~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 17, 2022

**H. 3833**

Introduced by Reps. Erickson, Bradley, Herbkersman, Dabney, Brawley, King, Gilliard, Jefferson, Howard and S. Williams

S. Printed 2/17/22--H. [SEC 2/22/22 11:54 AM]

Read the first time February 9, 2021.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 3833) to amend the Code of Laws of South Carolina, 1976, to enact the “Psychology Interjurisdictional Compact (PSYPACT)” by adding Article 3 to Chapter 55, Title 40 so, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking SECTION 4 and inserting:

/ SECTION 4. Section 40‑55‑80(7) of the 1976 Code is amended to read:

“(7) ~~a copy of a criminal history record if the applicant has been convicted or plead guilty or nolo contendere to any criminal offense excluding traffic violations~~ submission to a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as may be necessary to support the administrative action. The results of these criminal records checks must not be shared outside the department; and” /

Renumber sections to conform.

Amend title to conform.

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill allows for the entry of the South Carolina Board of Examiners in Psychology (board) into the Psychology Interjurisdictional Compact (PSYPACT), permitting eligible psychologists to practice telepsychology and temporary in-person psychology across state boundaries. The bill provides for the structure, functions, powers, and duties of the Psychology Interjurisdictional Compact Commission (commission), the collective governing agency overseeing the implementation of PSYPACT. The commission shall pay the reasonable expenses of its establishment, organization, and ongoing activities and may levy on and collect an annual assessment from each compact state or impose fees on other parties. The bill additionally establishes the qualifications for licensure as a psychologist under PSYPACT and provides for the compact states’ rights and obligations, including those involving adverse action. The compact has been actively accepting applications since July 2020, and 14 states are participating so far. Data from the compact suggests that about 3 percent to 4 percent of licensed psychologists in each compact state go on to apply for licensure through the compact, although this number may rise in the future as the compact becomes more established. From this, we estimate that approximately 34 psychologists of the 969 psychologists currently licensed under the board may apply for licensure through the compact if this relationship holds. Furthermore, the bill requires initial applicants to have satisfactory results from fingerprint records checks conducted by SLED and the FBI. Costs associated with the criminal background checks are paid for by the applicants.

**Department of Labor, Licensing and Regulation.** This bill authorizes the board, under the administration of LLR, to afford legal recognition to psychologists licensed in other states in a manner consistent with the terms of the compact. The board must have a mechanism in place for receiving and investigating complaints about licensees, may investigate and take adverse action on a psychologist licensed under the compact, and must report any adverse action taken in accordance with the rules of the commission. Any witness fees, travel expenses, mileage, and other fees related to an investigation must be paid by the board. The board must additionally participate in the commission’s coordinated licensure database by maintaining and submitting a uniform data set on all licensees in the state.

The bill allows for the commission to levy and collect an annual assessment from each compact state or impose fees on other parties. PSYPACT Rule 10.2 states that a compact state will be charged $10 per PSYPACT participating psychologist licensed in that state, with a maximum amount of $6,000 charged annually per compact state. The board shall appoint one delegate to act on behalf of the state during annual meetings of the commission and any additional meetings. The commission will provide for delegate expenses relating to travel, lodging, and food out of the annual assessment it receives.

LLR is unable to determine if additional board meetings will be required to implement PSYPACT. The cost breakdown of board meetings includes a $35 per diem for each board member, a 56 cent per mile mileage reimbursement, and a $2,156 court reporter fee. The board consists of eight members.

This bill creates additional administrative duties that cannot be managed by existing staff. Therefore, LLR anticipates that it will require 1.0 FTE to handle criminal background check processing, process applications, assist with board meetings, and assist with other duties as assigned. Salary and fringe benefits for an Administrative Assistant will total $47,728, and other recurring operating expenses will total $2,500. Non-recurring infrastructure costs associated with this position will total $1,000. Therefore, this bill will increase other funds expenditures of the agency by $51,228 in FY 2021-2022 and by $50,228 each year thereafter.

The total expenditure impact of this bill on LLR is undetermined due to unknown expenditures related to the annual assessment levied by the commission, investigatory expenses stemming from adverse action taken against licensees, participation in the commission’s data system, and additional board meetings. Discussions with other states currently participating in PSYPACT indicate that expenditures related to the implementation of this compact may be minimal, although these costs may increase as compact participation increases.

**Public Employee Benefit Authority.** This bill could result in more accessibility for certain covered medical services. PEBA anticipates being able to manage any additional expenditures that may arise from this bill without having to increase state insurance premiums. Therefore, this bill will have no expenditure impact for PEBA or state agencies to cover any additional medical services.

**Department of Insurance.** This bill could result in more accessibility for certain covered medical services. DOI anticipates this will not result in an increase in premiums within the state nor will it result in a change in DOI’s responsibilities. Therefore, this bill will have no expenditure impact for DOI.

**Department of Health and Human Services.** This bill allows the compact to establish a set of standards for telepsychology services to be provided across state lines between compact member states. The creation of the compact and standardization of practices will increase the availability of care, including through telehealth services, as service providers would be allowed to practice across state lines in compact member states. DHHS indicates they do not anticipate this legislation will result in any changes to the current policy or material changes in utilization of services. Therefore, this bill is not expected to have an expenditure impact on DHHS.

