

Sixty-sixth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1343**

Introduced by

Representatives Jones, Holman, K. Koppelman, J. Nelson

Senators Clemens, Hogan, Kannianen, O. Larsen, Rust

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

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

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

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

7 This interjurisdictional compact for psychology is entered with all jurisdictions legally joining  
8 the compact in the form substantially as follows:

9 **ARTICLE I - PURPOSE**

10 Whereas, states license psychologists, in order to protect the public through verification of  
11 education, training, and experience and ensure accountability for professional practice; and

12 Whereas, this compact is intended to regulate the day to day practice of telepsychology, the  
13 provision of psychological services using telecommunication technologies, by psychologists  
14 across state boundaries in the performance of their psychological practice as assigned by an  
15 appropriate authority; and

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

20 Whereas, this compact is intended to authorize state psychology regulatory authorities to  
21 afford legal recognition, in a manner consistent with the terms of the compact, to psychologists  
22 licensed in another state;

1 Whereas, this compact recognizes that states have a vested interest in protecting the  
2 public's health and safety through their licensing and regulation of psychologists and state  
3 regulation will best protect public health and safety;

4 Whereas, this compact does not apply when a psychologist is licensed in both the home  
5 and receiving states; and

6 Whereas, this compact does not apply to permanent in-person, face-to-face practice, it  
7 does allow for authorization of temporary psychological practice.

8 Consistent with these principles, this compact is designed to achieve the following purposes  
9 and objectives:

- 10 1. Increase public access to professional psychological services by allowing for  
11 telepsychological practice across state lines as well as temporary in-person,  
12 face-to-face services into a state which the psychologist is not licensed to practice  
13 psychology;
- 14 2. Enhance the states' ability to protect the public's health and safety, especially client or  
15 patient safety;
- 16 3. Encourage the cooperation of compact states in the areas of psychology licensure and  
17 regulation;
- 18 4. Facilitate the exchange of information between compact states regarding psychologist  
19 licensure, adverse actions, and disciplinary history;
- 20 5. Promote compliance with the laws governing psychological practice in each compact  
21 state; and
- 22 6. Invest all compact states with the authority to hold licensed psychologists accountable  
23 through the mutual recognition of compact state licenses.

## 24 **ARTICLE II - DEFINITIONS**

- 25 1. "Adverse action" means any action taken by a state psychology regulatory authority  
26 which finds a violation of a statute or regulation identified by the state psychology  
27 regulatory authority as discipline and is a matter of public record.
- 28 2. "Association of state and provincial psychology boards" means the recognized  
29 membership organization composed of state and provincial psychology regulatory  
30 authorities responsible for the licensure and registration of psychologists throughout  
31 the United States and Canada.

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

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

1 the force and effect of statutory law in a compact state, and includes the amendment,  
2 repeal, or suspension of an existing rule.

3 24. "Significant investigatory information" means:

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

9 b. Investigative information that indicates the psychologist represents an immediate  
10 threat to public health and safety regardless of whether the psychologist has  
11 been notified or had an opportunity to respond.

12 25. "State" means a state, commonwealth, territory, or possession of the United States,  
13 and the District of Columbia.

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

16 27. "Telepsychology" means the provision of psychological services using  
17 telecommunication technologies.

18 28. "Temporary authorization to practice" means a licensed psychologist's authority to  
19 conduct temporary in-person, face-to-face practice, within the limits authorized under  
20 this compact, in another compact state.

21 29. "Temporary in-person, face-to-face practice" means where a psychologist is physically  
22 present, not through the use of telecommunications technologies, in the distant state  
23 to provide for the practice of psychology for thirty days within a calendar year and  
24 based on notification to the distant state.

### 25 **ARTICLE III - HOME STATE LICENSURE**

26 1. The home state is the compact state where a psychologist is licensed to practice  
27 psychology.

28 2. A psychologist may hold one or more compact state licenses at a time. If the  
29 psychologist is licensed in more than one compact state, the home state is the  
30 compact state where the psychologist is physically present when the services are

1 delivered as authorized by the authority to practice interjurisdictional telepsychology  
2 under the terms of this compact.

