE LICENSURE

- 23 1. The home state shall be a compact state where a psychologist is licensed to practice
24 psychology.
25 2. A psychologist may hold one or more compact state licenses at a time. If the
26 psychologist is licensed in more than one compact state, the home state is the
27 compact state where the psychologist is physically present when the services are
28 delivered as authorized by the authority to practice interjurisdictional telepsychology
29 under the terms of this compact.
30 3. Any compact state may require a psychologist not previously licensed in a compact
31 state to obtain and retain a license to be authorized to practice in the compact state

1 under circumstances not authorized by the authority to practice interjurisdictional
2 telepsychology under the terms of this compact.

3 4. Any compact may require a psychologist to obtain and retain a license to be
4 authorized to practice in a compact state under circumstances not authorized by
5 temporary authorization to practice under the terms of this compact.

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

8 a. Currently requires the psychologist to hold an active e.passport;

9 b. Has a mechanism in place for receiving and investigation complaints about
10 licensed individuals;

11 c. Notifies to commission, in compliance with the terms herein, of any adverse
12 action or significant investigatory information regarding a licensed individual;

13 d. Requires an identity history summary of all applicants at initial licensure,
14 including the use of the results of fingerprints or other biometric data checks
15 compliant with the requirements of the federal bureau of investigation, or other
16 designee with similar authority, no later than ten years after activation of the
17 compact; and

18 e. Complies with the bylaws and rules of the commission.

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

21 a. Currently requires the psychologist to hold an active interjurisdictional practice
22 certificate;

23 b. Has a mechanism in place for receiving and investigation complaints about
24 licensed individuals;

25 c. Notifies the commission, in compliance with the terms herein, of any adverse
26 action or significant investigatory information regarding a licensed individual;

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

1 e. Complies with the bylaws and rules of the commission.

2 **ARTICLE IV - COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY**

3 1. Compact states shall recognize the right of a psychologist, licensed in a compact state
4 in conformance with article III, to practice telepsychology in other compact states
5 (receiving states) in which the psychologist is not licensed, under the authority to
6 practice interjurisdictional telepsychology as provided in the compact.

7 2. To exercise the authority to practice interjurisdictional telepsychology under the terms
8 and provisions of this compact, a psychologist licensed to practice in a compact state
9 must:

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

12 (1) Regionally accredited by an accrediting body recognized by the United
13 States department of education to grant graduate degrees, or authorized by
14 provincial statute or royal charter to grant doctoral degrees;

15 (2) A foreign college or university deemed to be equivalent to paragraph 1 by a
16 foreign credential evaluation service that is a member of the national
17 association of credential evaluation services or by a recognized foreign
18 credential evaluation service;

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

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

24 (2) The psychology program must stand as a recognizable, coherent,
25 organizational entity within the institution;

26 (3) There must be a clear authority and primary responsibility for the core and
27 specialty areas whether or not the program cuts across administrative lines;

28 (4) The program must consist of an integrated, organized sequence of study;

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

- 1 (6) The designated director of the program must be a psychologist and a
2 member of the core faculty;
- 3 (7) The program must have an identifiable body of students who are
4 matriculated in that program for a degree;
- 5 (8) The program must include supervised practicum, internship, or field training
6 appropriate to the practice of psychology;
- 7 (9) The curriculum shall encompass a minimum of three academic years of full-
8 time graduate study for doctoral degree and a minimum of one academic
9 year of full-time graduate study for master's degree;
- 10 (10) The program includes an acceptable residency as defined by the rules of
11 the commission.
- 12 c. Possess a current, full and unrestricted license to practice psychology in a home
13 state which is a compact state;
- 14 d. Have no history of adverse action that violate the rules of the commission;
- 15 e. Have no criminal record history reported on an identity history summary that
16 violates the rules of the commission;
- 17 f. Possess a current, active e.passport;
- 18 g. Provide attestations in regard to areas of intended practice, conformity with
19 standards of practice, competence in telepsychology technology; criminal
20 background; and knowledge and adherence to legal requirements in the home
21 and receiving states, and provide a release of information to allow for primary
22 source verification in a manner specified by the commission; and
- 23 h. Meet other criteria as defined by the rules of the commission.
- 24 3. The home state maintains authority over the license of any psychologist practicing into
25 a receiving state under the authority to practice interjurisdictional telepsychology.
- 26 4. A psychologist practicing into a receiving state under the authority to practice
27 interjurisdictional telepsychology will be subject to the receiving state's scope of
28 practice. In accordance with that state's due process law, a receiving state may limit or
29 revoke a psychologist's authority to practice interjurisdictional telepsychology in the
30 receiving state and may take any other necessary actions under the receiving state's
31 applicable law to protect the health and safety of the receiving state's citizens. If a

1 receiving state takes action, the state promptly shall notify the home state and the
2 commission.

