

1 A bill to be entitled
2 An act relating to the Psychology Interjurisdictional
3 Compact; creating s. 490.0075, F.S.; creating the
4 Psychology Interjurisdictional Compact; providing
5 purposes and objectives; defining terms; providing for
6 recognition of psychologist licenses in compact
7 states; authorizing a compact state to require
8 licensure under certain circumstances; requiring
9 compact states to meet certain criteria to participate
10 in the compact; providing criteria that a psychologist
11 must satisfy to practice under the compact;
12 maintaining that authority over a psychologist's
13 license remains with the home state but authorizing
14 receiving states to define the scope of and act on a
15 psychologist's authority to practice in the compact
16 state under the compact; prohibiting a psychologist
17 from practicing under the compact if his or her
18 authority to do so has been acted on by any compact
19 state; requiring compact states to report adverse
20 actions they take against psychologists to the
21 Psychology Interjurisdictional Compact Commission;
22 requiring compact states to participate in a
23 coordinated licensure information system; providing
24 for the development of the system, reporting
25 procedures, and the exchange of certain information

26 | between compact states; establishing the Psychology
27 | Interjurisdictional Compact Commission; providing for
28 | the jurisdiction and venue for court proceedings;
29 | providing membership, duties, and powers; authorizing
30 | the commission to adopt rules; providing rulemaking
31 | procedures; providing for state enforcement of the
32 | compact; providing for the termination of compact
33 | membership; providing procedures for the resolution of
34 | certain disputes; providing compact amendment
35 | procedures; authorizing nonparty states to participate
36 | in commission activities before adoption of the
37 | compact; providing construction and severability;
38 | amending s. 456.073, F.S.; requiring the Department of
39 | Health to report certain investigative information to
40 | the coordinated licensure information system; amending
41 | s. 456.076, F.S.; requiring monitoring contracts for
42 | impaired practitioners participating in treatment
43 | programs to contain certain terms; amending s.
44 | 490.004, F.S.; requiring the Board of Psychology to
45 | appoint an individual to serve as the state's
46 | commissioner on the Psychology Interjurisdictional
47 | Compact Commission; amending s. 490.005, F.S.;
48 | exempting certain persons from licensure requirements;
49 | amending s. 490.006, F.S.; exempting certain persons
50 | from requirements for licensure by endorsement;

51 amending s. 490.009, F.S.; authorizing certain
52 disciplinary action under the compact for certain
53 prohibited acts; amending s. 768.28, F.S.; designating
54 the state commissioner and other members or employees
55 of the commission as state agents for the purpose of
56 applying sovereign immunity and waivers of sovereign
57 immunity; requiring the commission to pay certain
58 judgments or claims; authorizing the commission to
59 maintain insurance coverage to pay such judgments or
60 claims; providing an effective date.

61
62 WHEREAS, states license psychologists to protect the public
63 through verification of education, training, and experience and
64 to ensure accountability for professional practice, and

65 WHEREAS, this compact is intended to regulate the day-to-
66 day practice of telepsychology, or the provision of
67 psychological services using telecommunication technologies, by
68 psychologists across state boundaries in the performance of
69 their psychological practice as defined by an appropriate state
70 psychology regulatory authority, and

71 WHEREAS, this compact is intended to regulate the temporary
72 in-person, face-to-face practice of psychology by psychologists
73 across state boundaries for up to 30 days within a calendar year
74 in the performance of their psychological practice as defined by
75 an appropriate state psychology regulatory authority, and

76 WHEREAS, this compact is intended to authorize state
 77 psychology regulatory authorities to afford legal recognition,
 78 in a manner consistent with the terms of the compact, to
 79 psychologists licensed in another state, and

80 WHEREAS, this compact recognizes that states have a vested
 81 interest in protecting the public's health and safety through
 82 their licensing and regulation of psychologists and that such
 83 state regulation will best protect public health and safety, and

84 WHEREAS, this compact does not apply when a psychologist is
 85 licensed in both the home and receiving states, and

86 WHEREAS, while this compact does not apply to permanent in-
 87 person, face-to-face practice, it does allow for authorization
 88 of temporary psychological practice, NOW, THEREFORE,

89

90 Be It Enacted by the Legislature of the State of Florida:

91

92 Section 1. Section 490.0075, Florida Statutes, is created
 93 to read:

94 490.0075 Psychology Interjurisdictional Compact.—The
 95 Psychology Interjurisdictional Compact is hereby enacted and
 96 entered into by this state with all other jurisdictions legally
 97 joining therein in the form substantially as follows:

98

99 PSYCHOLOGY INTERJURISDICTIONAL COMPACT

100

ARTICLE I

PURPOSE

This compact is designed to achieve the following purposes and objectives:

(1) Increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services in a state where 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 psychologist 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 the practice of psychology 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

As used in this compact, the term:

(1) "Adverse action" means any disciplinary action that is

126 a matter of public record which is taken by a state's psychology
127 regulatory authority against an individual's license to practice
128 psychology in that state.

129 (2) "Association of State and Provincial Psychology
130 Boards" means the membership organization composed of state and
131 provincial psychology regulatory authorities that are
132 responsible for the licensure and registration of psychologists
133 throughout the United States and Canada.

134 (3) "Authority to practice interjurisdictional
135 telepsychology" means a licensed psychologist's authority to
136 practice telepsychology, within the limits authorized under this
137 compact, in a compact state other than the one in which he or
138 she is licensed.

139 (4) "Bylaws" means those rules established by the
140 Psychology Interjurisdictional Compact Commission pursuant to
141 Article X for its governance, or for directing and controlling
142 its actions and conduct.

143 (5) "Client or patient" means the recipient of
144 psychological services, whether psychological services are
145 delivered in the context of health care, corporate, supervision,
146 or consulting services.

147 (6) "Commissioner" means the voting representative
148 appointed by each state psychology regulatory authority pursuant
149 to article X.

150 (7) "Compact state" means a state, the District of

151 Columbia, or a United States territory that has enacted this
152 compact legislation and that has not withdrawn pursuant to
153 subsection (3) of article XIII or been terminated pursuant to
154 subsection (2) of article XII.

155 (8) "Confidentiality" means the principle that data or
156 information is not made available or disclosed to unauthorized
157 persons or processes.

158 (9) "Coordinated licensure information system," also
159 referred to as "coordinated database," means an integrated
160 process that is administered by the Association of State and
161 Provincial Psychology Boards for collecting, storing, and
162 sharing information on psychologists' licensure and enforcement
163 activities related to psychology licensure laws and the
164 Psychology Interjurisdictional Compact.

165 (10) "Day" means any part of a day in which the
166 psychologist practices psychology.

167 (11) "Distant state" means the compact state where a
168 psychologist is physically present, not through the use of
169 telecommunication technologies, to provide temporary in-person,
170 face-to-face psychological services.