**State Law Enforcement Division.** We have not received a response from SLED regarding the expenditure impact of this bill. However, we anticipate that this bill will require SLED to perform activities that can be conducted in the normal course of agency business. Therefore, we do not expect that this bill will have an expenditure impact on the agency due to the provision requiring a state criminal history records check and fingerprinting for applicants to the board. *This section of the fiscal impact statement has been updated to include an agency impact for SLED.*

**State Revenue**

This bill allows for the entry of the South Carolina Board of Examiners in Psychology (board) into the Psychology Interjurisdictional Compact (PSYPACT), permitting eligible psychologists to practice telepsychology and temporary in-person psychology across state boundaries. The bill provides for the structure, functions, powers, and duties of the Psychology Interjurisdictional Compact Commission (commission), the collective governing agency overseeing the implementation of PSYPACT. The commission shall pay the reasonable expenses of its establishment, organization, and ongoing activities and may levy on and collect an annual assessment from each compact state or impose fees on other parties. Furthermore, the bill requires initial applicants to have satisfactory results from fingerprint records checks conducted by SLED and the FBI. Costs associated with the criminal background checks are paid for by the applicants.

**Department of Labor, Licensing and Regulation.** PSYPACT does not authorize the board to charge a fee for licensure or services associated with the compact. Therefore, this bill will have no revenue impact on LLR.

The board falls under the Division of Professional and Occupational Licensing. Pursuant to Proviso 81.3 of the FY 2021-22 Appropriations Act, LLR is required to remit annually to the general fund an amount equal to 10 percent of expenditures. Because the total amount of increased costs to the board is unknown, LLR is unable to determine the exact revenue impact to the general fund. However, LLR anticipates the revenue impact of this bill on the general fund will not exceed a few hundred dollars.

**Department of Insurance.** This bill could result in more accessibility for certain covered medical services. DOI anticipates this will not result in an increase in premiums within the state and therefore will not increase insurance premium taxes. Therefore, this bill will have no revenue impact for insurance premium taxes.

**State Law Enforcement Agency.** We have not received a response from SLED regarding the revenue impact of this bill. However, we anticipate that the bill may increase the number of state criminal records checks that SLED is required to perform. The total cost for a criminal records check is $51.75, of which $25 is retained by SLED. The vendor, Identogo, receives $13.50, and the remainder of the fee, $13.25, is remitted to the Federal Bureau of Investigation. Pursuant to Section 23-3-115(A), revenue generated by state criminal records checks performed by SLED up to an amount of $4,461,000 must be deposited in the general fund. Any revenue over that amount is retained by SLED.

LLR indicates there have been an average of about 46 initial licenses granted for psychologists between FY 2016-17 and FY 2019-20. If state background checks are performed on an average of 46 individuals a year, revenue would increase by approximately $1,150 each fiscal year. In FY 2018-19, SLED generated approximately $1,300,000 in total from state criminal records checks. As a note, we are not using FY 2019-20 data due to the impact of the COVID-19 pandemic on state background checks processing. We do not anticipate that the total increase in revenue due to state background checks will be more than the $4,461,000 cap on revenue deposited to the general fund. Based upon this, the increase in revenue of $1,150 will be deposited to the general fund in FY 2021-22 and each year thereafter, and there is no increase in other funds of SLED. *This section of the fiscal impact statement has been updated to include an agency impact for SLED.*

**Updated for Additional Agency Response on March 3, 2021**

**Introduced on February 9, 2021**

**State Expenditure**

This bill provides for the entry of the South Carolina Board of Examiners in Psychology (board) into the Psychology Interjurisdictional Compact (PSYPACT), permitting eligible psychologists to practice telepsychology and temporary in-person psychology across state boundaries. The bill provides for the structure, functions, powers, and duties of the Psychology Interjurisdictional Compact Commission (commission), the collective governing agency overseeing the implementation of PSYPACT. The commission shall pay the reasonable expenses of its establishment, organization, and ongoing activities and may levy on and collect an annual assessment from each compact state or impose fees on other parties. The bill additionally establishes the qualifications for licensure as a psychologist under PSYPACT, including state and national background checks with fingerprints, and provides for the compact states’ rights and obligations, including those involving adverse action. The compact has been actively accepting applications since July 2020, and fourteen states are participating so far. Data from the compact suggests that about 3% to 4% of licensed psychologists in each compact state go on to apply for licensure through the compact, although this number may rise in the future as the compact becomes more established. From this, RFA estimates that approximately thirty-four psychologists of the 969 psychologists currently licensed under the board may apply for licensure through the compact if this relationship holds.

**Department of Labor, Licensing and Regulation.** This bill authorizes the board, under the administration of LLR, to afford legal recognition to psychologists licensed in other states in a manner consistent with the terms of the compact. The board must have a mechanism in place for receiving and investigating complaints about licensees, may investigate and take adverse action on a psychologist licensed under the compact, and must report any adverse action taken in accordance with the rules of the commission. Any witness fees, travel expenses, mileage, and other fees related to an investigation must be paid by the board. The board must additionally participate in the commission’s coordinated licensure database by maintaining and submitting a uniform data set on all licensees in the state. Furthermore, the bill requires initial applicants to have satisfactory results from fingerprint records checks conducted by SLED and the FBI. Costs associated with the criminal background checks are paid for by the applicants.

The bill allows for the commission to levy and collect an annual assessment from each compact state or impose fees on other parties. PSYPACT Rule 10.2 states that a compact state will be charged $10 per PSYPACT participating psychologist licensed in that state, with a maximum amount of $6,000 charged annually per compact state. The board shall appoint one delegate to act on behalf of the state during annual meetings of the commission and any additional meetings. The commission will provide for delegate expenses relating to travel, lodging, and food out of the annual assessment it receives.

LLR is unable to determine if additional board meetings will be required to implement PSYPACT. The cost breakdown of board meetings includes a $35 per diem for each board member, a 56 cent per mile mileage reimbursement, and a $2,156 court reporter fee. The board consists of eight members.

