

COMMITTEE REPORT

TO: Patrick O'Donnell
Clerk of the Legislature

FROM: Senator Sara Howard
Chair, Health and Human Services Committee

DATE: 11.13.2020

RE: Health and Human Services Committee Report and Recommendations on Regulated Occupations within Committee Jurisdiction – Psychologists, Psychologist Assistants, and Psychologist Associates.

GENERAL INFORMATION

- I. Occupation Regulated
 - A) Psychologists, Psychologist Assistants, and Psychologist Associates

- II. Name of Occupational Board Responsible for Enforcement
 - A) Per Nebraska Revised Statutes Section [38-161](#), the Board of Psychology provides recommendations to the Department of Health and Human Services regarding the issuance or denial of credentials, and provides recommendations to the Department of Health and Human Services regarding rules and regulations to carry out the Uniform Credentialing Act.

- III. Public Purpose and Assumptions Underlying License Creation
 - A) Practice of psychology means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, or procedures for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior, and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health. The assumptions underlying license creation is to protect the health, safety, and welfare of the public and to set minimum standards of proficiency and competency for professionals practicing in the field of psychology in the state of Nebraska.

- IV. Number of Regulated Professionals in Nebraska
 - A) There are 735 licensed Psychologists or registered Psychologist assistants or associates in Nebraska.

BOARD MEMBERSHIPS AND MEETINGS

- I. Number of Members
 - A) There are seven members of the Board of Psychology.

- II. Who Appoints Members of the Board / Is Legislative Approval Required?
 - A) The Board of Health appoints the members of the Board of Psychology. Legislative approval is not required.

- III. Term Length
 - A) The length of term for service on the Board of Psychology is up to two consecutive five year terms, on a rotating basis.

- IV. Qualifications for Membership of the Board
 - A) The Board of Psychology is made up of five professional Psychologists and two public members. The professional Psychologists shall have held and maintained an active credential and be and have been actively engaged in the practice of his or her profession for a period of five years just preceding his or her appointment and shall maintain such credential and practice while serving as a board member. Two of the five years of experience may have been served in teaching or research.

- V. The Number of Meetings Required Per Year / Meetings Actually Held
 - A) For fiscal year (FY) 2014-2015: Meetings Required – 1; Meetings Held – 6.
 - B) For FY 2015-2016: Meetings Required – 1; Meetings Held – 6.
 - C) For FY 2016-2017: Meetings Required – 1; Meetings Held – 6.
 - D) For FY 2017-2018: Meetings Required – 1; Meetings Held – 7.
 - E) For FY 2018-2019: Meetings Required – 1; Meetings Held – 7.

- VI. Annual Budget Information for the Previous Five Years
 - A) The Board of Psychology is cash-funded from licensure fees. Funds for credentialed occupations may come from interest earned on the Professional and Occupational Credentialing Cash Fund, certification and verification of credentials, administrative fees, reinstatement fees, general funds and federal funds, fees for miscellaneous services, gifts, and grants.
 - B) For FY 2014-2015: \$12,108
 - C) For FY 2015-2016: \$8,032
 - D) For FY 2016-2017: \$38,917
 - E) For FY 2017-2018: \$34,786
 - F) For FY 2018-2019: \$38,337

VII. Statement from Occupational Board on Effectiveness of Regulations

- A) The Chair of the Board of Psychology stated, “Rules and regulations for this profession provide minimum standards for the professional for credentialing, education, experience, and eligibility to take credentialing examinations. They also set standards for course of study, unprofessional conduct, ethics, and continued competency requirements. In my opinion, rules and regulations are a further means to protect the public’s health, safety and welfare by providing additional clarification beyond the uniform credentialing act for the specific profession.”

AUTHORIZATION

I. Statutory Authorization

- A) Statutory authorization for the Psychologist occupation may be found in the Nebraska Revised Statutes, sections [38-3101](#) to [38-3133](#), which may be cited as the Psychology Practice Act. Nebraska is also a member of the Psychology Interjurisdictional Compact (PSYPACT), found in the Nebraska Revised Statutes, section [38-3901](#). For text of the Nebraska statutes relating to the Psychology occupation, see Appendix A.

II. Other Authorization

- A) Rules and regulations regarding the Psychologist occupation may be found in the Nebraska Administrative Code Title 172, Chapters [155](#), [156](#), and [157](#).

CREDENTIALING

I. Number of Licenses, Certifications, or Registrations Issued In Past Five Years

- A) From January 1, 2015 to January 1, 2020, there were 347 total licenses issued, including 24 thirty-day temporary licenses, 141 provisional licenses, 23 Psychological assistant registrations, 4 Psychological associate registrations, 132 Psychologist licenses, 6 Special Licensed Psychologist licenses, and 17 temporary Psychologist licenses.