171 (12) "E-passport" means a certificate issued by the
172 Association of State and Provincial Psychology Boards which
173 allows a licensed psychologist to provide telepsychological
174 services across state lines.

175 (13) "Executive board" means a group of directors elected

176 or appointed to act on behalf of, and within the powers granted
177 to them by, the commission.

178 (14) "Home state" means a compact state where a
179 psychologist is licensed to practice psychology, as provided in
180 article III.

181 (15) "Identity history summary" means a summary of
182 information retained by the Federal Bureau of Investigation, or
183 other designee with similar authority, in connection with
184 arrests and, in some instances, federal employment or military
185 service.

186 (16) "In-person, face-to-face" means interactions in which
187 the psychologist and the client or patient are in the same
188 physical space and does not include interactions that may occur
189 through the use of telecommunication technologies.

190 (17) "Interjurisdictional Practice Certificate (IPC)"
191 means the certificate issued by the Association of State and
192 Provincial Psychology Boards which grants temporary authority to
193 practice based on notification to the state psychology
194 regulatory authority of one's intention to practice temporarily,
195 and verification of one's qualifications for such practice.

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

199 (19) "Noncompact state" means a state that is not a
200 compact state.

201 (20) "Psychologist" means an individual who is licensed by
 202 a state psychology regulatory authority to independently
 203 practice psychology in that state.

204 (21) "Psychology Interjurisdictional Compact Commission,"
 205 also referred to as "commission," means the national
 206 administration of which all compact states are members.

207 (22) "Receiving state" means a compact state where the
 208 client or patient is physically located when the
 209 telepsychological services are delivered.

210 (23) "Rule" means a written statement by the Psychology
 211 Interjurisdictional Compact Commission promulgated pursuant to
 212 article XI of the compact which is of general applicability;
 213 implements, interprets, or prescribes a policy or provision of
 214 the compact; or is an organizational, procedural, or practice
 215 requirement of the commission; and has the force and effect of
 216 statutory law in a compact state, and includes the amendment,
 217 repeal, or suspension of an existing rule.

218 (24) "Significant investigatory information" means:

219 (a) Investigative information that a state psychology
 220 regulatory authority, after a preliminary inquiry that includes
 221 notification and an opportunity to respond if required by state
 222 law, has reason to believe, if proven true, would indicate a
 223 violation of state statute or rule that would be considered more
 224 substantial than a minor infraction; or

225 (b) Investigative information that indicates that the

226 psychologist represents an immediate threat to public health and
 227 safety regardless of whether the psychologist has been notified
 228 or had an opportunity to respond.

229 (25) "State" means a state, commonwealth, territory, or
 230 possession of the United States, or the District of Columbia.

231 (26) "State psychology regulatory authority" means the
 232 board, office, or other agency with the legislative mandate to
 233 license and regulate the practice of psychology in that state.

234 (27) "Telepsychology" means the provision of psychological
 235 services using telecommunication technologies.

236 (28) "Temporary authorization to practice" means a
 237 licensed psychologist's authority to conduct temporary in-
 238 person, face-to-face practice, within the limits authorized
 239 under this compact, in another compact state.

240 (29) "Temporary in-person, face-to-face practice" means
 241 when a psychologist is physically present, not through the use
 242 of telecommunication technologies, in the distant state to
 243 provide psychological services for up to 30 days within a
 244 calendar year and based on notification to the distant state.

245

246 ARTICLE III

247 HOME STATE LICENSURE

248 (1) The home state is a compact state where a psychologist
 249 is licensed to practice psychology.

250 (2) A psychologist may hold one or more compact state

251 licenses at a time. If the psychologist is licensed in more than
252 one compact state, the home state is the compact state where the
253 psychologist is physically present when the services are
254 delivered as authorized by the authority to practice
255 interjurisdictional telepsychology under the terms of this
256 compact.

257 (3) A compact state may require a psychologist who is not
258 previously licensed in a compact state to obtain and retain a
259 license to be authorized to practice in the compact state under
260 circumstances that are not authorized by the authority to
261 practice interjurisdictional telepsychology under the terms of
262 this compact.

263 (4) A compact state may require a psychologist to obtain
264 and retain a license to be authorized to practice in a compact
265 state under circumstances that are not authorized by a temporary
266 authorization to practice under the terms of this compact.

267 (5) A home state's license authorizes a psychologist to
268 practice in a receiving state under the authority to practice
269 interjurisdictional telepsychology only if the compact state:

270 (a) Currently requires the psychologist to hold an active
271 e-passport;

272 (b) Has a mechanism in place for receiving and
273 investigating complaints about licensed individuals;

274 (c) Notifies the commission, in compliance with the terms
275 herein, of any adverse action or significant investigatory

276 information regarding a licensed individual;
277 (d) Requires an identity history summary of all applicants
278 at initial licensure, including the use of the results of
279 fingerprints or other biometric data checks compliant with the
280 requirements of the Federal Bureau of Investigation, or other
281 designee with similar authority, no later than 10 years after
282 activation of the compact; and
283 (e) Complies with the bylaws and rules of the commission.
284 (6) A home state's license grants a psychologist temporary
285 authorization to practice in a distant state only if the compact
286 state:
287 (a) Currently requires the psychologist to hold an active
288 IPC;
289 (b) Has a mechanism in place for receiving and
290 investigating complaints about licensed individuals;
291 (c) Notifies the commission, in compliance with the terms
292 herein, of any adverse action or significant investigatory
293 information regarding a licensed individual;
294 (d) Requires an identity history summary of all applicants
295 at initial licensure, including the use of the results of
296 fingerprints or other biometric data checks compliant with the
297 requirements of the Federal Bureau of Investigation, or other
298 designee with similar authority, no later than 10 years after
299 activation of the compact; and
300 (e) Complies with the bylaws and rules of the commission.

ARTICLE IV

COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

(1) 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, or receiving states, in which the psychologist is not licensed, under the authority to practice interjurisdictional telepsychology as provided in the compact.

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

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

1. 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

2. A foreign college or university deemed to be equivalent to subparagraph 1. 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;

326 (b) Hold a graduate degree in psychology which meets the
327 following criteria:

328 1. The program, wherever it may be administratively
329 housed, is clearly identified and labeled as a psychology
330 program. Such program must specify in pertinent institutional
331 catalogs and brochures its intent to educate and train
332 professional psychologists;

333 2. The psychology program stands as a recognizable and
334 coherent organizational entity within the institution;

335 3. There is a clear authority and primary responsibility
336 for the core and specialty areas regardless of whether the
337 program overlaps across administrative lines;

338 4. The program consists of an integrated, organized
339 sequence of study;

340 5. There is an identifiable psychology faculty sufficient
341 in size and breadth to carry out its responsibilities;

342 6. The designated director of the program is a
343 psychologist and a member of the core faculty;

344 7. The program has an identifiable body of students who
345 are matriculated in that program for a degree;

346 8. The program includes supervised practicum, internship,
347 or field training appropriate to the practice of psychology;

348 9. The curriculum encompasses a minimum of 3 academic
349 years of full-time graduate study for doctoral degrees and a
350 minimum of 1 academic year of full-time graduate study for

351 master's degrees; and

352 10. The program includes an acceptable residency as
353 defined by the rules of the commission;

354 (c) Possess a current, full, and unrestricted license to
355 practice psychology in a home state that is a compact state;

356 (d) Have no history of adverse actions that violate the
357 rules of the commission;

358 (e) Have no criminal history reported on an identity
359 history summary which violates the rules of the commission;

360 (f) Possess a current, active e-passport;

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

368 (h) Meet other criteria as defined by the rules of the
369 commission.