3 5. If a psychologist's license in any home state, another compact state, or any authority
4 to practice interjurisdictional telepsychology in any receiving state, is restricted,
5 suspended or otherwise limited, the e.passport shall be revoked and therefore the
6 psychologist shall not be eligible to practice telepsychology in a compact state under
7 the authority to practice interjurisdictional telepsychology.

8 **ARTICLE V - COMPACT TEMPORARY AUTHORIZATION TO PRACTICE**

9 1. Compact states shall also recognize the right of a psychologist, licensed in a compact
10 state in conformance with article III, to practice temporarily in other compact states
11 (distant states) in which the psychologist is not licensed, as provided in the compact.

12 2. To exercise the temporary authorization to practice under the terms and provisions of
13 this compact, a psychologist licensed to practice in a compact state must:

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

16 (1) Regionally accredited by an accrediting body recognized by the United
17 States department of education to grant graduate degrees, or authorized by
18 provincial statute or royal charter to grant doctoral degrees; or

19 (2) A foreign college or university deemed to be equivalent to paragraph 1 by a
20 foreign credential evaluation service that is a member of the national
21 association of credential evaluation services or by a recognized foreign
22 credential evaluation service; and

23 b. Hold a graduate degree in psychology that meets the following criteria:

24 (1) The program, wherever it may be administratively housed, must be clearly
25 identified and labeled as a psychology program. Such a program must
26 specify in pertinent institutional catalogs and brochures its intent to educate
27 and train professional psychologists;

28 (2) The psychology program must stand as a recognizable, coherent,
29 organizational entity within the institution;

30 (3) There must be a clear authority and primary responsibility for the core and
31 specialty areas whether or not the program cuts across administrative lines;

- 1 (4) The program must consist of an integrated, organized sequence of study;
- 2 (5) There must be an identifiable psychology faculty sufficient in size and
- 3 breadth to carry out its responsibilities;
- 4 (6) The designated director of the program must be a psychologist and a
- 5 member of the core faculty;
- 6 (7) The program must have an identifiable body of students who are
- 7 matriculated in that program for a degree;
- 8 (8) The program must include supervised practicum, internship, or field training
- 9 appropriate to the practice of psychology;
- 10 (9) The curriculum shall encompass a minimum of three academic years of full-
- 11 time graduate study for doctoral degrees and a minimum of one academic
- 12 year of full-time graduate study for master's degree;
- 13 (10) The program includes an acceptable residency as defined by the rules of
- 14 the commission.
- 15 c. Possess a current, full and unrestricted license to practice psychology in a home
- 16 state which is a compact state;
- 17 d. No history of adverse action that violate the rules of the commission;
- 18 e. No criminal record history that violates the rules of the commission;
- 19 f. Possess a current, active interjurisdictional practice certificate;
- 20 g. Provide attestations in regard to areas of intended practice and work experience
- 21 and provide a release of information to allow for primary source verification in a
- 22 manner specified by the commission; and
- 23 h. Meet other criteria as defined by the rules of the commission.
- 24 3. A psychologist practicing into a distant state under the temporary authorization to
- 25 practice shall practice within the scope of practice authorized by the distant state.
- 26 4. A psychologist practicing into a distant state under the temporary authorization to
- 27 practice will be subject to the distant state's authority and law. A distant state may, in
- 28 accordance with that state's due process law, limit or revoke a psychologist's
- 29 temporary authorization to practice in the distant state and may take any other
- 30 necessary actions under the distant state's applicable law to protect the health and

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

3 5. If a psychologist's license in any home state, another compact state, or any temporary
4 authorization to practice in any distant state, is restricted, suspended, or otherwise
5 limited, the interjurisdictional practice certificate shall be revoked and therefore the
6 psychologist shall not be eligible to practice in a compact state under the temporary
7 authorization to practice.