II. Number of Licenses, Certifications, or Registrations Denied in Past Five Years

- A) There have been three licenses denied in the past five years.
- B) One denial was based on education, one was based on criminal convictions, and one was based on discipline in another state.

III. Number of Licenses, Certifications, or Registrations Revoked in Past Five Years

- A) There have been two licenses revoked in the past five years.

B) The licenses were revoked due to unprofessional or dishonorable conduct, and sexual abuse or misconduct.

IV. Number of Licenses, Certifications, or Registrations Penalized in Past Five Years

A) There have been no licenses penalized in the past five years.

V. Comparison of How Other States Regulate This Occupation

A) Nebraska Psychology licensing requirements are consistent with the majority of states. The six states surrounding Nebraska – Colorado, Iowa, Kansas, Missouri, South Dakota and Wyoming – all require an American Psychological Association accredited program or equivalent, completion of an internship, and 1500 - 1800 hour post doctorate supervised experience. The Psychology Interjurisdictional Compact (PSYPACT) has been created to facilitate telehealth and temporary in-person, face-to-face practice of psychology across jurisdictional boundaries. PSYPACT is an interstate compact, which is an agreement between states to enact legislation and enter into a contract for a specific, limited purpose or address a particular policy issue. Other states that have adopted PSYPACT are Arizona, Colorado, Delaware, Georgia, Illinois, Missouri, New Hampshire, Nevada, Oklahoma, Pennsylvania, Texas, Utah, and Virginia. Virginia's adoption will become effective on January 1, 2021.

VI. What Is The Potential Harm if This Occupation Is No Longer Licensed, Certified, or Regulated?

A) If the Psychologist occupation was not licensed, certified, or regulated, the public would be exposed to undue harm because the professional providing care to the public would not have a minimum standard of proficiency and competency for practicing psychology in the state of Nebraska, and would be less able to help those with mental or behavioral health needs. There would also be no monitoring body such as the Board of Psychology to ensure that professionals practice psychology according to the minimum standard. This would have a negative impact on the public health, safety, and welfare, especially for patients in a vulnerable situation.

COMMITTEE RECOMMENDATION ON CONTINUATION, MODIFICATION, OR TERMINATION OF OCCUPATIONAL REGULATIONS

Regulated occupations under the purview of the Health and Human Services Committee are unique in that through the Nebraska Regulation of Health Professions Act (Neb. Rev. Stat. Sections 71-6201 to 71-6229), health professions which are not

licensed or regulated, or health professions that wish to change their scope of practice, go through a three-stage credentialing process.

Credentialing review is a three-stage process conducted by the following review bodies in the following order:

- 1) The review of an ad hoc technical review committee appointed by the Director of the Division of Public Health;
- 2) The review of the State Board of Health;
- 3) The review of the Director of the Division of Public Health.

The three review bodies each create their own independent report on each proposal. All reports created by the review process are available to members of the Health and Human Services Committee to assist them during their review of any bills that might arise from credentialing review proposals. These reports include recommendations regarding the level of licensure of the health profession. These reports are advisory to the Legislature, and only the action of the Legislature may create changes in the regulatory status of a profession. These reports represent expert input into possible public health and safety aspects of credentialing review proposals, and the nine-month process is overseen by those with experience in the provision of health-related or medical services.

The licenses, certifications, and registrations overseen by the Board of Psychology and the Department of Health and Human Services are intended to protect the health, safety, and welfare of Nebraskans. The current regulation of the Psychologist and Psychologist Associates or Psychologist Assistant occupations by licensure and registration is appropriate and balanced and does not need modification at this time.

APPENDIX A

STATUTES PERTAINING TO THE PSYCHOLOGY PRACTICE ACT

38-3101. Act, how cited.

Sections 38-3101 to 38-3133 shall be known and may be cited as the Psychology Practice Act.

Source: Laws 2007, LB463, § 1035; Laws 2018, LB1034, § 44.

Effective Date: July 19, 2018

38-3102. Definitions, where found.

For purposes of the Psychology Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-3103 to 38-3110 apply.

Source: Laws 1994, LB 1210, § 63; Laws 1999, LB 366, § 10; R.S.1943, (2003), § 71-1,206.01; Laws 2007,

LB463, § 1036.

38-3103. Board, defined.

Board means the Board of Psychology.

Source: Laws 1994, LB 1210, § 64; Laws 1999, LB 828, § 136; R.S.1943, (2003), § 71-1,206.02; Laws 2007,

LB463, § 1037.

38-3104. Client or patient, defined.

Client or patient means a recipient of psychological services within the context of a professional relationship. In the case of individuals with legal guardians, including minors and incompetent adults, the legal guardian shall also be considered a client or patient for decision making purposes.