370 (3) The home state maintains authority over the license of
371 any psychologist practicing in a receiving state under the
372 authority to practice interjurisdictional telepsychology.

373 (4) A psychologist practicing in a receiving state under
374 the authority to practice interjurisdictional telepsychology
375 will be subject to the receiving state's scope of practice. A

376 receiving state may, in accordance with that state's due process
377 law, limit or revoke a psychologist's authority to practice
378 interjurisdictional telepsychology in the receiving state and
379 may take any other necessary actions under the receiving state's
380 applicable law to protect the health and safety of the receiving
381 state's citizens. If a receiving state takes action, the state
382 shall promptly notify the home state and the commission.

383 (5) If a psychologist's license in any home state or
384 another compact state or any authority to practice
385 interjurisdictional telepsychology in any receiving state is
386 restricted, suspended, or otherwise limited, the e-passport must
387 be revoked and the psychologist is not eligible to practice
388 telepsychology in a compact state under the authority to
389 practice interjurisdictional telepsychology.

390
391 ARTICLE V

392 COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

393 (1) Compact states shall recognize the right of a
394 psychologist licensed in a compact state in conformance with
395 article III to practice temporarily in other compact states, or
396 distant states, in which the psychologist is not licensed, as
397 provided in the compact.

398 (2) To exercise the temporary authorization to practice in
399 distant states under the terms and provisions of this compact, a
400 psychologist licensed to practice in a compact state must:

401 (a) Hold a graduate degree in psychology from an
 402 institution of higher education that was, at the time the degree
 403 was awarded:

404 1. Regionally accredited by an accrediting body recognized
 405 by the U.S. Department of Education to grant graduate degrees,
 406 or authorized by Provincial Statute or Royal Charter to grant
 407 doctoral degrees; or

408 2. A foreign college or university deemed to be equivalent
 409 to subparagraph 1. above by a foreign credential evaluation
 410 service that is a member of the National Association of
 411 Credential Evaluation Services or by a recognized foreign
 412 credential evaluation service;

413 (b) Hold a graduate degree in psychology that meets the
 414 following criteria:

415 1. The program, wherever it may be administratively
 416 housed, is clearly identified and labeled as a psychology
 417 program. Such program must specify in pertinent institutional
 418 catalogs and brochures its intent to educate and train
 419 professional psychologists;

420 2. The psychology program stands as a recognizable and
 421 coherent organizational entity within the institution;

422 3. There is a clear authority and primary responsibility
 423 for the core and specialty areas regardless of whether the
 424 program overlaps across administrative lines;

425 4. The program consists of an integrated, organized

426 sequence of study;

427 5. There is an identifiable psychology faculty sufficient
428 in size and breadth to carry out its responsibilities;

429 6. The designated director of the program is a
430 psychologist and a member of the core faculty;

431 7. The program has an identifiable body of students who
432 are matriculated in that program for a degree;

433 8. The program includes supervised practicum, internship,
434 or field training appropriate to the practice of psychology;

435 9. The curriculum encompasses a minimum of 3 academic
436 years of full-time graduate study for doctoral degrees and a
437 minimum of 1 academic year of full-time graduate study for
438 master's degrees; and

439 10. The program includes an acceptable residency as
440 defined by the rules of the commission;

441 (c) Possess a current, full, and unrestricted license to
442 practice psychology in a home state that is a compact state;

443 (d) Have no history of adverse actions that violate the
444 rules of the commission;

445 (e) Have no criminal history that violates the rules of
446 the commission;

447 (f) Possess a current, active IPC;

448 (g) Provide attestations in regard to areas of intended
449 practice and work experience, and provide a release of
450 information to allow for primary source verification in a manner

451 specified by the commission; and

452 (h) Meet other criteria as defined by the rules of the
453 commission.

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

457 (4) A psychologist practicing in a distant state under a
458 temporary authorization to practice will be subject to the
459 distant state's authority and law. A distant state may, in
460 accordance with that state's due process law, limit or revoke a
461 psychologist's temporary authorization to practice in the
462 distant state and may take any other necessary actions under the
463 distant state's applicable law to protect the health and safety
464 of the distant state's citizens. If a distant state takes
465 action, the state shall promptly notify the home state and the
466 commission.

467 (5) If a psychologist's license in any home state or
468 another compact state or temporary authorization to practice in
469 any distant state is restricted, suspended, or otherwise
470 limited, the IPC shall be revoked and the psychologist is not
471 eligible to practice in a compact state under the temporary
472 authorization to practice.

473
474 ARTICLE VI

475 CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

476 A psychologist may practice in a receiving state under the
 477 authority to practice interjurisdictional telepsychology only in
 478 the performance of the scope of practice for psychology as
 479 defined by an appropriate state psychology regulatory authority,
 480 as defined in the rules of the commission, and under the
 481 following circumstances:

482 (1) The psychologist initiates a client or patient contact
 483 in a home state via telecommunication technologies with a client
 484 or patient in a receiving state; and

485 (2) Other conditions regarding telepsychology as
 486 determined by rules promulgated by the commission.

487

488 ARTICLE VII

489 ADVERSE ACTIONS

490 (1) A home state may take adverse action against a
 491 psychologist's license issued by the home state. A distant state
 492 shall have the power to take adverse action on a psychologist's
 493 temporary authorization to practice within that distant state.

494 (2) A receiving state may take adverse action on a
 495 psychologist's authority to practice interjurisdictional
 496 telepsychology within that receiving state. A home state may
 497 take adverse action against a psychologist based on an adverse
 498 action taken by a distant state regarding temporary in-person,
 499 face-to-face practice.

500 (3) If a home state takes adverse action against a

501 psychologist's license, that psychologist's authority to
502 practice interjurisdictional telepsychology is terminated and
503 the e-passport is revoked. Furthermore, that psychologist's
504 temporary authorization to practice is terminated and the IPC is
505 revoked.

506 (a) All home state disciplinary orders that take adverse
507 action shall be reported to the commission in accordance with
508 the rules promulgated by the commission. A compact state shall
509 report adverse actions in accordance with the rules of the
510 commission.