8 **ARTICLE VI - CONDITIONS OF TELEPSYCHOLOGY PRACTICE**
9 **IN A RECEIVING STATE**

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

- 14 1. The psychologist initiates a client/patient contact in a home state via
15 telecommunications technologies with a client/patient in a receiving state;
16 2. Other conditions regarding telepsychology as determined by rules promulgated by the
17 commission.

18 **ARTICLE VII - ADVERSE ACTIONS**

- 19 1. A home state shall have the power to impose adverse action against a psychologist's
20 license issued by the home state. A distant state shall have the power to take adverse
21 action on a psychologist's temporary authorization to practice within that distant state.
22 2. A receiving state may take adverse action on a psychologist's authority to practice
23 interjurisdictional telepsychology within that receiving state. A home state may take
24 adverse action against a psychologist based on an adverse action taken by a distant
25 state regarding temporary in-person, face-to-face practice.
26 3. If a home state takes adverse action against a psychologist's license, that
27 psychologist's authority to practice interjurisdictional telepsychology is terminated and
28 the e.passport is revoked. Furthermore, that psychologist's temporary authorization to
29 practice is terminated and the interjurisdictional practice certificate is revoked.
30 a. All home state disciplinary orders which impose adverse action shall be reported
31 to the commission in accordance with the rules promulgated by the commission.

- 1 A compact state shall report adverse actions in accordance with the rules of the
2 commission.
- 3 b. In the event discipline is reported on a psychologist, the psychologist will not be
4 eligible for telepsychology or temporary in-person, face-to-face practice in
5 accordance with the rules of the commission.
- 6 c. Other actions may be imposed as determined by the rules promulgated by the
7 commission.
- 8 4. A home state's psychology regulatory authority shall investigate and take appropriate
9 action with respect to reported inappropriate conduct engaged in by a licensee which
10 occurred in a receiving state as it would if such conduct had occurred by a licensee
11 within the home state. In such cases, the home state's law shall control in determining
12 any adverse action against a psychologist's license.
- 13 5. A distant state's psychology regulatory authority shall investigate and take appropriate
14 action with respect to reported inappropriate conduct engaged in by a psychologist
15 practicing under temporary authorization practice which occurred in that distant state
16 as it would if such conduct had occurred by a licensee within the home state. In such
17 cases, the distant state's law shall control in determining any adverse action against a
18 psychologist's temporary authorization to practice.
- 19 6. Nothing in this compact shall override a compact state's decision that a psychologist's
20 participation in an alternative program may be used in lieu of adverse action and that
21 such participation shall remain nonpublic if required by the compact state's law.
22 Compact states must require psychologists who enter any alternative programs to not
23 provide telepsychology services under the authority to practice interjurisdictional
24 telepsychology or provide temporary psychological services under the temporary
25 authorization to practice in any other compact state during the term of the alternative
26 program.
- 27 7. No other judicial or administrative remedies shall be available to a psychologist in the
28 event a compact state imposes an adverse action pursuant to this subsection.

29 **ARTICLE VIII - ADDITIONAL AUTHORITIES INVESTED IN**

30 **A COMPACT STATE'S PSYCHOLOGY REGULATORY AUTHORITY**

1 In addition to any other powers granted under state law, a compact state's psychology
2 regulatory authority shall have the authority under this compact to:

- 3 1. Issue subpoenas, for both hearings and investigations, which require the attendance
4 and testimony of witnesses and the production of evidence. Subpoenas issued by a
5 compact state's psychology regulatory authority for the attendance and testimony of
6 witnesses, and/or the production of evidence from another compact state shall be
7 enforced in the latter state by any court of competent jurisdiction, according to that
8 court's practice and procedure in considering subpoenas issued in its own
9 proceedings. The issuing state psychology regulatory authority shall pay any witness
10 fees, travel expenses, mileage and other fees required by the service statutes of the
11 state where the witnesses and/or evidence are located; and
- 12 2. Issue cease and desist and/or injunctive relief orders to revoke a psychologist's
13 authority to practice interjurisdictional telepsychology and/or temporary authorization
14 to practice.
- 15 3. During the course of any investigation, a psychologist may not change the
16 psychologist's home state licensure. A home state psychology regulatory authority is
17 authorized to complete any pending investigations of a psychologist and to take any
18 actions appropriate under its law. The home state psychology regulatory authority shall
19 promptly report the conclusions of such investigations to the commission. Once an
20 investigation has been completed, and pending the outcome of said investigation, the
21 psychologist may change his/her home state licensure. The commission promptly shall
22 notify the new home state of any such decisions as provided in the rules of the
23 commission. All information provided to the commission or distributed by compact
24 states pursuant to the psychologist shall be confidential, filed under seal and used for
25 investigatory or disciplinary matters. The commission may create additional rules for
26 mandated or discretionary sharing of information by compact states.