Source: Laws 1994, LB 1210, § 65; R.S.1943, (2003), § 71-1,206.03; Laws 2007, LB463, § 1038.

38-3105. Code of conduct, defined.

Code of conduct means that set of regulatory rules of professional conduct which has been adopted by the board to protect the public welfare by providing rules that govern a professional's behavior in the professional relationship.

Source: Laws 1994, LB 1210, § 66; R.S.1943, (2003), § 71-1,206.04; Laws 2007, LB463, § 1039.

38-3106. Institution of higher education, defined.

Institution of higher education means a university, professional school, or other institution of higher learning that:

(1) In the United States, is regionally accredited by a regional or professional accrediting organization recognized by the United States Department of Education;

(2) In Canada, holds a membership in the Association of Universities and Colleges of Canada; or

(3) In other countries, is accredited by the respective official organization having such authority.

Source: Laws 1994, LB 1210, § 68; R.S.1943, (2003), § 71-1,206.06; Laws 2007, LB463, § 1040.

38-3107. Mental and emotional disorder, defined.

Mental and emotional disorder means a clinically significant behavioral or psychological syndrome or pattern that occurs in a person and is associated with present distress or disability or with significantly increased risk of suffering death, pain, disability, or an important loss of freedom. Such disorders may take many forms and have varying causes but must be considered a manifestation of behavioral, psychological, or biological dysfunction in the person. Reasonable descriptions of the kinds and degrees of mental and emotional disorders may be found in the revisions of accepted nosologies such as the International Classification of Diseases and the Diagnostic and Statistical Manual of Mental Disorders.

Source: Laws 1994, LB 1210, § 69; R.S.1943, (2003), § 71-1,206.07; Laws 2007, LB463, § 1041.

38-3108. Practice of psychology, defined.

(1) Practice of psychology means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, or procedures for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health.

(2) The practice of psychology includes, but is not limited to, psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and psychophysiological and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; diagnosis and treatment of mental and emotional disorders, alcoholism and substance abuse, disorders of habit or conduct,

and the psychological aspects of physical illness, accident, injury, or disability; psychoeducational evaluation, therapy, remediation, and consultation; and supervision of qualified individuals performing services specified in this section.

(3) Psychological services may be rendered to individuals, families, groups, organizations, institutions, and the public. The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is received for services rendered.

Source: Laws 1994, LB 1210, § 70; R.S.1943, (2003), § 71-1,206.08; Laws 2007, LB463, § 1042.

38-3109. Psychologist, defined.

Psychologist means a person licensed to engage in the practice of psychology in this or another jurisdiction. The terms certified, registered, chartered, or any other term chosen by a jurisdiction to authorize the autonomous practice of psychology shall be considered equivalent terms.

Source: Laws 1994, LB 1210, § 71; R.S.1943, (2003), § 71-1,206.09; Laws 2007, LB463, § 1043.

38-3110. Representation as a psychologist, defined.

Representation as a psychologist means that the person uses any title or description of services which incorporates the words psychology, psychological, or psychologist or which implies that he or she possesses expert qualification in any area of psychology or that the person offers to individuals or to groups of individuals services defined as the practice of psychology.

Source: Laws 1994, LB 1210, § 72; R.S.1943, (2003), § 71-1,206.10; Laws 2007, LB463, § 1044.

38-3111. Psychology; references; how construed.

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

(2) Any reference to a person certified to practice clinical psychology under the law in effect immediately prior to September 1, 1994, and any equivalent reference under the law of another jurisdiction, including, but not limited to, certified clinical psychologist, health care practitioner in psychology, or certified health care provider, shall be

construed to refer to a psychologist licensed under the Uniform Credentialing Act except for persons licensed under section 38-3116 or holding a provisional license under the Psychology Practice Act.

Source: Laws 1994, LB 1210, § 76; Laws 1999, LB 366, § 12; Laws 2006, LB 1199, § 32; R.S.Supp.,2006, § 71-1,206.14; Laws 2007, LB463, § 1045; Laws 2018, LB1034, § 45.

38-3112. Board; membership; qualifications.

The board shall consist of five professional members and two public members appointed pursuant to section 38-158. The members shall meet the requirements of sections 38-164 and 38-165, except that two of the five years of experience for professional members may have been served in teaching or research.

Source: Laws 2007, LB463, § 1046.

38-3113. Other practices and activities; act, how construed.