511 (b) In the event that discipline is reported on a
512 psychologist, the psychologist will not be eligible for
513 telepsychology or temporary in-person, face-to-face practice in
514 accordance with the rules of the commission.

515 (c) Other actions may be imposed as determined by the
516 rules promulgated by the commission.

517 (4) A home state's psychology regulatory authority shall
518 investigate and take appropriate action with respect to reported
519 inappropriate conduct engaged in by a licensee which occurred in
520 a receiving state in the same manner as it would if such conduct
521 had occurred by a licensee within the home state. In such cases,
522 the home state's law shall control in determining any adverse
523 action against a psychologist's license.

524 (5) A distant state's psychology regulatory authority
525 shall investigate and take appropriate action with respect to

526 reported inappropriate conduct engaged in by a psychologist
527 practicing under temporary authorization to practice which
528 occurred in that distant state in the same manner as it would if
529 such conduct had occurred by a licensee within the home state.
530 In such cases, the distant state's law shall control in
531 determining any adverse action against a psychologist's
532 temporary authorization to practice.

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

543 (7) Other judicial or administrative remedies will not be
544 available to a psychologist in the event a compact state takes
545 adverse action pursuant to subsection (3).

547 ARTICLE VIII

548 ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S PSYCHOLOGY

549 REGULATORY AUTHORITY

550 (1) In addition to any other powers granted under state

551 law, a compact state's psychology regulatory authority shall
552 have the authority under this compact to:

553 (a) Issue subpoenas, for both hearings and investigations,
554 which require the attendance and testimony of witnesses and the
555 production of evidence. Subpoenas issued by a compact state's
556 psychology regulatory authority for the attendance and testimony
557 of witnesses, or the production of evidence from another compact
558 state, shall be enforced in the latter state by any court of
559 competent jurisdiction, according to that court's practice and
560 procedure in considering subpoenas issued in its own
561 proceedings. The issuing state psychology regulatory authority
562 shall pay any witness fees, travel expenses, mileage, and other
563 fees required by the service statutes of the state where the
564 witnesses or evidence are located; and

565 (b) Issue cease and desist or injunctive relief orders to
566 revoke a psychologist's authority to practice
567 interjurisdictional telepsychology or temporary authorization to
568 practice.

569 (2) During the course of any investigation, a psychologist
570 may not change his or her home state licensure. A home state
571 psychology regulatory authority is authorized to complete any
572 pending investigations of a psychologist and to take any actions
573 appropriate under its law. The home state psychology regulatory
574 authority shall promptly report the conclusions of such
575 investigations to the commission. Once an investigation has been

576 completed, and pending the outcome of such investigation, the
577 psychologist may change his or her home state licensure. The
578 commission shall promptly notify the new home state of any such
579 decisions as provided in the rules of the commission. All
580 information provided to the commission or distributed by compact
581 states related to the psychologist shall be confidential, filed
582 under seal, and used for investigatory or disciplinary matters.
583 The commission may create additional rules for mandated or
584 discretionary sharing of information by compact states.

585

586 ARTICLE IX

587 COORDINATED LICENSURE INFORMATION SYSTEM

588 (1) The commission shall provide for the development and
589 maintenance of a Coordinated Licensure Information System and a
590 reporting system containing licensure and disciplinary action
591 information on all psychologists to whom this compact is
592 applicable in all compact states as defined by the rules of the
593 commission.

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

- 598 (a) Identifying information;
599 (b) Licensure data;
600 (c) Significant investigatory information;

601 (d) Adverse actions against a psychologist's license;

602 (e) An indicator that a psychologist's authority to
603 practice interjurisdictional telepsychology or temporary
604 authorization to practice is revoked;

605 (f) Nonconfidential information related to alternative
606 program participation information;

607 (g) Any denial of application for licensure, and the
608 reasons for such denial; and

609 (h) Other information that may facilitate the
610 administration of this compact, as determined by the rules of
611 the commission.

612 (3) The coordinated database administrator shall promptly
613 notify all compact states of any adverse action taken against,
614 or significant investigatory information on, any licensee in a
615 compact state.

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

620 (5) Any information submitted to the coordinated database
621 which is subsequently required to be expunged by the law of the
622 compact state reporting the information shall be removed from
623 the coordinated database.

624

625

ARTICLE X

ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT
COMMISSION

(1) COMMISSION CREATED.—The compact states hereby create
and establish a joint public agency known as the Psychology
Interjurisdictional Compact Commission.

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

(b) 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 that it adopts or consents
to participate in alternative dispute resolution proceedings.

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

(2) MEMBERSHIP, VOTING, AND MEETINGS.—

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

1. The executive director, the executive secretary, or a
similar executive of the compact state's psychology regulatory
authority;

651 2. A current member of the state psychology regulatory
652 authority of a compact state; or

653 3. A designee empowered with the appropriate delegate
654 authority to act on behalf of the compact state.

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

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

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

670 (e) All meetings shall be open to the public, and public
671 notice of meetings shall be given in the same manner as required
672 under the rulemaking provisions in article XI.

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

675 1. Noncompliance of a compact state with its obligations

HB 953

2022

676 under the compact;
677 2. Employment, compensation, or discipline of or other
678 personnel matters, practices, or procedures related to specific
679 employees, or other matters related to the commission's internal
680 personnel practices and procedures;
681 3. Current, threatened, or reasonably anticipated
682 litigation against the commission;
683 4. Negotiation of contracts for the purchase or sale of
684 goods, services, or real estate;
685 5. An accusation of any person of a crime or a formal
686 censure of any person;
687 6. Information disclosing trade secrets or commercial or
688 financial information which is privileged or confidential;
689 7. Information of a personal nature where disclosure would
690 constitute a clearly unwarranted invasion of personal privacy;
691 8. Investigatory records compiled for law enforcement
692 purposes;
693 9. Information related to any investigatory reports
694 prepared by or on behalf of or for use of the commission or
695 other committee charged with responsibility for investigation or
696 determination of compliance issues pursuant to the compact; or
697 10. Matters specifically exempted from disclosure by
698 federal or state statute.
699 (g) If a meeting, or portion of a meeting, is closed
700 pursuant to this subsection, the commission's legal counsel or

701 designee shall certify that the meeting may be closed and shall
702 reference each relevant exempting provision. The commission
703 shall keep minutes that fully and clearly describe all matters
704 discussed in a meeting and shall provide a full and accurate
705 summary of actions taken, of any person participating in the
706 meeting, and the reasons therefor, including a description of
707 the views expressed. All documents considered in connection with
708 an action shall be identified in such minutes. All minutes and
709 documents of a closed meeting shall remain under seal, subject
710 to release only by a majority vote of the commission or order of
711 a court of competent jurisdiction.