27 **ARTICLE IX - COORDINATED LICENSURE INFORMATION SYSTEM**

- 28 1. The commission shall provide for the development and maintenance of a coordinated
29 licensure information system (coordinated database) and reporting system containing
30 licensure and disciplinary action information on all psychologists individuals to whom

- 1 this compact is applicable in all compact states as defined by the rules of the
2 commission.
- 3 2. Notwithstanding any other provision of state law to the contrary, a compact state shall
4 submit a uniform data set to the coordinated database on all licensees as required by
5 the rules of the commission, including:
- 6 a. Identifying information;
7 b. Licensure data;
8 c. Significant investigatory information;
9 d. Adverse actions against a psychologist's license;
10 e. An indicator that a psychologist's authority to practice interjurisdictional
11 telepsychology and/or temporary authorization to practice is revoked;
12 f. Nonconfidential information related to alternative program participation
13 information;
14 g. Any denial of application for licensure, and the reasons for such denial; and
15 h. Other information which may facilitate the administration of this compact, as
16 determined by the rules of the commission.
- 17 3. The coordinated database administrator promptly shall notify all compact states of any
18 adverse action taken against, or significant investigative information on, any licensee
19 in a compact state.
- 20 4. Compact states reporting information to the coordinated database may designate
21 information that may not be shared with the public without the express permission of
22 the compact state reporting the information.
- 23 5. Any information submitted to the coordinated database that is subsequently required
24 to be expunged by the law of the compact state reporting the information shall be
25 removed from the coordinated database.

26 **ARTICLE X - ESTABLISHMENT OF THE PSYCHOLOGY**

27 **INTERJURISDICTIONAL COMPACT COMMISSION**

- 28 1. The compact states hereby create and establish a joint public agency known as the
29 psychology interjurisdictional compact commission.
- 30 a. The commission is a body politic and an instrumentality of the compact states.

1 b. Venue is proper and judicial proceedings by or against the commission shall be
2 brought solely and exclusively in a court of competent jurisdiction where the
3 principal office of the commission is located. The commission may waive venue
4 and jurisdictional defenses to the extent it adopts or consents to participate in
5 alternative dispute resolution proceedings.

6 c. Nothing in this compact shall be construed to be a waiver of sovereign immunity.

7 2. Membership, voting, and meetings.

8 a. The commission shall consist of one voting representative appointed by each
9 compact state who shall serve as that state's commissioner. The state
10 psychology regulatory authority shall appoint its delegate. This delegate shall be
11 empowered to act on behalf of the compact state. This delegate shall be limited
12 to:

13 (1) Executive director, executive secretary, or similar executive;

14 (2) Current member of the state psychology regulatory authority of a compact
15 state; or

16 (3) Designee empowered with the appropriate delegate authority to act on
17 behalf of the compact state.

18 b. Any commissioner may be removed or suspended from office as provided by the
19 law of the state from which the commissioner is appointed. Any vacancy
20 occurring in the commission shall be filled in accordance with the laws of the
21 compact state in which the vacancy exists.

22 c. Each commissioner shall be entitled to one vote with regard to the promulgation
23 of rules and creation of bylaws and shall otherwise have an opportunity to
24 participate in the business and affairs of the commission. A commissioner shall
25 vote in person or by such other means as provided in the bylaws. The bylaws
26 may provide for commissioners' participation in meetings by telephone or other
27 means of communication.

28 d. The commission shall meet at least once during each calendar year. Additional
29 meetings shall be held as set forth in the bylaws.