Nothing in the Psychology Practice Act shall be construed to prevent:

(1) The teaching of psychology, the conduct of psychological research, or the provision of psychological services or consultation to organizations or institutions if such teaching, research, or service does not involve the delivery or supervision of direct psychological services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services, without regard to the source or extent of payment for services rendered. Nothing in the act shall prevent the provision of expert testimony by psychologists who are otherwise exempted by the act. Persons holding a doctoral degree in psychology from an institution of higher education may use the title psychologist in conjunction with the activities permitted by this subdivision;

(2) Members of other recognized professions that are licensed, certified, or regulated under the laws of this state from rendering services consistent with their professional training and code of ethics and within the scope of practice as set out in the statutes regulating their professional practice if they do not represent themselves to be psychologists;

(3) Duly recognized members of the clergy from functioning in their ministerial capacity if they do not represent themselves to be psychologists or their services as psychological;

(4) Persons who are certified as school psychologists by the State Board of Education from using the title school psychologist and practicing psychology as defined in the Psychology Practice Act if such practice is restricted to regular employment within a setting under the jurisdiction of the State Board of Education. Such individuals shall be employees of the educational setting and not independent contractors providing psychological services to educational settings; or

(5) Any of the following persons from engaging in activities defined as the practice of psychology if they do not represent themselves by the title psychologist, if they do not use terms other than psychological trainee, psychological intern, psychological resident, or psychological assistant to refer to themselves, and if they perform their activities under the supervision and responsibility of a psychologist in accordance with the rules and regulations adopted and promulgated under the Psychology Practice Act:

(a) A matriculated graduate student in psychology whose activities constitute a part of the course of study for a graduate degree in psychology at an institution of higher education;

(b) An individual pursuing postdoctoral training or experience in psychology, including persons seeking to fulfill the requirements for licensure under the act; or

(c) An individual with a master's degree in clinical, counseling, or educational psychology or an educational specialist degree in school psychology who administers and scores and may develop interpretations of psychological testing under the supervision of a psychologist. Such individuals shall be deemed to be conducting their duties as an extension of the legal and professional authority of the supervising psychologist and shall not independently provide interpretive information or treatment recommendations to clients or other health care professionals prior to obtaining appropriate supervision. The department, with the recommendation of the board, may adopt and promulgate rules and regulations governing the conduct and supervision of persons referred to in this subdivision, including the number of such persons that may be supervised by a licensed psychologist. Persons who have carried out the duties described in this subdivision as part of their employment in institutions accredited by the Department of Health and Human Services, the State Department of Education, or the Department of Correctional Services for a period of two years prior to September 1, 1994, may use the title psychologist associate in the context of their employment in such settings. Use of the title shall be restricted to duties described in this subdivision, and the title shall be used in its entirety. Partial or abbreviated use of the title and use of the title beyond what is specifically authorized in this subdivision shall constitute the unlicensed practice of psychology.

Source: Laws 1994, LB 1210, § 87; Laws 1996, LB 1044, § 475; Laws 1999, LB 366, § 13; R.S.1943, (2003), § 71-1,206.25; Laws 2007, LB463, § 1047.

38-3114. Applicant for license; qualifications.

An applicant for licensure as a psychologist shall:

(1) Possess a doctoral degree from a program of graduate study in professional psychology from an institution of higher education. The degree shall be obtained from a program of graduate study in psychology that meets the standards of accreditation adopted by the American Psychological Association. Any applicant from a doctoral

program in psychology that does not meet such standards shall present a certificate of retraining from a program of respecialization that does meet such standards;

(2) Prior to taking the examination, demonstrate that he or she has completed two years of supervised professional experience. One year of such experience shall be an internship meeting the standards of accreditation adopted by the American Psychological Association, and one year shall be supervised postdoctoral experience. The criteria for appropriate supervision shall be determined by the board. Postdoctoral experience shall be compatible with the knowledge and skills acquired during formal doctoral or postdoctoral education in accordance with professional requirements and relevant to the intended area of practice; and

(3) Pass an examination. The board shall approve and the board or department shall administer examinations to qualified applicants on at least an annual basis. The board shall determine the subject matter and scope of the examination and shall require a written examination, an oral examination, or both a written examination and an oral examination of each candidate for licensure. The board may approve a national standardized examination and any examination developed by the board.

Source: Laws 1994, LB 1210, § 77; R.S.1943, (2003), § 71-1,206.15; Laws 2007, LB463, § 1048.

38-3115. Waiver of examination; when.

The department may waive all or portions of the examination required by section 38-3114 (1) if a psychologist has been licensed in another jurisdiction and if the requirements for licensure in that jurisdiction are equal to or exceed the requirements for licensure in Nebraska, (2) for psychologists meeting the requirements of section 38-3117, or (3) for an applicant who is board-certified in an area of professional psychology by the American Board of Professional Psychology.

Source: Laws 1994, LB 1210, § 78; R.S.1943, (2003), § 71-1,206.16; Laws 2007, LB463, § 1049.

38-3116. Special license; supervisory relationship; application; contents; use of title; disclosure.