712 (3) BYLAWS.—

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

718 1. Establishing the fiscal year of the commission;

719 2. Providing reasonable standards and procedures:

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

721 and

722 b. Governing any general or specific delegation of any
723 authority or function of the commission;

724 3. Providing reasonable procedures for calling and
725 conducting meetings of the commission, ensuring reasonable

726 advance notice of all meetings, and providing an opportunity for
727 attendance of such meetings by interested parties, with
728 enumerated exceptions designed to protect the public's interest,
729 the privacy of individuals involved in such proceedings, and
730 proprietary information, including trade secrets. The commission
731 may meet in closed session only after a majority of the
732 commissioners vote to close a meeting to the public in whole or
733 in part. As soon as practicable, the commission must make public
734 a copy of the vote to close the meeting which reveals the vote
735 of each commissioner with no proxy votes allowed;

736 4. Establishing the titles, duties and authority, and
737 reasonable procedures for the election of the officers of the
738 commission;

739 5. Providing reasonable standards and procedures for the
740 establishment of the personnel policies and programs of the
741 commission. Notwithstanding any civil service or other similar
742 law of any compact state, the bylaws shall exclusively govern
743 the personnel policies and programs of the commission;

744 6. Promulgating a code of ethics to address permissible
745 and prohibited activities of commission members and employees;
746 and

747 7. Providing a mechanism for concluding the operations of
748 the commission and the equitable disposition of any surplus
749 funds that may exist after the termination of the compact after
750 the payment or reserving of all of its debts and obligations.

751 (b) The commission shall publish its bylaws in a
752 convenient form and file a copy thereof, and a copy of any
753 amendment thereto, with the appropriate agency or officer in
754 each of the compact states.

755 (c) The commission shall maintain its financial records in
756 accordance with the bylaws.

757 (d) The commission shall meet and take such actions as are
758 consistent with the provisions of this compact and the bylaws.

759 (4) POWERS.—The commission has the power to:

760 (a) Promulgate uniform rules to facilitate and coordinate
761 implementation and administration of this compact. The rules
762 shall have the force and effect of law and shall be binding in
763 all compact states;

764 (b) Bring and prosecute legal proceedings or actions in
765 the name of the commission, provided that the standing of any
766 state psychology regulatory authority or other regulatory body
767 responsible for psychology licensure to sue or be sued under
768 applicable law is not affected;

769 (c) Purchase and maintain insurance and bonds;

770 (d) Borrow, accept, or contract for services of personnel,
771 including, but not limited to, employees of a compact state;

772 (e) Hire employees, elect or appoint officers, fix
773 compensation, define duties, grant such individuals appropriate
774 authority to carry out the purposes of the compact, and
775 establish the commission's personnel policies and programs

776 relating to conflicts of interest, qualifications of personnel,
777 and other related personnel matters;

778 (f) Accept any and all appropriate donations and grants of
779 money, equipment, supplies, materials and services, and to
780 receive, utilize and dispose of the same; provided that at all
781 times the commission shall strive to avoid any appearance of
782 impropriety or conflict of interest;

783 (g) Lease, purchase, accept appropriate gifts or donations
784 of, or otherwise to own, hold, improve, or use, any property,
785 real, personal, or mixed; provided that at all times the
786 commission shall strive to avoid any appearance of impropriety
787 or conflict of interest;

788 (h) Sell, convey, mortgage, pledge, lease, exchange,
789 abandon, or otherwise dispose of any property, real, personal,
790 or mixed;

791 (i) Establish a budget and make expenditures;

792 (j) Borrow money;

793 (k) Appoint committees, including advisory committees
794 consisting of commission members, state regulators, state
795 legislators or their representatives, and consumer
796 representatives, and such other interested persons as may be
797 designated in this compact and the bylaws;

798 (l) Provide and receive information from, and to cooperate
799 with, law enforcement agencies;

800 (m) Adopt and use an official seal; and

801 (n) Perform such other functions as may be necessary or
 802 appropriate to achieve the purposes of this compact consistent
 803 with the state regulation of psychology licensure, temporary in-
 804 person, face-to-face practice, and telepsychology practice.

805 (5) EXECUTIVE BOARD.-

806 (a) The executive board shall have the power to act on
 807 behalf of the commission according to the terms of this compact,
 808 and shall consist of the following six members:

809 1. Five voting members who are elected from the current
 810 membership of the commission by the commission; and

811 2. One ex-officio, nonvoting member from the Association
 812 of State and Provincial Psychology Boards.

813 (b) The ex-officio member must have served as staff for or
 814 a member of a state psychology regulatory authority and shall be
 815 selected by its respective organization.

816 (c) The commission may remove any member of the executive
 817 board as provided in its bylaws.

818 (d) The executive board shall meet at least annually.

819 (e) The executive board shall have the following duties
 820 and responsibilities:

821 1. Recommend to the entire commission changes to the rules
 822 or bylaws, this compact legislation, or fees paid by compact
 823 states, such as annual dues, and other applicable fees;

824 2. Ensure compact administration services are
 825 appropriately provided, contractual or otherwise;

- 826 3. Prepare and recommend the budget;
- 827 4. Maintain financial records on behalf of the commission;
- 828 5. Monitor compact compliance of member states and provide
 829 compliance reports to the commission;
- 830 6. Establish additional committees as necessary; and
- 831 7. Other duties as provided in rules or bylaws.
- 832 (6) FINANCING.—
- 833 (a) The commission shall pay, or provide for the payment
 834 of, the reasonable expenses of its establishment, organization,
 835 and ongoing activities.
- 836 (b) The commission may accept any and all appropriate
 837 revenue sources, donations, and grants of money, equipment,
 838 supplies, materials, and services.
- 839 (c) The commission may levy and collect an annual
 840 assessment from each compact state or impose fees on other
 841 parties to cover the cost of the operations and activities of
 842 the commission and its staff which must be in a total amount
 843 sufficient to cover its annual budget as approved each year for
 844 which revenue is not provided by other sources. The aggregate
 845 annual assessment amount shall be allocated based upon a formula
 846 to be determined by the commission, which shall promulgate a
 847 rule binding upon all compact states.
- 848 (d) The commission may not incur obligations of any kind
 849 before securing the funds adequate to meet the same; nor shall
 850 the commission pledge the credit of any of the compact states,

851 except by and with the authority of the compact state.

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

860 (7) QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.—

861 (a) The members, officers, executive director, employees,
862 and representatives of the commission shall be immune from suit
863 and liability, either personally or in their official capacity,
864 for any claim for damage to or loss of property or personal
865 injury or other civil liability caused by or arising out of any
866 actual or alleged act, error, or omission that occurred, or that
867 the person against whom the claim is made had a reasonable basis
868 for believing occurred, within the scope of commission
869 employment, duties, or responsibilities; provided that nothing
870 in this paragraph shall be construed to protect any such person
871 from suit or liability for any damage, loss, injury, or
872 liability caused by the intentional or willful or wanton
873 misconduct of that person.