- 1 e. All meetings shall be open to the public, and public notice of meetings shall be
2 given in the same manner as required under the rulemaking provisions in
3 article XI.
- 4 f. The commission may convene in a closed, nonpublic meeting if the commission
5 must discuss:
- 6 (1) Noncompliance of a compact state with its obligations under the compact;
7 (2) The employment, compensation, discipline, or other personnel matters,
8 practices or procedures related to specific employees or other matters
9 related to the commission's internal personnel practices, and procedures;
10 (3) Current, threatened, or reasonably anticipated litigation against the
11 commission;
- 12 (4) Negotiation of contracts for the purchase or sale of goods, services, or real
13 estate;
- 14 (5) Accusation against any person of a crime or formally censuring any person;
15 (6) Disclosure of trade secrets or commercial or financial information which is
16 privileged or confidential;
- 17 (7) Disclosure of information of a personal nature where disclosure would
18 constitute a clearly unwarranted invasion of personal privacy;
- 19 (8) Disclosure of investigatory records compiled for law enforcement purposes;
20 (9) Disclosure of information related to any investigatory reports prepared by or
21 on behalf of or for use of the commission or other committee charged with
22 responsibility for investigation or determination of compliance issues
23 pursuant to the compact; or
- 24 (10) Matters specifically exempted from disclosure by federal and state statute.
- 25 g. If a meeting, or portion of a meeting, is closed pursuant to this provision, the
26 commission's legal counsel or designee shall certify that the meeting may be
27 closed and shall reference each relevant exempting provision. The commission
28 shall keep minutes which fully and clearly describe all matters discussed in a
29 meeting and shall provide a full and accurate summary of actions taken, of any
30 person participating in the meeting, and the reasons therefore, including a
31 description of the views expressed. All documents considered in connection with

1 an action shall be identified in such minutes. All minutes and documents of a
2 closed meeting shall remain under seal, subject to release only by a majority vote
3 of the commission or order of a court of competent jurisdiction.

4 3. The commission shall, by a majority vote of the commissioners, prescribe bylaws
5 and/or rules to govern its conduct as may be necessary or appropriate to carry out the
6 purposes and exercise the powers of the compact, including but not limited to:

7 a. Establishing the fiscal year of the commission;

8 b. Providing reasonable standards and procedures:

9 (1) For the establishment and meetings of other committees; and

10 (2) Governing any general or specific delegation of any authority or function of
11 the commission;

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

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

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

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

29 g. Providing a mechanism for concluding the operations of the commission and the
30 equitable disposition of any surplus funds that may exist after the termination of
31 the compact after the payment and/or reserving of all of its debts and obligations;

- 1 h. The commission shall publish its bylaws in a convenient form and file a copy
2 thereof and a copy of any amendment thereto, with the appropriate agency or
3 officer in each of the compact states;
- 4 i. The commission shall maintain its financial records in accordance with the
5 bylaws; and
- 6 j. The commission shall meet and take such actions as are consistent with the
7 provisions of this compact and the bylaws.
- 8 4. The commission shall have the following powers:
- 9 a. The authority to promulgate uniform rules to facilitate and coordinate
10 implementation and administration of this compact. The rule shall have the force
11 and effect of law and shall be binding in all compact states;
- 12 b. To bring and prosecute legal proceedings or actions in the name of the
13 commission, provided that the standing of any state psychology regulatory
14 authority or other regulatory body responsible for psychology licensure to sue or
15 be sued under applicable law shall not be affected;
- 16 c. To purchase and maintain insurance and bonds;
- 17 d. To borrow, accept, or contract for services of personnel, including, but not limited
18 to, employees of a compact state;
- 19 e. To hire employees, elect or appoint officers, fix compensation, define duties,
20 grant such individuals appropriate authority to carry out the purposes of the
21 compact, and to establish the commission's personnel policies and programs
22 relating to conflicts of interest, qualifications of personnel, and other related
23 personnel matters;
- 24 f. To accept any and all appropriate donations and grants of money, equipment,
25 supplies, materials and services, and to receive, utilize and dispose of the same;
26 provided that at all times the commission shall strive to avoid any appearance of
27 impropriety and/or conflict of interest;
- 28 g. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own,
29 hold, improve or use, any property, real, personal or mixed; provided that at all
30 times the commission shall strive to avoid any appearance of impropriety;