(1) Any psychological practice that involves the diagnosis and treatment of major mental and emotional disorders by a person holding a special license shall be done under the supervision of a licensed psychologist as determined by the board. A psychologist holding a special license shall not supervise mental health practitioners or independently evaluate persons under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act.

(2) An application for a supervisory relationship shall be submitted to the department. The application shall contain:

- (a) A general description of the supervisee's practice and the plan of supervision;
- (b) A statement by the supervisor that he or she has the necessary experience and training to supervise this area of practice; and
- (c) A statement by the supervisor that he or she accepts the legal and professional responsibility for the supervisee's practice with individuals having major mental and emotional disorders.

(3) Psychologists practicing with special licenses may continue to use the title licensed psychologist but shall disclose supervisory relationships to clients or patients for whom supervision is required and to third-party payors when relevant. Psychologists who wish to continue supervisory relationships existing immediately prior to September 1, 1994, with qualified physicians may do so if a letter as described in this section as it existed prior to December 1, 2008, was received by the board within three months after September 1, 1994.

Source: Laws 1994, LB 1210, § 80; Laws 1995, LB 406, § 19; Laws 1996, LB 1044, § 474; Laws 2006, LB 1199, § 33; R.S.Supp.,2006, § 71-1,206.18; Laws 2007, LB296, § 358; Laws 2007, LB463, § 1050.

38-3117. Applicant with prior experience; issuance of license; conditions.

Notwithstanding section 38-3114, the department shall license an applicant who:

- (1) Has at least twenty years of licensure to practice psychology in a United States or Canadian jurisdiction when the license was based on a doctoral degree;
- (2) Has had no disciplinary sanction during the entire period of licensure; and
- (3) Has passed the Nebraska board-developed examination.

Source: Laws 1994, LB 1210, § 82; R.S.1943, (2003), § 71-1,206.20; Laws 2007, LB463, § 1051.

38-3118. Reciprocal license; conditions.

Notwithstanding section 38-3114, the department may issue a license as a psychologist to any individual who qualifies for such a license pursuant to an agreement of reciprocity entered into by the department, with the recommendation of the board, with the board or boards of another jurisdiction or multiple jurisdictions.

Source: Laws 1994, LB 1210, § 83; R.S.1943, (2003), § 71-1,206.21; Laws 2007, LB463, § 1052.

38-3119. Temporary practice permitted; when.

Nothing in the Psychology Practice Act shall be construed to prohibit the practice of psychology in this state by a person holding a doctoral degree in psychology from an

institution of higher education who is licensed as a psychologist under the laws of another jurisdiction if the requirements for a license in the other jurisdiction are equal to or exceed the requirements for licensure in Nebraska and if the person provides no more than an aggregate of thirty days of professional services as a psychologist per year as defined in the rules and regulations.

Psychologists practicing under this section shall notify the department of the nature and location of their practice and provide evidence of their licensure in another jurisdiction. Upon determination that the applicant has met the requirements of this section, the department shall issue a letter permitting the practice. An individual's permission to practice under this section may be revoked if it is determined by the department that he or she has engaged in conduct defined as illegal, unprofessional, or unethical under the statutes, rules, or regulations governing the practice of psychology in Nebraska.

Source: Laws 1994, LB 1210, § 84; R.S.1943, (2003), § 71-1,206.22; Laws 2007, LB463, § 1053.

38-3120. Temporary practice pending licensure permitted; when; military spouse; temporary license.

(1) A psychologist licensed under the laws of another jurisdiction may be authorized by the department to practice psychology for a maximum of one year if the psychologist has made application to the department for licensure and has met the educational and experience requirements for licensure in Nebraska, if the requirements for licensure in the former jurisdiction are equal to or exceed the requirements for licensure in Nebraska, and if the psychologist is not the subject of a past or pending disciplinary action in another jurisdiction. Denial of licensure shall terminate this authorization.

(2) An applicant for licensure as a psychologist who is a military spouse may apply for a temporary license as provided in section 38-129.01.

Source: Laws 1994, LB 1210, § 85; R.S.1943, (2003), § 71-1,206.23; Laws 2007, LB463, § 1054; Laws 2017, LB88, § 88.

38-3121. Reciprocity.

The department, with the recommendation of the board, may issue a license based on licensure in another jurisdiction to practice as a psychologist to a person who meets the requirements of the Psychology Practice Act or substantially equivalent requirements as determined by the department, with the recommendation of the board.

Source: Laws 2007, LB463, § 1055.

38-3122. Provisional license; requirements.