874 (b) The commission shall defend any member, officer,
875 executive director, employee, or representative of the

876 commission in any civil action seeking to impose liability
 877 arising out of any actual or alleged act, error, or omission
 878 that occurred within the scope of commission employment, duties,
 879 or responsibilities, or that the person against whom the claim
 880 is made had a reasonable basis for believing occurred within the
 881 scope of commission employment, duties, or responsibilities;
 882 provided that nothing herein may be construed to prohibit that
 883 person from retaining his or her own counsel; and provided
 884 further, that the actual or alleged act, error, or omission did
 885 not result from that person's intentional or willful or wanton
 886 misconduct.

887 (c) The commission shall indemnify and hold harmless any
 888 member, officer, executive director, employee, or representative
 889 of the commission for the amount of any settlement or judgment
 890 obtained against that person arising out of any actual or
 891 alleged act, error, or omission that occurred within the scope
 892 of commission employment, duties, or responsibilities, or that
 893 such person had a reasonable basis for believing occurred within
 894 the scope of commission employment, duties, or responsibilities;
 895 provided that the actual or alleged act, error, or omission did
 896 not result from the intentional or willful or wanton misconduct
 897 of that person.

898
 899 ARTICLE XI
 900 RULEMAKING

901 (1) The commission shall exercise its rulemaking powers
902 pursuant to the criteria set forth in this article and the rules
903 adopted thereunder. Rules and amendments become binding as of
904 the date specified in each rule or amendment.

905 (2) If a majority of the legislatures of the compact
906 states reject a rule by enactment of a statute or resolution in
907 the same manner used to adopt the compact, such rule shall have
908 no further force and effect in any compact state.

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

911 (4) Before promulgation and adoption of a final rule or
912 rules by the commission, and at least 60 days in advance of the
913 meeting at which the rule will be considered and voted upon, the
914 commission shall file a notice of proposed rulemaking:

915 (a) On the website of the commission; and

916 (b) On the website of each compact state's psychology
917 regulatory authority or the publication in which each state
918 would otherwise publish proposed rules.

919 (5) The notice of proposed rulemaking shall include:

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

922 (b) The text of the proposed rule or amendment and the
923 reason for the proposed rule;

924 (c) A request for comments on the proposed rule from any
925 interested person; and

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

929 (6) Before adoption of a proposed rule, the commission
930 shall allow persons to submit written data, facts, opinions, and
931 arguments, which shall be made available to the public.

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

935 (a) At least 25 individuals who submit comments
936 independently of each other;

937 (b) A governmental subdivision or agency; or

938 (c) A duly appointed person in an association that has at
939 least 25 members.

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

943 (a) All individuals wishing to be heard at the hearing
944 shall notify the executive director of the commission or other
945 designated member in writing of their desire to appear and
946 testify at the hearing at least 5 business days before the
947 scheduled date of the hearing.

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

951 (c) A transcript of the hearing is not required, unless a
952 written request for a transcript is made, in which case the
953 person requesting the transcript shall bear the cost of
954 producing the transcript. A recording may be made in lieu of a
955 transcript under the same terms and conditions as a transcript.
956 This subsection does not preclude the commission from making a
957 transcript or recording of the hearing if it so chooses.

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

962 (9) If a written notice of intent to attend the public
963 hearing by interested parties is not received, the commission
964 may proceed with promulgation of the proposed rule without a
965 public hearing.

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

970 (11) The commission shall, by majority vote of all
971 members, take final action on the proposed rule and shall
972 determine the effective date of the rule based on the rulemaking
973 record and the full text of the rule.

974 (12) Upon determination that an emergency exists, the
975 commission may consider and adopt an emergency rule without

HB 953

2022

976 prior notice, opportunity for comment, or hearing, provided that
977 the usual rulemaking procedures provided in the compact and in
978 this section shall be retroactively applied to the rule as soon
979 as reasonably possible, but no later than 90 days after the
980 effective date of the rule. For the purposes of this subsection,
981 an emergency rule is one that must be adopted immediately in
982 order to:

983 (a) Meet an imminent threat to public health, safety, or
984 welfare;

985 (b) Prevent a loss of commission or compact state funds;

986 (c) Meet a deadline for the promulgation of an
987 administrative rule that is established by federal law or rule;
988 or

989 (d) Protect public health and safety.

990 (13) The commission or an authorized committee of the
991 commission may direct revisions to a previously adopted rule or
992 amendment for purposes of correcting typographical errors,
993 errors in format, errors in consistency, or grammatical errors.
994 Public notice of any revisions shall be posted on the website of
995 the commission. The revision shall be subject to challenge by
996 any person for a period of 30 days after posting. The revision
997 may be challenged only on grounds that the revision results in a
998 material change to a rule. A challenge shall be made in writing
999 and delivered to the chair of the commission before the end of
1000 the notice period. If a challenge is not made, the revision will

1001 take effect without further action. If the revision is
 1002 challenged, the revision may not take effect without the
 1003 approval of the commission.

1005 ARTICLE XII

1006 OVERSIGHT; DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION;
 1007 DISPUTE RESOLUTION; AND ENFORCEMENT

1008 (1) OVERSIGHT.—

1009 (a) The executive, legislative, and judicial branches of
 1010 state government in each compact state shall enforce this
 1011 compact and take all actions necessary and appropriate to
 1012 effectuate the compact's purposes and intent. The provisions of
 1013 this compact and the rules promulgated hereunder shall have
 1014 standing as statutory law.

1015 (b) All courts shall take judicial notice of the compact
 1016 and the rules in any judicial or administrative proceeding in a
 1017 compact state pertaining to the subject matter of this compact
 1018 which may affect the powers, responsibilities, or actions of the
 1019 commission.

1020 (c) The commission shall be entitled to receive service of
 1021 process in any such proceeding, and shall have standing to
 1022 intervene in such a proceeding for all purposes. Failure to
 1023 provide service of process to the commission shall render a
 1024 judgment or order void as to the commission, this compact, or
 1025 promulgated rules.

1026 (2) DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION.—
 1027 (a) If the commission determines that a compact state has
 1028 defaulted in the performance of its obligations or
 1029 responsibilities under this compact or the promulgated rules,
 1030 the commission shall:
 1031 1. Provide written notice to the defaulting state and
 1032 other compact states of the nature of the default, the proposed
 1033 means of remedying the default, and any other action to be taken
 1034 by the commission; and
 1035 2. Provide remedial training and specific technical
 1036 assistance regarding the default.
 1037 (b) If a state in default fails to remedy the default, the
 1038 defaulting state may be terminated from the compact upon an
 1039 affirmative vote of a majority of the compact states, and all
 1040 rights, privileges, and benefits conferred by this compact shall
 1041 be terminated on the effective date of termination. A remedy of
 1042 the default does not relieve the offending state of obligations
 1043 or liabilities incurred during the period of default.
 1044 (c) Termination of membership in the compact shall be
 1045 imposed only after all other means of securing compliance have
 1046 been exhausted. The commission shall submit a notice of intent
 1047 to suspend or terminate a defaulting compact state to the
 1048 state's governor, the majority and minority leaders of the
 1049 state's legislature, and each of the compact states.
 1050 (d) A compact state that has been terminated is

HB 953

2022

1051 responsible for all assessments, obligations, and liabilities
1052 incurred through the effective date of termination, including
1053 obligations that extend beyond the effective date of
1054 termination.