- 1 h. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
2 dispose of any property real, personal or mixed;
- 3 i. To establish a budget and make expenditures;
- 4 j. To borrow money;
- 5 k. To appoint committees, including advisory committees comprised of members,
6 state regulators, state legislators or their representatives, and consumer
7 representatives, and such other interested persons as may be designated in this
8 compact and the bylaws;
- 9 l. To provide and receive information from, and to cooperate with, law enforcement
10 agencies;
- 11 m. To adopt and use an official seal; and
- 12 n. To perform such other functions as may be necessary or appropriate to achieve
13 the purposes of this compact consistent with the state regulation of psychology
14 licensure, temporary in-person, face-to-face practice, and telepsychology
15 practice.
- 16 5. The executive board. The elected officers shall serve as the executive board, which
17 shall have the power to act on behalf of the commission according to the terms of this
18 compact.
- 19 a. The executive board shall be comprised of six members:
- 20 (1) Five voting members who are elected from the current membership of the
21 commission by the commission; and
- 22 (2) One ex officio, nonvoting member from the recognized membership
23 organization composed of state and provincial psychology regulatory
24 authorities.
- 25 b. The ex officio member must have served as staff or member on a state
26 psychology regulatory authority and will be selected by its respective
27 organization.
- 28 c. The commission may remove any member of the executive board as provided in
29 bylaws.
- 30 d. The executive board shall meet at least annually.
- 31 e. The executive board shall have the following duties and responsibilities:

- 1 (1) Recommend to the entire commission changes to the rules or bylaws,
- 2 changes to this compact legislation, fees paid by compact states such as
- 3 annual dues, and any other applicable fees;
- 4 (2) Ensure compact administration services are appropriately provided,
- 5 contractual or otherwise;
- 6 (3) Prepare and recommend the budget;
- 7 (4) Maintain financial records on behalf of the commission;
- 8 (5) Monitor compact compliance of member states and provide compliance
- 9 reports to the commission;
- 10 (6) Establish additional committees as necessary; and
- 11 (7) Other duties as provided in rules or bylaws.
- 12 6. Financing of the commission.
- 13 a. The commission shall pay, or provide for the payment of the reasonable
- 14 expenses of its establishment, organization and ongoing activities.
- 15 b. The commission may accept any and all appropriate revenue sources, donations,
- 16 and grants of money, equipment, supplies, materials, and services.
- 17 c. The commission may levy on and collect an annual assessment from each
- 18 compact state or impose fees on other parties to cover the cost of the operations
- 19 and activities of the commission and its staff which must be in a total amount
- 20 sufficient to cover its annual budget as approved each year for which revenue is
- 21 not provided by other sources. The aggregate annual assessment amount shall
- 22 be allocated based upon a formula to be determined by the commission which
- 23 shall promulgate a rule binding upon all compact states.
- 24 d. The commission shall not incur obligations of any kind prior to securing the funds
- 25 adequate to meet the same; nor shall the commission pledge the credit of any of
- 26 the compact states, except by and with the authority of the compact state.
- 27 e. The commission shall keep accurate accounts of all receipts and disbursements.
- 28 The receipts and disbursements of the commission shall be subject to the audit
- 29 and accounting procedures established under its bylaws. However, all receipts
- 30 and disbursements of funds handled by the commission shall be audited yearly

1 by a certified or licensed public accountant and the report of the audit shall be
2 included in and become part of the annual report of the commission.

3 7. Qualified immunity, defense, and indemnification.

4 a. The members, officers, executive director, employees, and representatives of the
5 commission shall be immune from suit and liability, either personally or in their
6 official capacity, for any claim for damage to or loss of property or personal injury
7 or other civil liability caused by or arising out of any actual or alleged act, error, or
8 omission that occurred, or that the person against whom the claim is made had a
9 reasonable basis for believing occurred within the scope of commission
10 employment, duties or responsibilities; provided that nothing in this subdivision
11 shall be construed to protect any such person from suit and/or liability for any
12 damage, loss, injury or liability caused by the intentional or willful or wanton
13 misconduct of that person.

14 b. The commission shall defend any member, officer, executive director, employee,
15 or representative of the commission in any civil action seeking to impose liability
16 arising out of any actual or alleged act, error, or omission that occurred within the
17 scope of commission employment, duties, or responsibilities, or that the person
18 against whom the claim is made had a reasonable basis for believing occurred
19 within the scope of commission employment, duties, or responsibilities; provided
20 that nothing herein shall be construed to prohibit that person from retaining his or
21 her own counsel; and provided further, that the actual or alleged act, error, or
22 omission did not result from that person's intentional or willful or wanton
23 misconduct.