This bill creates additional administrative duties that cannot be managed by existing staff. Therefore, LLR anticipates that it will require 1 additional FTE to handle criminal background check processing, process applications, assist with board meetings, and assist with other duties as assigned. Salary and fringe benefits for an Administrative Assistant will total $47,728 and other recurring operating expenses will total $2,500. Non-recurring infrastructure costs associated with this position will total $1,000. Therefore, this bill will increase other funds expenditures by $51,228 in FY 2021-2022 and by $50,228 each year thereafter.

The total expenditure impact of this bill on LLR is undetermined due to unknown expenditures related to the annual assessment levied by the commission, investigatory expenses stemming from adverse action taken against licensees, participation in the commission’s data system, and additional board meetings. Discussions with other states currently participating in PSYPACT indicate that expenditures related to the implementation of this compact may be minimal, although these costs may increase as compact participation increases.

This fiscal impact has been updated for an additional response from LLR.

**Public Employee Benefit Authority.** This bill could result in more accessibility for certain covered medical services. PEBA anticipates being able to manage any additional expenditures that may arise from this bill without having to increase state insurance premiums. Therefore, this bill will have no expenditure impact for PEBA or state agencies to cover any additional medical services.

**Department of Insurance.** This bill could result in more accessibility for certain covered medical services. DOI anticipates this will not result in an increase in premiums within the state nor will it result in a change in DOI’s responsibilities. Therefore, this bill will have no expenditure impact for DOI.

**Department of Health and Human Services.** This bill allows the compact to establish a set of standards for telepsychology services to be provided across state lines between compact member states. The creation of the compact and standardization of practices will increase the availability of care, including through telehealth services, as service providers would be allowed to practice across state lines in compact member states. DHHS indicates they do not anticipate this legislation will result in any changes to their current policy, or material changes in utilization of services. Therefore, this bill is not expected to have a fiscal impact on DHHS.

**State Law Enforcement Division.** The expenditure impact of this bill on SLED is pending, contingent upon a response from the agency.

**State Revenue**

**Department of Labor, Licensing and Regulation.** PSYPACT does not authorize the board to charge a fee for licensure or services associated with the compact. Therefore, this bill will have no revenue impact on LLR.

The board falls under the Division of Professional and Occupational Licensing. Pursuant to Proviso 81.3 of the FY 2019-20 Appropriations Act, LLR is required to remit annually to the general fund an amount equal to 10 percent of expenditures. Because the total amount of increased costs to the board is unknown, LLR is unable to determine the exact revenue impact to the general fund. However, LLR anticipates the revenue impact of this bill on the general fund will not exceed a few hundred dollars.

This fiscal impact has been updated for an additional response from LLR.

**Department of Insurance.** This bill could result in more accessibility for certain covered medical services. DOI anticipates this will not result in an increase in premiums within the state and therefore will not increase insurance premium taxes. Therefore, this bill will have no revenue impact for insurance premium taxes.

**State Law Enforcement Agency.** This bill may increase the number of state criminal records checks that SLED is required to perform. Pursuant to Section 23-3-115(A), revenue generated by state criminal records checks performed by SLED up to an amount of $4,461,000 must be deposited in the general fund. Any revenue over that amount is retained by SLED. The revenue impact of this bill on the general fund and the other funds of SLED is pending, contingent upon a response from the agency. **Introduced on February 9, 2021**

**State Expenditure**

This bill enters South Carolina into PSYPACT, permitting eligible psychologists to practice telepsychology and temporary in-person psychology across state boundaries. The bill provides for the structure, functions, powers, and duties of the Psychology Interjurisdictional Compact Commission (commission), the collective governing agency overseeing the implementation of PSYPACT. The commission shall pay the reasonable expenses of its establishment, organization, and ongoing activities and may levy on and collect an annual assessment from each compact state or impose fees on other parties. The bill additionally establishes the qualifications for licensure as a psychologist under PSYPACT, including state and national background checks with fingerprints, and provides for the compact states’ rights and obligations, including those involving adverse action. The compact has been actively accepting applications since July 2020, and fourteen states are participating so far. Data from the compact suggests that about 3% to 4% of licensed psychologists in each compact state go on to apply for licensure through the compact, although this number may rise in the future as the compact becomes more established.

**Department of Labor, Licensing and Regulation.** This bill authorizes the Board of Examiners in Psychology (board), under the administration of LLR, to afford legal recognition to psychologists licensed in other states in a manner consistent with the terms of the compact. The board may investigate and take adverse action on a psychologist licensed under the compact and must report any adverse action taken in accordance with the rules of the commission. Any witness fees, travel expenses, mileage, and other fees related to an investigation must be paid by the board. The board must additionally participate in the commission’s coordinated licensure database by maintaining and submitting a uniform data set on all licensees in the state. Furthermore, the board shall appoint one delegate to act on behalf of the state during annual meetings of the commission and any additional meetings. The commission will provide for delegate expenses relating to travel, lodging, and food.

The bill allows for the commission to levy and collect an annual assessment from each compact state or impose fees on other parties. A commission bylaw states that a compact state will be charged $10 per PSYPACT participating psychologist licensed in that state, with a maximum amount of $6,000 charged annually per compact state.

The expenditure impact of this bill on LLR is pending, contingent upon a response from the agency.

**Public Employee Benefit Authority.** This bill could result in more accessibility for certain covered medical services. PEBA anticipates being able to manage any additional expenditures that may arise from this bill without having to increase state insurance premiums. Therefore, this bill will have no expenditure impact for PEBA or state agencies to cover any additional medical services.

**Department of Insurance.** This bill could result in more accessibility for certain covered medical services. DOI anticipates this will not result in an increase in premiums within the state nor will it result in a change in DOI’s responsibilities. Therefore, this bill will have no expenditure impact for DOI.