1055 (e) The commission may not bear any costs incurred by the
1056 state that is found to be in default or has been terminated from
1057 the compact, unless agreed upon in writing between the
1058 commission and the defaulting state.

1059 (f) The defaulting state may appeal the action of the
1060 commission by petitioning the United States District Court for
1061 the state of Georgia or the federal district where the compact
1062 has its principal offices. The prevailing party shall be awarded
1063 all costs of such litigation, including reasonable attorney
1064 fees.

1065 (3) DISPUTE RESOLUTION.—

1066 (a) Upon request by a compact state, the commission shall
1067 attempt to resolve disputes related to the compact which arise
1068 among compact states and between compact and noncompact states.

1069 (b) The commission shall promulgate a rule providing for
1070 both mediation and binding dispute resolution for disputes that
1071 arise before the commission.

1072 (4) ENFORCEMENT.—

1073 (a) The commission, in the reasonable exercise of its
1074 discretion, shall enforce the provisions and rules of this
1075 compact.

1101 commission's initial adoption of the rules shall be subject to
1102 the rules as they exist on the date on which the compact becomes
1103 law in that state. Any rule that has been previously adopted by
1104 the commission shall have the full force and effect of law on
1105 the day the compact becomes law in that state.

1106 (3) Any compact state may withdraw from this compact by
1107 enacting a statute repealing the same.

1108 (a) A compact state's withdrawal does not take effect
1109 until 6 months after enactment of the repealing statute.

1110 (b) Withdrawal does not affect the continuing requirement
1111 of the withdrawing state's psychology regulatory authority to
1112 comply with the investigative and adverse action reporting
1113 requirements of this act before the effective date of
1114 withdrawal.

1115 (4) Nothing contained in this compact shall be construed
1116 to invalidate or prevent any psychology licensure agreement or
1117 other cooperative arrangement between a compact state and a
1118 noncompact state which does not conflict with the provisions of
1119 this compact.

1120 (5) This compact may be amended by the compact states. An
1121 amendment to this compact will not become effective and binding
1122 upon any compact state until it is enacted into the law of all
1123 compact states.

1124
1125 ARTICLE XIV

CONSTRUCTION AND SEVERABILITY

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

Section 2. Subsection (10) of section 456.073, Florida Statutes, is amended to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(10) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first. The department shall report any significant investigation information relating to a nurse holding a multistate license to the coordinated licensure information system pursuant to s. 464.0095, and any significant investigatory information relating to a psychologist practicing under the Psychology Interjurisdictional Compact to the coordinated licensure information system pursuant to s. 490.0075. Upon completion of the investigation and a

1151 recommendation by the department to find probable cause, and
1152 pursuant to a written request by the subject or the subject's
1153 attorney, the department shall provide the subject an
1154 opportunity to inspect the investigative file or, at the
1155 subject's expense, forward to the subject a copy of the
1156 investigative file. Notwithstanding s. 456.057, the subject may
1157 inspect or receive a copy of any expert witness report or
1158 patient record connected with the investigation if the subject
1159 agrees in writing to maintain the confidentiality of any
1160 information received under this subsection until 10 days after
1161 probable cause is found and to maintain the confidentiality of
1162 patient records pursuant to s. 456.057. The subject may file a
1163 written response to the information contained in the
1164 investigative file. Such response must be filed within 20 days
1165 of mailing by the department, unless an extension of time has
1166 been granted by the department. This subsection does not
1167 prohibit the department from providing such information to any
1168 law enforcement agency or to any other regulatory agency.

1169 Section 3. Subsection (5) of section 456.076, Florida
1170 Statutes, is amended to read:

1171 456.076 Impaired practitioner programs.—

1172 (5) A consultant shall enter into a participant contract
1173 with an impaired practitioner and shall establish the terms of
1174 monitoring and shall include the terms in a participant
1175 contract. In establishing the terms of monitoring, the

HB 953

2022

1176 consultant may consider the recommendations of one or more
1177 approved evaluators, treatment programs, or treatment providers.
1178 A consultant may modify the terms of monitoring if the
1179 consultant concludes, through the course of monitoring, that
1180 extended, additional, or amended terms of monitoring are
1181 required for the protection of the health, safety, and welfare
1182 of the public. If the impaired practitioner is a psychologist
1183 practicing under the Psychology Interjurisdictional Compact
1184 pursuant to s. 490.0075, the terms of the monitoring contract
1185 must include the impaired practitioner's withdrawal from all
1186 practice under the compact.

1187 Section 4. Subsection (7) is added to section 490.004,
1188 Florida Statutes, to read:

1189 490.004 Board of Psychology.—

1190 (7) The board shall appoint an individual to serve as the
1191 state's commissioner on the Psychology Interjurisdictional
1192 Compact Commission, as required under s. 490.0075.

1193 Section 5. Subsection (4) is added to section 490.005,
1194 Florida Statutes, to read:

1195 490.005 Licensure by examination.—

1196 (4) A person licensed as a psychologist in another state
1197 who is practicing pursuant to the Psychology Interjurisdictional
1198 Compact under s. 490.0075, and only within the scope provided
1199 therein, is exempt from the licensure requirements of this
1200 section.

1201 Section 6. Subsection (4) is added to section 490.006,
 1202 Florida Statutes, to read:

1203 490.006 Licensure by endorsement.—

1204 (4) A person licensed as a psychologist in another state
 1205 who is practicing pursuant to the Psychology Interjurisdictional
 1206 Compact under s. 490.0075, and only within the scope provided
 1207 therein, is exempt from the licensure requirements of this
 1208 section.

1209 Section 7. Section 490.009, Florida Statutes, is amended
 1210 to read:

1211 490.009 Discipline.—

1212 (1) The following acts constitute grounds for denial of a
 1213 license or disciplinary action, as specified in s. 456.072(2) or
 1214 s. 490.0075:

1215 (a) Attempting to obtain, obtaining, or renewing a license
 1216 under this chapter by bribery or fraudulent misrepresentation or
 1217 through an error of the board or department.

1218 (b) Having a license to practice a comparable profession
 1219 revoked, suspended, or otherwise acted against, including the
 1220 denial of certification or licensure by another state,
 1221 territory, or country.

1222 (c) Being convicted or found guilty, regardless of
 1223 adjudication, of a crime in any jurisdiction which directly
 1224 relates to the practice of his or her profession or the ability
 1225 to practice his or her profession. A plea of nolo contendere

1226 creates a rebuttable presumption of guilt of the underlying
1227 criminal charges. However, the board shall allow the person who
1228 is the subject of the disciplinary proceeding to present any
1229 evidence relevant to the underlying charges and circumstances
1230 surrounding the plea.