24 c. The commission shall indemnify and hold harmless any member, officer,
25 executive director, employee, or representative of the commission for the amount
26 of any settlement or judgment obtained against that person arising out of any
27 actual or alleged act, error or omission that occurred within the scope of
28 commission employment, duties, or responsibilities, or that such person had a
29 reasonable basis for believing occurred within the scope of commission
30 employment, duties, or responsibilities, provided that the actual or alleged act,

1 error, or omission did not result from the intentional or willful or wanton
2 misconduct of that person.

3 **ARTICLE XI - RULEMAKING**

4 1. The commission shall exercise its rulemaking powers pursuant to the criteria set forth
5 in this article and the rules adopted thereunder. Rules and amendments shall become
6 binding as of the date specified in each rule or amendment.

7 2. If a majority of the legislatures of the compact states rejects a rule, by enactment of a
8 statute or resolution in the same manner used to adopt the compact, then such rule
9 shall have no further force and effect in any compact state.

10 3. Rules or amendments to the rules shall be adopted at a regular or special meeting of
11 the commission.

12 4. Prior to promulgation and adoption of a final rule or rules by the commission, and at
13 least sixty days in advance of the meeting at which the rule will be considered and
14 voted upon, the commission shall file a notice of proposed rulemaking:

15 a. On the website of the commission; and

16 b. On the website of each compact states' psychology regulatory authority or the
17 publication in which each state would otherwise publish proposed rules.

18 5. The notice of proposed rulemaking shall include:

19 a. The proposed time, date, and location of the meeting in which the rule will be
20 considered and voted upon;

21 b. The text of the proposed rule or amendment and the reason for the proposed
22 rule;

23 c. A request for comments on the proposed rule from any interested person; and

24 d. The manner in which interested persons may submit notice to the commission of
25 their intention to attend the public hearing and any written comments.

26 6. Prior to adoption of a proposed rule, the commission shall allow persons to submit
27 written data, facts, opinions, and arguments, which shall be made available to the
28 public.

29 7. The commission shall grant an opportunity for a public hearing before it adopts a rule
30 or amendment if a hearing is requested by:

31 a. At least twenty-five persons who submit comments independently of each other;

- 1 b. A governmental subdivision or agency; or
- 2 c. A duly appointed person in an association that has having at least twenty-five
- 3 members.
- 4 8. If a hearing is held on the proposed rule or amendment, the commission shall publish
- 5 the place, time, and date of the scheduled public hearing.
- 6 a. All persons wishing to be heard at the hearing shall notify the executive director
- 7 of the commission or other designated member in writing of their desire to appear
- 8 and testify at the hearing not less than five business days before the scheduled
- 9 date of the hearing.
- 10 b. Hearings shall be conducted in a manner providing each person who wishes to
- 11 comment a fair and reasonable opportunity to comment orally or in writing.
- 12 c. No transcript of the hearing is required, unless a written request for a transcript is
- 13 made, in which case the person requesting the transcript shall bear the cost of
- 14 producing the transcript. A recording may be made in lieu of a transcript under
- 15 the same terms and conditions as a transcript. This subsection shall not preclude
- 16 the commission from making a transcript or recording of the hearing if it so
- 17 chooses.
- 18 d. Nothing in this section shall be construed as requiring a separate hearing on
- 19 each rule. Rules may be grouped for the convenience of the commission at
- 20 hearings required by this section.
- 21 9. Following the scheduled hearing date, or by the close of business on the scheduled
- 22 hearing date if the hearing was not held, the commission shall consider all written and
- 23 oral comments received.
- 24 10. By majority vote of all members, the commission shall take final action on the
- 25 proposed rule and shall determine the effective date of the rule, if any, based on the
- 26 rulemaking record and the full text of the rule.
- 27 11. If no written notice of intent to attend the public hearing by interested parties is
- 28 received, the commission may proceed with promulgation of the proposed rule without
- 29 a public hearing.
- 30 12. Upon determination that an emergency exists, the commission may consider and
- 31 adopt an emergency rule without prior notice, opportunity for comment, or hearing.

1 provided that the usual rulemaking procedures provided in the compact and in this
2 section shall be retroactively applied to the rule as soon as reasonably possible, in no
3 event later than ninety days after the effective date of the rule. For the purposes of this
4 provision, an emergency rule is one that must be adopted immediately in order to:

- 5 a. Meet an imminent threat to public health, safety, or welfare;
- 6 b. Prevent a loss of commission or compact state funds;
- 7 c. Meet a deadline for the promulgation of an administrative rule that is established
8 by federal law or rule; or
- 9 d. Protect public health and safety.