A person who needs to obtain the required one year of supervised postdoctoral experience in psychology pursuant to subdivision (2) of section 38-3114 shall obtain a provisional license to practice psychology. An applicant for a provisional license to practice psychology shall:

(1) Have a doctoral degree from an institution of higher education in a program of graduate study in professional psychology that meets the standards of accreditation adopted by the American Psychological Association or its equivalent. If the program is not accredited by the American Psychological Association, it is the responsibility of the applicant to provide evidence of equivalence. Any applicant from a program that does not meet such standards shall present a certificate of retraining from a program of respecialization that does meet such standards;

(2) Have completed one year of supervised professional experience in an internship as provided in subdivision (2) of section 38-3114;

(3) Apply prior to beginning the year of registered supervised postdoctoral experience; and

(4) Submit to the department:

(a) An official transcript showing proof of a doctoral degree in psychology from an institution of higher education;

(b) A certified copy of the applicant's birth certificate or other evidence of having attained the age of nineteen years; and

(c) A registration of supervisory relationship pursuant to section 38-3116.

Source: Laws 1999, LB 366, § 1; R.S.1943, (2003), § 71-1,206.32; Laws 2007, LB463, § 1056.

38-3123. Provisional license; approve or deny application.

The department shall approve or deny a complete application for a provisional license to practice psychology within one hundred fifty days after receipt of the application.

Source: Laws 1999, LB 366, § 2; R.S.1943, (2003), § 71-1,206.33; Laws 2007, LB463, § 1057.

38-3124. Provisional license; title; duties.

A psychologist practicing with a provisional license shall use the title Provisionally Licensed Psychologist. A provisionally licensed psychologist shall disclose supervisory relationships to clients or patients for whom supervision is required and to third parties when relevant. A provisionally licensed psychologist shall not supervise other

mental health professionals or independently evaluate persons under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act.

Source: Laws 1999, LB 366, § 3; Laws 2006, LB 1199, § 34; R.S.Supp.,2006, § 71-1,206.34; Laws 2007, LB463, § 1058.

38-3125. Provisional license; expiration.

A provisional license to practice psychology expires upon receipt of a license to practice psychology or two years after the date of issuance, whichever occurs first.

Source: Laws 1999, LB 366, § 4; R.S.1943, (2003), § 71-1,206.35; Laws 2007, LB463, § 1059.

38-3126. Fees.

The department shall establish and collect fees for credentialing under the Psychology Practice Act as provided in sections 38-151 to 38-157.

Source: Laws 2007, LB463, § 1060.

38-3127. Additional grounds for disciplinary action.

In addition to the grounds for disciplinary action found in sections 38-178 and 38-179, a credential subject to the Psychology Practice Act may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 38-196 when the applicant or licensee fails to disclose the information required by section 38-3124.

Source: Laws 2007, LB463, § 1061.

38-3128. Limitation of practice; board; duties.

The board shall ensure through rules and regulations and enforcement that psychologists limit their practice to demonstrated areas of competence as documented by relevant professional education, training, and experience.

Source: Laws 1994, LB 1210, § 86; R.S.1943, (2003), § 71-1,206.24; Laws 2007, LB463, § 1062.

38-3129. Code of conduct.

A psychologist and anyone under his or her supervision shall conduct his or her professional activities in conformity with the code of conduct.

Source: Laws 1994, LB 1210, § 88; R.S.1943, (2003), § 71-1,206.26; Laws 2007, LB463, § 1063.

38-3130. Representation as a psychologist; unlawful practice; violation; penalty.

(1) It shall be a violation of the Psychology Practice Act for any person not licensed in accordance with the act to represent himself or herself as a psychologist. It shall be a violation of the act for any person not licensed in accordance with the act to engage in the practice of psychology whether practicing as an individual, firm, partnership, limited liability company, corporation, agency, or other entity.

(2) Any person who represents himself or herself as a psychologist in violation of the act or who engages in the practice of psychology in violation of the act shall be guilty of a Class II misdemeanor. Each day of violation shall constitute a separate offense.

(3) Any person filing or attempting to file, as his or her own, a diploma or license of another or a forged affidavit of identification shall be guilty of a Class IV felony.

Source: Laws 1994, LB 1210, § 89; Laws 1999, LB 366, § 14; R.S.1943, (2003), § 71-1,206.27; Laws 2007, LB463, § 1064.

38-3131. Confidentiality; privilege; exceptions.

(1) The confidential relations and communications between psychologists and their clients and patients shall be on the same basis as those between physicians and their clients and patients as provided in section 27-504.

(2) In judicial proceedings, whether civil, criminal, or juvenile, in legislative and administrative proceedings, and in proceedings preliminary and ancillary thereto, a client or patient, or his or her legal guardian or personal representative, may refuse to disclose or may prevent the disclosure of confidential information, including information contained in administrative records, communicated to a psychologist, or to a person reasonably believed by the client or patient to be a psychologist, or the psychologist's or person's agents, for the purpose of diagnosis, evaluation, or treatment of any mental and emotional disorder. In the absence of evidence to the contrary, the psychologist shall be presumed to be authorized to claim the privilege on the client's or patient's behalf.