1231 (d) False, deceptive, or misleading advertising or
1232 obtaining a fee or other thing of value on the representation
1233 that beneficial results from any treatment will be guaranteed.

1234 (e) Advertising, practicing, or attempting to practice
1235 under a name other than one's own.

1236 (f) Maintaining a professional association with any person
1237 who the applicant or licensee knows, or has reason to believe,
1238 is in violation of this chapter or of a rule of the department
1239 or, in the case of psychologists, of the department or the
1240 board.

1241 (g) Knowingly aiding, assisting, procuring, or advising
1242 any nonlicensed person to hold himself or herself out as
1243 licensed under this chapter.

1244 (h) Failing to perform any statutory or legal obligation
1245 placed upon a person licensed under this chapter.

1246 (i) Willfully making or filing a false report or record;
1247 failing to file a report or record required by state or federal
1248 law; willfully impeding or obstructing the filing of a report or
1249 record; or inducing another person to make or file a false
1250 report or record or to impede or obstruct the filing of a report

1251 or record. Such report or record includes only a report or
 1252 record which requires the signature of a person licensed under
 1253 this chapter.

1254 (j) Paying a kickback, rebate, bonus, or other
 1255 remuneration for receiving a patient or client, or receiving a
 1256 kickback, rebate, bonus, or other remuneration for referring a
 1257 patient or client to another provider of mental health care
 1258 services or to a provider of health care services or goods;
 1259 referring a patient or client to oneself for services on a fee-
 1260 paid basis when those services are already being paid for by
 1261 some other public or private entity; or entering into a
 1262 reciprocal referral agreement.

1263 (k) Committing any act upon a patient or client which
 1264 would constitute sexual battery or which would constitute sexual
 1265 misconduct as defined in s. 490.0111.

1266 (l) Making misleading, deceptive, untrue, or fraudulent
 1267 representations in the practice of any profession licensed under
 1268 this chapter.

1269 (m) Soliciting patients or clients personally, or through
 1270 an agent, through the use of fraud, intimidation, undue
 1271 influence, or a form of overreaching or vexatious conduct.

1272 (n) Failing to make available to a patient or client, upon
 1273 written request, copies of test results, reports, or documents
 1274 in the possession or under the control of the licensee which
 1275 have been prepared for and paid for by the patient or client.

1276 (o) Failing to respond within 30 days to a written
1277 communication from the department concerning any investigation
1278 by the department or to make available any relevant records with
1279 respect to any investigation about the licensee's conduct or
1280 background.

1281 (p) Being unable to practice the profession for which he
1282 or she is licensed under this chapter with reasonable skill or
1283 competence as a result of any mental or physical condition or by
1284 reason of illness; drunkenness; or excessive use of drugs,
1285 narcotics, chemicals, or any other substance. In enforcing this
1286 paragraph, upon a finding by the State Surgeon General, the
1287 State Surgeon General's designee, or the board that probable
1288 cause exists to believe that the licensee is unable to practice
1289 the profession because of the reasons stated in this paragraph,
1290 the department shall have the authority to compel a licensee to
1291 submit to a mental or physical examination by psychologists or
1292 physicians designated by the department or board. If the
1293 licensee refuses to comply with the department's order, the
1294 department may file a petition for enforcement in the circuit
1295 court of the circuit in which the licensee resides or does
1296 business. The licensee may ~~shall~~ not be named or identified by
1297 initials in the petition or in any other public court records or
1298 documents, and the enforcement proceedings shall be closed to
1299 the public. The department shall be entitled to the summary
1300 procedure provided in s. 51.011. A licensee affected under this

1301 paragraph shall be afforded an opportunity at reasonable
 1302 intervals to demonstrate that he or she can resume the competent
 1303 practice for which he or she is licensed with reasonable skill
 1304 and safety to patients.

1305 (q) Performing any treatment or prescribing any therapy
 1306 which, by the prevailing standards of the mental health
 1307 professions in the community, would constitute experimentation
 1308 on human subjects, without first obtaining full, informed, and
 1309 written consent.

1310 (r) Failing to meet the minimum standards of performance
 1311 in professional activities when measured against generally
 1312 prevailing peer performance, including the undertaking of
 1313 activities for which the licensee is not qualified by training
 1314 or experience.

1315 (s) Delegating professional responsibilities to a person
 1316 whom the licensee knows or has reason to know is not qualified
 1317 by training or experience to perform such responsibilities.

1318 (t) Violating a rule relating to the regulation of the
 1319 profession or a lawful order of the department previously
 1320 entered in a disciplinary hearing.

1321 (u) Failing to maintain in confidence a communication made
 1322 by a patient or client in the context of such services, except
 1323 as provided in s. 490.0147.

1324 (v) Making public statements which are derived from test
 1325 data, client contacts, or behavioral research and which identify

1326 or damage research subjects or clients.

1327 (w) Violating any provision of this chapter or chapter
1328 456, or any rules adopted pursuant thereto.

1329 (2)(a) The department, or in the case of psychologists,
1330 the board, may enter an order denying licensure or imposing any
1331 of the penalties in s. 456.072(2) against any applicant for
1332 licensure or licensee who is found guilty of violating any
1333 provision of subsection (1) of this section or who is found
1334 guilty of violating any provision of s. 456.072(1).

1335 (b) The board may take adverse action against a
1336 psychologist's authority to practice interjurisdictional
1337 telepsychology or his or her temporary authorization to practice
1338 under the Psychology Interjurisdictional Compact pursuant to s.
1339 490.0075, and may impose any of the penalties in s. 456.072(2)
1340 if a psychologist commits an act specified in subsection (1) or
1341 s. 456.072(1).

1342 Section 8. Paragraph (h) is added to subsection (10) of
1343 section 768.28, Florida Statutes, to read:

1344 768.28 Waiver of sovereign immunity in tort actions;
1345 recovery limits; civil liability for damages caused during a
1346 riot; limitation on attorney fees; statute of limitations;
1347 exclusions; indemnification; risk management programs.—

1348 (10)

1349 (h) For purposes of this section, the individual appointed
1350 under s. 490.004(7) as the state's commissioner on the

HB 953

2022

1351 Psychology Interjurisdictional Compact Commission, when serving
1352 in that capacity pursuant to s. 490.0075, and any administrator,
1353 officer, executive director, employee, or representative of the
1354 Psychology Interjurisdictional Compact Commission, when acting
1355 within the scope of his or her employment, duties, or
1356 responsibilities in this state, is considered an agent of the
1357 state. The commission shall pay any claims or judgments pursuant
1358 to this section and may maintain insurance coverage to pay any
1359 such claims or judgments.

1360 Section 9. This act shall take effect July 1, 2022.