**Department of Health and Human Services.** This bill allows the compact to establish a set of standards for telepsychology services to be provided across state lines between compact member states. The creation of the compact and standardization of practices will increase the availability of care, including through telehealth services, as service providers would be allowed to practice across state lines in compact member states. DHHS indicates they do not anticipate this legislation will result in any changes to their current policy, or material changes in utilization of services. Therefore, this bill is not expected to have a fiscal impact on DHHS.

**State Law Enforcement Division.** The expenditure impact of this bill on SLED is pending, contingent upon a response from the agency. **State Revenue**

**Department of Labor, Licensing and Regulation.** The board falls under the Division of Professional and Occupational Licensing. Pursuant to Proviso 81.3 of the FY 2019-20 Appropriations Act, LLR is required to remit annually to the general fund an amount equal to 10 percent of expenditures.

The revenue impact of this bill on the general fund and the other funds of LLR is pending, contingent upon a response from the agency.

**Department of Insurance.** This bill could result in more accessibility for certain covered medical services. DOI anticipates this will not result in an increase in premiums within the state and therefore will not increase insurance premium taxes. Therefore, this bill will have no revenue impact for insurance premium taxes.

**State Law Enforcement Agency.** This bill may increase the number of state criminal records checks that SLED is required to perform. Pursuant to Section 23-3-115(A), revenue generated by state criminal records checks performed by SLED up to an amount of $4,461,000 must be deposited in the general fund. Any revenue over that amount is retained by SLED. The revenue impact of this bill on the general fund and the other funds of SLED is pending, contingent upon a response from the agency.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “PSYCHOLOGY INTERJURISDICTIONAL COMPACT (PSYPACT)” BY ADDING ARTICLE 3 TO CHAPTER 55, TITLE 40 SO AS TO PROVIDE FOR THE ENTRY OF SOUTH CAROLINA INTO THIS MULTISTATE COMPACT, TO PROVIDE FOR THE STRUCTURE, FUNCTIONS, POWERS, AND DUTIES OF THE GOVERNING BODY OF THE COMPACT; TO PROVIDE THE OBLIGATIONS, BENEFITS, AND RIGHTS OF COMPACT MEMBERS; TO DESIGNATE THE EXISTING PROVISIONS OF CHAPTER 55, TITLE 40 AS ARTICLE 1 ENTITLED “GENERAL PROVISIONS”; AND TO AMEND SECTIONS 40‑55‑60 AND 40‑55‑80, RELATING TO THE STATE BOARD OF EXAMINERS IN PSYCHOLOGY AND QUALIFICATIONS FOR LICENSURE AS A PSYCHOLOGIST RESPECTIVELY, SO AS TO MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This article shall be known and may be cited as the “Psychology Interjurisdictional Compact (Psypact)”.

SECTION 2. A. Chapter 55, Title 40 of the 1976 Code is amended by adding:

“Article 3

Psychology Interjurisdictional Compact

Section 40‑55‑310. (A) The Psychology Interjurisdictional Compact (Psypact) is enacted into law and entered into by the State of South Carolina with any and all other states legally joining therein in the form substantially as follows.

(B) The following principles form the basis for Psypact:

(1) States license psychologists, in order to protect the public through verification of education, training, and experience and ensure accountability for professional practice.

(2) This compact is intended to regulate the day‑to‑day practice of telepsychology, i.e., the provision of psychological services using telecommunication technologies, by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority.

(3) This compact is intended to regulate the temporary in‑person, face‑to‑face practice of psychology by psychologists across state boundaries for thirty days within a calendar year in the performance of their psychological practice as assigned by an appropriate authority.

(4) This compact is intended to authorize state psychology regulatory authorities to afford legal recognition, in a manner consistent with the terms of the compact, to psychologists licensed in another state.

(5) This compact recognizes that states have a vested interest in protecting the public’s health and safety through their licensing and regulation of psychologists and that such state regulation will best protect public health and safety.

(6) This compact does not apply when a psychologist is licensed in both the home and receiving states.

(7) While this compact does not apply to permanent in‑person, face‑to‑face practice, it does allow for authorization of temporary psychological practice.

(C) Consistent with the principles set forth in subsection (B), this compact is designed to achieve the following purposes and objectives:

(1) increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in‑person, face‑to‑face services into a state in which the psychologist is not licensed to practice psychology;

(2) enhance the states’ ability to protect the public’s health and safety, especially client/patient safety;

(3) encourage the cooperation of compact states in the areas of psychology licensure and regulation;

(4) facilitate the exchange of information between compact states regarding psychologist licensure, adverse actions, and disciplinary history;

(5) promote compliance with the laws governing psychological practice in each compact state; and

(6) invest all compact states with the authority to hold licensed psychologists accountable through the mutual recognition of compact state licenses.

Section 40‑55‑320. As used in this article:

(1) ‘Adverse action’ means any action taken by a state psychology regulatory authority which finds a violation of a statute or regulation that is identified by the state psychology regulatory authority as discipline and is a matter of public record.

(2) ‘Association of State and Provincial Psychology Boards (ASPPB)’ means the recognized membership organization composed of state and provincial psychology regulatory authorities responsible for the licensure and registration of psychologists throughout the United States and Canada.

(3) ‘Authority to practice interjurisdictional telepsychology’ means a licensed psychologist’s authority to practice telepsychology, within the limits authorized under this compact, in another compact state.

(4) ‘Bylaws’ means those bylaws established by the Psychology Interjurisdictional Compact Commission pursuant to Section 40‑55‑400 for its governance, or for directing and controlling its actions and conduct.

(5) ‘Client/patient’ means the recipient of psychological services, whether psychological services are delivered in the context of health care, corporate, supervision, or consulting services or any combination thereof.

(6) ‘Commissioner’ means the voting representative appointed by each state psychology regulatory authority pursuant to Section 40‑55‑400.