(3) This privilege may not be claimed by the client or patient, or on his or her behalf by authorized persons, in the following circumstances:

(a) When abuse or harmful neglect of children, the elderly, or disabled or incompetent individuals is known or reasonably suspected;

(b) When the validity of a will of a former client or patient of the psychologist is contested;

(c) When such information is necessary for the psychologist to defend against a malpractice action brought by the client or patient;

(d) When an immediate threat of physical violence against a readily identifiable victim is disclosed to the psychologist;

(e) When an immediate threat of self-inflicted injury is disclosed to the psychologist;

(f) When the client or patient, by alleging mental or emotional damages in litigation, puts his or her mental state in issue;

(g) When the client or patient is examined pursuant to court order;

(h) When the purpose of the proceeding is to substantiate and collect on a claim for mental or emotional health services rendered to the client or patient or any other cause of action arising out of the professional relationship; or

(i) In the context of investigations and hearings brought by the client or patient and conducted by the department, when violations of the Psychology Practice Act are at issue.

Source: Laws 1994, LB 1210, § 91; Laws 1999, LB 366, § 16; R.S.1943, (2003), § 71-1,206.29; Laws 2007, LB463, § 1065.

38-3132. Duty to warn; limitation; immunity.

(1) No monetary liability and no cause of action shall arise against any psychologist for failing to warn of and protect from a client's or patient's threatened violent behavior or failing to predict and warn of and protect from a client's or patient's violent behavior except when the client or patient has communicated to the psychologist a serious threat of physical violence against a reasonably identifiable victim or victims.

(2) The duty to warn of or to take reasonable precautions to provide protection from violent behavior shall arise only under the limited circumstances specified in subsection (1) of this section. The duty shall be discharged by the psychologist if reasonable efforts are made to communicate the threat to the victim or victims and to a law enforcement agency.

(3) No monetary liability and no cause of action shall arise against any person who is a psychologist for a confidence disclosed to third parties in an effort to discharge a duty arising under subsection (1) of this section in accordance with subsection (2) of this section.

Source: Laws 1994, LB 1210, § 92; R.S.1943, (2003), § 71-1,206.30; Laws 2007, LB463, § 1066.

THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT (PSYPACT)

38-3901. Psychology Interjurisdictional Compact.

The State of Nebraska adopts the Psychology Interjurisdictional Compact substantially as follows:

ARTICLE I

PURPOSE

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

The Psychology Interjurisdictional Compact is intended to regulate the day-to-day practice of telepsychology, 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.

The 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.

The 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.

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

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

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

Consistent with these principles, the 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 which the psychologist is not licensed to practice psychology;
2. Enhance the states' ability to protect the public's health and safety, especially client or 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.

ARTICLE II

DEFINITIONS

- A. 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.
- B. Association of State and Provincial Psychology Boards 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.
- C. Authority to practice interjurisdictional telepsychology means a licensed psychologist's authority to practice telepsychology, within the limits authorized under the Psychology Interjurisdictional Compact, in another compact state.
- D. Bylaws means those bylaws established by the Commission pursuant to Article X for its governance, or for directing and controlling its actions and conduct.
- E. Client or patient means the recipient of psychological services, whether psychological services are delivered in the context of healthcare, corporate, supervision, and/or consulting services.
- F. Commission means the Psychology Interjurisdictional Compact Commission which is the national administration of which all compact states are members.
- G. Commissioner means the voting representative appointed by each state psychology regulatory authority pursuant to Article X.
- H. Compact state means a state, the District of Columbia, or a United States territory that has enacted the Compact and which has not withdrawn pursuant to Article XIII, subsection C or been terminated pursuant to Article XII, subsection B.
- I. Coordinated Licensure Information System 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.

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

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

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

M. E.Passport means a certificate issued by the Association of State and Provincial Psychology Boards 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.

N. 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.

O. 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 telepsychology 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.

P. 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.

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

R. Interjurisdictional Practice Certificate means a certificate issued by the Association of State and Provincial Psychology Boards 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.

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

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

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

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

W. Rule means a written statement by the Commission promulgated pursuant to Article XI 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.

X. Significant investigatory information means:

1. 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 state statute or ethics code that would be considered more substantial than minor infraction; or

2. 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.

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

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

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

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

CC. Temporary in-person, face-to-face practice means the practice of psychology in which a psychologist is physically present, not through using 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.

ARTICLE III

HOME STATE LICENSURE

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 the Psychology Interjurisdictional 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 the Psychology Interjurisdictional 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 the 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 of the Compact, 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, 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 Interjurisdictional Practice Certificate;
2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;
3. Notifies the Commission, in compliance with the terms of the Compact, 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, 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.