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

20 **ARTICLE XII - OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

21 1. Oversight.

- 22 a. The executive, legislative, and judicial branches of state government in each
23 compact state shall enforce this compact and take all actions necessary and
24 appropriate to effectuate the compact's purposes and intent. The provisions of
25 this compact and the rules promulgated hereunder shall have standing as
26 statutory law.
- 27 b. All courts shall take judicial notice of the compact and the rules in any judicial or
28 administrative proceeding in a compact state pertaining to the subject matter of
29 this compact which may affect the powers, responsibilities, or actions of the
30 commission.

1 c. The commission shall be entitled to receive service of process in any such
2 proceeding, and shall have standing to intervene in such a proceeding for all
3 purposes. Failure to provide service of process to the commission shall render a
4 judgment or order void as to the commission, this compact or promulgated rules.

5 2. Default, technical assistance, and termination.

6 a. If the commission determines that a compact state has defaulted in the
7 performance of its obligations or responsibilities under this compact or the
8 promulgated rules, the commission shall:

9 (1) Provide written notice to the defaulting state and other compact states of the
10 nature of the default, the proposed means of remedying the default, and/or
11 any other action to be taken by the commission; and

12 (2) Provide remedial training and specific technical assistance regarding the
13 default.

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

20 c. Termination of membership in the compact shall be imposed only after all other
21 means of securing compliance have been exhausted. Notice of intent to suspend
22 or terminate shall be submitted by the commission to the governor, the majority
23 and minority leaders of the defaulting state's legislature, and each of the compact
24 states.

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

28 e. The commission shall not bear any costs incurred by the state which is found to
29 be in default or which has been terminated from the compact, unless agreed
30 upon in writing between the commission and the defaulting state.

1 f. The defaulting state may appeal the action of the commission by petitioning the
2 United States district court for the state of Georgia or the federal district where
3 the compact has its principal offices. The prevailing member shall be awarded all
4 costs of such litigation, including reasonable attorney's fees.

5 3. Dispute resolution.

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

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

11 4. Enforcement.

12 a. The commission, in the reasonable exercise of its discretion, shall enforce the
13 provisions and rules of this compact.

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

21 c. The remedies herein shall not be the exclusive remedies of the commission. The
22 commission may pursue any other remedies available under federal or state law.

23 **ARTICLE XIII - DATE OF IMPLEMENTATION OF THE PSYCHOLOGY**

24 **INTERJURISDICTIONAL COMPACT COMMISSION AND ASSOCIATED**

25 **RULES, WITHDRAWAL, AND AMENDMENTS**

26 1. The compact shall come into effect on the date on which the compact is enacted into
27 law in the seventh compact state. The provisions which become effective at that time
28 shall be limited to the powers granted to the commission relating to assembly and the
29 promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking
30 powers necessary to the implementation and administration of the compact.

- 1 2. Any state which joins the compact subsequent to the commission's initial adoption of
2 the rules shall be subject to the rules as they exist on the date on which the compact
3 becomes law in that state. Any rule which has been previously adopted by the
4 commission shall have the full force and effect of law on the day the compact
5 becomes law in that state.
- 6 3. Any compact state may withdraw from this compact by enacting a statute repealing
7 the same.
- 8 a. A compact state's withdrawal shall not take effect until six months after
9 enactment of the repealing statute.
- 10 b. Withdrawal shall not affect the continuing requirement of the withdrawing state's
11 psychology regulatory authority to comply with the investigative and adverse
12 action reporting requirements of this act prior to the effective date of withdrawal.
- 13 4. Nothing contained in this compact shall be construed to invalidate or prevent any
14 psychology licensure agreement or other cooperative arrangement between a
15 compact state and a noncompact state which does not conflict with the provisions of
16 this compact.
- 17 5. This compact may be amended by the compact states. No amendment to this
18 compact shall become effective and binding upon any compact state until it is enacted
19 into the law of all compact states.

20 **ARTICLE XIV - CONSTRUCTION AND SEVERABILITY**

21 This compact shall be liberally construed so as to effectuate the purposes thereof. If this
22 compact shall be held contrary to the constitution of any state member thereto, the compact
23 shall remain in full force and effect as to the remaining compact states.