(7) ‘Compact state’ means a state, the District of Columbia, or United States territory that has enacted this compact legislation and which has not withdrawn pursuant to Section 40‑55‑430(C) or been terminated pursuant to Section 40‑55‑420(B).

(8) ‘Coordinated licensure information system’ also referred to as ‘coordinated database’ means an integrated process for collecting, storing, and sharing information on psychologists’ licensure and enforcement activities related to psychology licensure laws, which is administered by the recognized membership organization composed of state and provincial psychology regulatory authorities.

(9) ‘Confidentiality’ means the principle that data or information is not made available or disclosed to unauthorized persons or processes, or both.

(10) ‘Day’ means any part of a day in which psychological work is performed.

(11) ‘Distant state’ means the compact state where a psychologist is physically present (not through the use of telecommunications technologies), to provide temporary in‑person, face‑to‑face psychological services.

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

(13) ‘Executive board’ means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

(14) ‘Home state’ means a compact state where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one compact state and is practicing under the authorization to practice interjurisdictional telepsychology, the home state is the compact state where the psychologist is physically present when the telepsychological services are delivered. If the psychologist is licensed in more than one compact state and is practicing under the temporary authorization to practice, the home state is any compact state where the psychologist is licensed.

(15) ‘Identity history summary’ means a summary of information retained by the Federal Bureau of Investigation, or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization, or military service.

(16) ‘In‑person, face‑to‑face’ means interactions in which the psychologist and the client/patient are in the same physical space and which does not include interactions that may occur through the use of telecommunication technologies.

(17) ‘Interjurisdictional practice certificate’ also referred to as ‘(IPC)’ means a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that grants temporary authority to practice based on notification to the state psychology regulatory authority of intention to practice temporarily, and verification of one’s qualifications for such practice.

(18) ‘License’ means authorization by a state psychology regulatory authority to engage in the independent practice of psychology, which would be unlawful without the authorization.

(19) ‘Noncompact state’ means any state which is not at the time a compact state.

(20) ‘Psychologist’ means an individual licensed for the independent practice of psychology.

(21) ‘Psychology Interjurisdictional Compact Commission’ also referred to as ‘commission’ means the national administration of which all compact states are members.

(22) ‘Receiving state’ means a compact state where the client/patient is physically located when the telepsychological services are delivered.

(23) ‘Rule’ means a written statement by the Psychology Interjurisdictional Compact Commission promulgated pursuant to Section 40‑55‑410 of the compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the commission and has the force and effect of statutory law in a compact state, and includes the amendment, repeal, or suspension of an existing rule.

(24) ‘Significant investigatory information’ means:

(a) investigative information that a state psychology regulatory authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proven true, would indicate more than a violation of a state statute or ethics code that would be considered more substantial than a minor infraction; or

(b) investigative information that indicates that the psychologist represents an immediate threat to public health and safety regardless of whether the psychologist has been notified or had an opportunity to respond.

(25) ‘State’ means a state, commonwealth, territory, or possession of the United States, or the District of Columbia.

(26) ‘State psychology regulatory authority’ means the board, office or other agency with the legislative mandate to license and regulate the practice of psychology.

(27) ‘Telepsychology’ means the provision of psychological services using telecommunication technologies.

(28) ‘Temporary authorization to practice’ means a licensed psychologist’s authority to conduct temporary in‑person, face‑to‑face practice, within the limits authorized under this compact, in another compact state.

(29) ‘Temporary in‑person, face‑to‑face practice’ means where a psychologist is physically present (not through the use of telecommunications technologies), in the distant state to provide for the practice of psychology for thirty days within a calendar year and based on notification to the distant state.

Section 40‑55‑330. (A) The home state shall be a compact state where a psychologist is licensed to practice psychology.

(B) A psychologist may hold one or more compact state licenses at a time. If the psychologist is licensed in more than one compact state, the home state is the compact state where the psychologist is physically present when the services are delivered as authorized by the authority to practice interjurisdictional telepsychology under the terms of this compact.

(C) Any compact state may require a psychologist not previously licensed in a compact state to obtain and retain a license to be authorized to practice in the compact state under circumstances not authorized by the authority to practice interjurisdictional telepsychology under the terms of this compact.

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

(E) A home state’s license authorizes a psychologist to practice in a receiving state under the authority to practice interjurisdictional telepsychology only if the compact state:

(1) currently requires the psychologist to hold an active E. Passport;

(2) has a mechanism in place for receiving and investigating complaints about licensed individuals;

(3) notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

(4) requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation (FBI), or other designee with similar authority, no later than ten years after activation of the compact; and

(5) complies with the bylaws and rules of the commission.

(F) A home-state’s license grants temporary authorization to practice to a psychologist in a distant state only if the compact state:

(1) currently requires the psychologist to hold an active IPC;

(2) has a mechanism in place for receiving and investigating complaints about licensed individuals;

(3) notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

(4) requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation (FBI), or other designee with similar authority, no later than ten years after activation of the compact; and

(5) complies with the bylaws and rules of the commission.

Section 40‑55‑340. (A) Compact states shall recognize the right of a psychologist, licensed in a compact state in conformance with Section 40‑55‑330, to practice telepsychology in other compact states (receiving states) in which the psychologist is not licensed, under the authority to practice interjurisdictional telepsychology as provided in the compact.