ARTICLE IV

COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

A. Compact states shall recognize the right of a psychologist, licensed in a compact state in conformance with Article III, 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 Psychology Interjurisdictional Compact.

B. To exercise the authority to practice interjurisdictional telepsychology under the terms and provisions of the 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 United States 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 subdivision 1a of this subsection by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services 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 doctoral degrees and a minimum of one academic year of full-time graduate study for master's degrees;
 - 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 into a receiving state under the authority to practice interjurisdictional telepsychology will be subject to the receiving state's authority and laws. 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 therefor the psychologist shall not be eligible to practice telepsychology in a compact state under the authority to practice interjurisdictional telepsychology.

ARTICLE V

COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

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

B. To exercise the temporary authorization to practice under the terms and provisions of the 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 United States 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 subdivision 1a of this subsection by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services 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 doctoral degrees and a minimum of one academic year of full-time graduate study for master's degrees;

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

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

6. Possess a current, active Interjurisdictional Practice Certificate;

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 into 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 into 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 shall promptly 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 Interjurisdictional Practice Certificate shall be revoked and therefor the psychologist shall not be eligible to practice in a compact state under the temporary authorization to practice.

ARTICLE VI

CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

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 or patient contact in a home state via telecommunications technologies with a client or patient in a receiving state;
2. Other conditions regarding telepsychology as determined by rules promulgated by the Commission.

ARTICLE VII

ADVERSE ACTIONS

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. 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 Interjurisdictional Practice Certificate is revoked.

1. 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.
2. 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.
3. Other actions may be imposed as determined by the rules promulgated by the Commission.

D. A home state's state 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 state psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under temporary authorization 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 the Psychology Interjurisdictional 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 of this Article.

ARTICLE VIII

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

In addition to any other powers granted under state law, a compact state's state psychology regulatory authority shall have the authority under the Psychology Interjurisdictional 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 state psychology regulatory authority for the attendance and testimony of witnesses, or the production of evidence 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 fees, and other fees required by the service statutes of the state where the witnesses or evidence 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.
3. During the course of any investigation, a psychologist may not change his or her home state licensure. A home state's 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's 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 the investigation, the psychologist may change his or 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.

ARTICLE IX

COORDINATED LICENSURE INFORMATION SYSTEM

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 or individuals to whom the Psychology Interjurisdictional 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 or temporary authorization to practice 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 the Compact, as determined by the rules of the Commission.

C. The Coordinated Database administrator shall promptly 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.

ARTICLE X

ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION

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

1. The Commission is a body politic and an instrumentality of the compact states.
2. 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.
3. Nothing in the Psychology Interjurisdictional Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

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 the state's 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 Article XI.

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 Article, 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 or rules 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, reserving, or both of all of its debts and obligations;
8. The Commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the compact states;
9. The Commission shall maintain its financial records in accordance with the bylaws; and
10. The Commission shall meet and take such actions as are consistent with the provisions of the Compact and the bylaws.

D. The Commission shall have the following powers:

1. The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of the Compact. The rules 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 to 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 the 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 the Compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice, and telepsychology practice.

E. The Executive Board

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 the Compact.

1. 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.

2. 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.

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

4. The Executive Board shall meet at least annually.

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

a. Recommend to the entire Commission changes to the rules or bylaws, changes to the Compact, 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. Financing of the Commission

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 on 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. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees, and representatives of the Commission shall have no greater 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, than a state employee would have under the same or similar circumstances; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful 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 in this paragraph 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 willful 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 willful or wanton misconduct of that person.

ARTICLE XI

RULEMAKING

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article 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 Psychology Interjurisdictional 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 web site of the Commission; and
2. On the web site of each compact state's state 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. 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.

1. 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.

2. 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.

3. 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.

4. Nothing in this Article 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 Article.

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 paragraph, 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 web site 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.

ARTICLE XII

OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of state government in each compact state shall enforce the Psychology Interjurisdictional Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The Compact and the rules promulgated under the Compact 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 the 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, the Compact, or promulgated rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a compact state has defaulted in the performance of its obligations or responsibilities under the 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, or 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 the 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 or the Speaker if no such leaders exist, 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 United States District Court for the State of Georgia 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. Dispute Resolution

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. Enforcement

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

2. By majority vote, the Commission may initiate legal action in the United States District Court for the State of Georgia 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 in this Article shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

ARTICLE XIII

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

A. The Psychology Interjurisdictional 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. Any compact state may withdraw from this Compact by enacting a statute repealing the same.

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

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

D. Nothing contained in the 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 Compact.

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

ARTICLE XIV

CONSTRUCTION AND SEVERABILITY

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

Source: Laws 2018, LB1034, § 70.