(B) To exercise the authority to practice interjurisdictional telepsychology under the terms and provisions of this compact, a psychologist licensed to practice in a compact state must:

(1) hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

(a) regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, or authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

(b) a foreign college or university deemed to be equivalent to item (1)(a) by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

(2) hold a graduate degree in psychology that meets the following criteria:

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

(b) the psychology program must stand as a recognizable, coherent, organizational entity within the institution;

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

(d) the program must consist of an integrated, organized sequence of study;

(e) there must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

(f) the designated director of the program must be a psychologist and a member of the core faculty;

(g) the program must have an identifiable body of students who are matriculated in that program for a degree;

(h) the program must include supervised practicum, internship, or field training appropriate to the practice of psychology;

(i) the curriculum shall encompass a minimum of three academic years of full‑time graduate study for a doctoral degree and a minimum of one academic year of full‑time graduate study for a master’s degree; and

(j) the program includes an acceptable residency as defined by the rules of the commission;

(3) possess a current, full, and unrestricted license to practice psychology in a home state which is a compact state;

(4) have no history of adverse action that violates the rules of the commission;

(5) have no criminal record history reported on an identity history summary that violates the rules of the commission;

(6) possess a current, active E. Passport;

(7) provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology, criminal background, and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the commission; and

(8) meet other criteria as defined by the rules of the commission.

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

(D) A psychologist practicing in a receiving state under the authority to practice interjurisdictional telepsychology will be subject to the receiving state’s scope of practice. A receiving state may, in accordance with that state’s due process law, limit or revoke a psychologist’s authority to practice interjurisdictional telepsychology in the receiving state and may take any other necessary actions under the receiving state’s applicable law to protect the health and safety of the receiving state’s citizens. If a receiving state takes action, the state shall promptly notify the home state and the commission.

(E) If a psychologist’s license in any home state, another compact state, or any authority to practice interjurisdictional telepsychology in any receiving state, is restricted, suspended, or otherwise limited, the E. Passport shall be revoked and therefore the psychologist shall not be eligible to practice telepsychology in a compact state under the authority to practice interjurisdictional telepsychology.

Section 40‑55‑350. (A) Compact states also shall recognize the right of a psychologist, licensed in a compact state in conformance with Section 40‑55‑330, to practice temporarily in other compact states (distant states) in which the psychologist is not licensed, as provided in the compact.

(B) To exercise the temporary authorization to practice under the terms and provisions of this compact, a psychologist licensed to practice in a compact state must:

(1) hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

(a) regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, or authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

(b) a foreign college or university deemed to be equivalent to subitem (a) by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

(2) hold a graduate degree in psychology that meets the following criteria:

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

(b) the psychology program must stand as a recognizable, coherent, organizational entity within the institution;

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

(d) the program must consist of an integrated, organized sequence of study;

(e) there must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

(f) the designated director of the program must be a psychologist and a member of the core faculty;

(g) the program must have an identifiable body of students who are matriculated in that program for a degree;

(h) the program must include supervised practicum, internship, or field training appropriate to the practice of psychology;

(i) the curriculum shall encompass a minimum of three academic years of full‑time graduate study for a doctoral degree and a minimum of one academic year of full‑time graduate study for a master’s degree; and

(j) the program includes an acceptable residency as defined by the rules of the commission;

(3) possess a current, full, and unrestricted license to practice psychology in a home state which is a compact state;

(4) have no history of adverse action that violates the rules of the commission;

(5) have no criminal record history that violates the rules of the commission;

(6) possess a current, active IPC;

(7) provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the commission; and

(8) meet other criteria as defined by the rules of the commission.

(C) A psychologist practicing in a distant state under the temporary authorization to practice shall practice within the scope of practice authorized by the distant state.

(D) A psychologist practicing in a distant state under the temporary authorization to practice will be subject to the distant state’s authority and law. A distant state may, in accordance with that state’s due process law, limit or revoke a psychologist’s temporary authorization to practice in the distant state and may take any other necessary actions under the distant state’s applicable law to protect the health and safety of the distant state’s citizens. If a distant state takes action, the state promptly shall notify the home state and the commission.

(E) If a psychologist’s license in any home state, another compact state, or any temporary authorization to practice in any distant state, is restricted, suspended, or otherwise limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice in a compact state under the temporary authorization to practice.

Section 40‑55‑360. A psychologist may practice in a receiving state under the authority to practice interjurisdictional telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate state psychology regulatory authority, as defined in the rules of the commission, and under the following circumstances:

(1) the psychologist initiates a client/patient contact in a home state via telecommunications technologies with a client/patient in a receiving state; and

(2) other conditions regarding telepsychology as determined by rules promulgated by the commission.

Section 40‑55‑370. (A) A home state shall have the power to impose adverse action against a psychologist’s license issued by the home state. A distant state shall have the power to take adverse action on a psychologist’s temporary authorization to practice within that distant state.

(B) A receiving state may take adverse action on a psychologist’s authority to practice interjurisdictional telepsychology within that receiving state. A home state may take adverse action against a psychologist based on an adverse action taken by a distant state regarding temporary in‑person, face‑to‑face practice.

(C)(1) If a home state takes adverse action against a psychologist’s license, that psychologist’s authority to practice interjurisdictional telepsychology is terminated and the E. Passport is revoked. Furthermore, that psychologist’s temporary authorization to practice is terminated and the IPC is revoked.

(2) All home-state disciplinary orders which impose adverse action shall be reported to the commission in accordance with the rules promulgated by the commission. A compact state shall report adverse actions in accordance with the rules of the commission.

(3) In the event discipline is reported on a psychologist, the psychologist will not be eligible for telepsychology or temporary in‑person, face‑to‑face practice in accordance with the rules of the commission.

(4) Other actions may be imposed as determined by the rules promulgated by the commission.

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

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

(F) Nothing in this compact shall override a compact-state’s decision that a psychologist’s participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the compact-state’s law. Compact states must require psychologists who enter any alternative programs to not provide telepsychology services under the authority to practice interjurisdictional telepsychology or provide temporary psychological services under the temporary authorization to practice in any other compact state during the term of the alternative program.

(G) No other judicial or administrative remedies shall be available to a psychologist in the event a compact state imposes an adverse action pursuant to subsection (C).

Section 40‑55‑380. (A) In addition to any other powers granted under state law, a compact state’s psychology regulatory authority shall have the authority under this compact to:

(1) issue subpoenas, for both hearings and investigations, which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a compact-state’s psychology regulatory authority for the attendance and testimony of witnesses, the production of evidence, or any combination of the foregoing from another compact state shall be enforced in the latter state by any court of competent jurisdiction, according to that court’s practice and procedure in considering subpoenas issued in its own proceedings. The issuing state psychology regulatory authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses, evidence, or both, are located; and

(2) issue cease and desist orders, injunctive relief orders, or both, to revoke a psychologist’s authority to practice interjurisdictional telepsychology, temporary authorization to practice, or both.

(B) During the course of any investigation, a psychologist may not change his/her home state licensure. A home-state psychology regulatory authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The home-state psychology regulatory authority shall promptly report the conclusions of such investigations to the commission. Once an investigation has been completed, and pending the outcome of said investigation, the psychologist may change his/her home state licensure. The commission shall promptly notify the new home state of any such decisions as provided in the rules of the commission. All information provided to the commission or distributed by compact states pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters. The commission may create additional rules for mandated or discretionary sharing of information by compact states.

Section 40‑55‑390. (A) The commission shall provide for the development and maintenance of a coordinated licensure information system (coordinated database) and reporting system containing licensure and disciplinary action information on all psychologists to whom this compact is applicable in all compact states as defined by the rules of the commission.

(B) Notwithstanding any other provision of state law to the contrary, a compact state shall submit a uniform data set to the coordinated database on all licensees as required by the rules of the commission, including:

(1) identifying information;

(2) licensure data;

(3) significant investigatory information;

(4) adverse actions against a psychologist’s license;

(5) an indicator that a psychologist’s authority to practice interjurisdictional telepsychology, temporary authorization to practice, or both, is revoked;

(6) nonconfidential information related to alternative program participation information;

(7) any denial of application for licensure, and the reasons for such denial; and

(8) other information which may facilitate the administration of this compact, as determined by the rules of the commission.

(C) The coordinated database administrator promptly shall notify all compact states of any adverse action taken against, or significant investigative information on, any licensee in a compact state.

(D) Compact states reporting information to the coordinated database may designate information that may not be shared with the public without the express permission of the compact state reporting the information.

(E) Any information submitted to the coordinated database that is subsequently required to be expunged by the law of the compact state reporting the information shall be removed from the coordinated database.

Section 40‑55‑400. (A)(1) The compact states hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission.

(2) The commission is a body politic and an instrumentality of the compact states.

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

(4) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(B)(1) The commission shall consist of one voting representative appointed by each compact state who shall serve as that state’s commissioner. The state psychology regulatory authority shall appoint its delegate. This delegate shall be empowered to act on behalf of the compact state. This delegate shall be limited to:

(a) executive director, executive secretary, or similar executive;

(b) current member of the state psychology regulatory authority of a compact state; or

(c) designee empowered with the appropriate delegate authority to act on behalf of the compact state.

(2) Any commissioner may be removed or suspended from office as provided by the law of the state from which the commissioner is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compact state in which the vacancy exists.

(3) Each commissioner shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for commissioners’ participation in meetings by telephone or other means of communication.

(4) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(5) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 40‑55‑410.

(6) The commission may convene in a closed, nonpublic meeting if the commission must discuss:

(a) noncompliance of a compact state with its obligations under the compact;

(b) the employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission’s internal personnel practices and procedures;

(c) current, threatened, or reasonably anticipated litigation against the commission;

(d) negotiation of contracts for the purchase or sale of goods, services, or real estate;

(e) accusation against any person of a crime or formally censuring any person;

(f) disclosure of trade secrets or commercial or financial information which is privileged or confidential;

(g) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(h) disclosure of investigatory records compiled for law enforcement purposes;

(i) disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the compact; or

(j) matters specifically exempted from disclosure by federal and state statute.

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

(C) The commission shall, by a majority vote of the commissioners, prescribe bylaws, rules, or both, to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact including, but not limited to:

(1) establishing the fiscal year of the commission;

(2) providing reasonable standards and procedures:

(a) for the establishment and meetings of other committees; and

(b) governing any general or specific delegation of any authority or function of the commission;

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

(4) establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the commission;

(5) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar law of any compact state, the bylaws shall exclusively govern the personnel policies and programs of the commission;

(6) promulgating a code of ethics to address permissible and prohibited activities of commission members and employees;

(7) providing a mechanism for concluding the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment and/or reserving of all of its debts and obligations;

(8) publishing its bylaws in a convenient form and filing a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the compact states;

(9) maintaining its financial records in accordance with the bylaws; and

(10) meeting and taking such actions as are consistent with the provisions of this compact and the bylaws.

(D) The commission shall have the following powers:

(1) to promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rule shall have the force and effect of law and shall be binding in all compact states;

(2) to bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state psychology regulatory authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law shall not be affected;

(3) to purchase and maintain insurance and bonds;

(4) to borrow, accept, or contract for services of personnel including, but not limited to, employees of a compact state;

(5) to hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission’s personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(6) to accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize, and dispose of the same; provided that at all times the commission shall strive to avoid any appearance of impropriety or conflict of interest;

(7) to lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed; provided that at all times the commission shall strive to avoid any appearance of impropriety;

(8) to sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(9) to establish a budget and make expenditures;

(10) to borrow money;

(11) to appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(12) to provide and receive information from, and to cooperate with, law enforcement agencies;

(13) to adopt and use an official seal; and

(14) to perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of psychology licensure, temporary in‑person, face‑to‑face practice, and telepsychology practice.

(E)(1) The elected officers shall serve as the executive board, which shall have the power to act on behalf of the commission according to the terms of this compact.

(2) The executive board shall be comprised of six members:

(a) five voting members who are elected from the current membership of the commission by the commission; and

(b) one ex officio, nonvoting member from the recognized membership organization composed of state and provincial psychology regulatory authorities.

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

(4) The commission may remove any member of the executive board as provided in bylaws.

(5) The executive board shall meet at least annually.

(6) The executive board shall have the following duties and responsibilities:

(a) recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact states such as annual dues, and any other applicable fees;

(b) ensure compact administration services are appropriately provided, contractual or otherwise;

(c) prepare and recommend the budget;

(d) maintain financial records on behalf of the commission;

(e) monitor compact compliance of member states and provide compliance reports to the commission;

(f) establish additional committees as necessary; and

(g) other duties as provided in rules or bylaws.

(F)(1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

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

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the compact states, except by and with the authority of the compact state.

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

(G)(1) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or wilful or wanton misconduct of that person.

(2) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person’s intentional or wilful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or wilful or wanton misconduct of that person.

Section 40‑55‑410. (A) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

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

(C) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

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

(1) on the website of the commission; and

(2) on the website of each compact-states’ psychology regulatory authority or the publication in which each state would otherwise publish proposed rules.

(E) The notice of proposed rulemaking shall include:

(1) the proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(2) the text of the proposed rule or amendment and the reason for the proposed rule;

(3) a request for comments on the proposed rule from any interested person; and

(4) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(F) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(G) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) at least twenty‑five persons who submit comments independently of each other;

(2) a governmental subdivision or agency; or

(3) a duly appointed person in an association that has at least twenty‑five members.

(H)(1) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing.

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

(3) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

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

(5) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(I) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

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

(K) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

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

(1) meet an imminent threat to public health, safety, or welfare;

(2) prevent a loss of commission or compact-state funds;

(3) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(4) protect public health and safety.

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

Section 40‑55‑420. (A)(1) The executive, legislative, and judicial branches of state government in each compact state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact’s purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a compact state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.

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

(B)(1) If the commission determines that a compact state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(a) provide written notice to the defaulting state and other compact states of the nature of the default, the proposed means of remedying the default, and any other action to be taken by the commission; and

(b) provide remedial training and specific technical assistance regarding the default.

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

(3) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be submitted by the commission to the Governor, the majority and minority leaders of the defaulting state’s legislature, and each of the compact states.

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

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

(6) The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the State of South Carolina or the federal district where the compact has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney’s fees.

(C)(1) Upon request by a compact state, the commission shall attempt to resolve disputes related to the compact which arise among compact states and between compact and noncompact states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.

(D)(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States District Court for the State of South Carolina or the federal district where the compact has its principal offices against a compact state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney’s fees.

(3) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

Section 40‑55‑430. (A) The compact shall come into effect on the date on which the compact is enacted into law in the seventh compact state. The provisions which become effective at that time shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(B) Any state which joins the compact subsequent to the commission’s initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule which has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(C)(1) Any compact state may withdraw from this compact by enacting a statute repealing the same.

(2) A compact-state’s withdrawal shall not take effect until six months after enactment of the repealing statute.

(3) Withdrawal shall not affect the continuing requirement of the withdrawing state’s psychology regulatory authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(D) Nothing contained in this compact shall be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a compact state and a noncompact state which does not conflict with the provisions of this compact.

(E) This compact may be amended by the compact states. No amendment to this compact shall become effective and binding upon any compact state until it is enacted into the law of all compact states.

Section 40‑55‑440. This compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any state member thereto, the compact shall remain in full force and effect as to the remaining compact states.”

B. The existing provisions of Chapter 55, Title 40 are designated as Article 1 entitled “General Provisions”.

SECTION 3. Section 40‑55‑60 of the 1976 Code is amended to read:

“Section 40‑55‑60. The board may adopt the code of ethics for psychologists to govern the practices and conduct of psychologists licensed under this chapter. Whenever important aspects of a case fall outside the boundaries of the psychologist’s competence, the psychologist shall consult appropriate specialists. A psychologist may not attempt to diagnose, prescribe for, treat, or advise a client with reference to complaints which are outside the limits of psychological practice as determined by the board. The board shall determine areas of specialization of the applicant to practice psychology and inform the applicant of its decision. The board shall publish a list of licensed psychologists which indicates areas of practice authorized by the board. The board shall have the authority to administer and participate in the ‘Psychology Interjurisdictional Compact (Psypact)’ set forth in Article 3 of this chapter and to recognize and permit the authority to practice interjurisdictional telepsychology and temporary practice in South Carolina as established under such compact.”

SECTION 4. Section 40‑55‑80(7) and (8) of the 1976 Code is amended to read:

“(7) satisfactory results from a fingerprint record check report conducted by the South Carolina Law Enforcement Division (SLED) and the Federal Bureau of Investigation (FBI), as determined by the board. Application for a license pursuant to this section constitutes express consent and authorization for the board or its representative to perform a criminal background check. Each applicant who submits an application to the board for licensure agrees to provide the board with any and all information necessary to run a criminal background check including, but not limited to, classifiable sets of fingerprints. The applicant is responsible for all fees associated with the performance of such background checks;

(8) a copy of a criminal history record if the applicant has been convicted or plead guilty or nolo contendere to any criminal offense excluding traffic violations; and

~~(8)~~(9) documentation of any disciplinary action taken against the applicant while the applicant was participating in a psychology internship program or other psychology‑related training program, or during previous psychology‑related employment.”

SECTION 5. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