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

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

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

12 a. Currently requires the psychologist to hold an active E.Passport;

13 b. Has a mechanism in place for receiving and investigating complaints about  
14 licensed individuals;

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

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

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

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

25 a. Currently requires the psychologist to hold an active interjurisdictional practice  
26 certificate;

27 b. Has a mechanism in place for receiving and investigating complaints about  
28 licensed individuals;

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

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

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

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

8           1. Compact states shall recognize the right of a psychologist, licensed in a compact state  
9           in conformance with article III, to practice telepsychology in other compact states,  
10           receiving states, in which the psychologist is not licensed, under the authority to  
11           practice interjurisdictional telepsychology as provided in the compact.

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

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

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

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

24           b. Hold a graduate degree in psychology which meets the following criteria:

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

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

- 1           (3) There must be a clear authority and primary responsibility for the core and
- 2           specialty areas whether or not the program cuts across administrative lines;
- 3           (4) The program must consist of an integrated, organized sequence of study;
- 4           (5) There must be an identifiable psychology faculty sufficient in size and
- 5           breadth to carry out its responsibilities;
- 6           (6) The designated director of the program must be a psychologist and a
- 7           member of the core faculty;
- 8           (7) The program must have an identifiable body of students who are
- 9           matriculated in that program for a degree;
- 10          (8) The program must include supervised practicum, internship, or field training
- 11          appropriate to the practice of psychology;
- 12          (9) The curriculum must encompass a minimum of three academic years of
- 13          full-time graduate study for doctoral degree and a minimum of one
- 14          academic year of full-time graduate study for master's degree;
- 15          (10) The program includes an acceptable residency as defined by the rules of
- 16          the commission.
- 17          c. Possess a current, full and unrestricted license to practice psychology in a home
- 18          state which is a compact state;
- 19          d. Have no history of adverse action that violate the rules of the commission;
- 20          e. Have no criminal record history reported on an identity history summary that
- 21          violates the rules of the commission;
- 22          f. Possess a current, active E.Passport;
- 23          g. Provide attestations in regard to areas of intended practice, conformity with
- 24          standards of practice, competence in telepsychology technology; criminal
- 25          background; and knowledge and adherence to legal requirements in the home
- 26          and receiving states, and provide a release of information to allow for primary
- 27          source verification in a manner specified by the commission; and
- 28          h. Meet other criteria as defined by the rules of the commission.
- 29          3. The home state maintains authority over the license of any psychologist practicing into
- 30          a receiving state under the authority to practice interjurisdictional telepsychology.

1       4. A psychologist practicing in a receiving state under the authority to practice  
2       interjurisdictional telepsychology is subject to the receiving state's scope of practice. A  
3       receiving state may, in accordance with that state's due process law, limit or revoke a  
4       psychologist's authority to practice interjurisdictional telepsychology in the receiving  
5       state and may take any other necessary actions under the receiving state's applicable  
6       law to protect the health and safety of the receiving state's citizens. If a receiving state  
7       takes action, the state shall promptly notify the home state and the commission.

8       5. If a psychologist's license in any home state, another compact state, or any authority  
9       to practice interjurisdictional telepsychology in any receiving state is restricted,  
10       suspended, or otherwise limited, the E.Passport must be revoked and therefore the  
11       psychologist is not eligible to practice telepsychology in a compact state under the  
12       authority to practice interjurisdictional telepsychology.

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

14       1. Compact states also shall recognize the right of a psychologist, licensed in a compact  
15       state in conformance with article III, to practice temporarily in other compact states,  
16       distant states, in which the psychologist is not licensed, as provided in the compact.

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

19       a. Hold a graduate degree in psychology from an institute of higher education which  
20       was, at the time the degree was awarded:

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

24           (2) A foreign college or university deemed to be equivalent to paragraph 1  
25           above by a foreign credential evaluation service that is a member of the  
26           national association of credential evaluation services or by a recognized  
27           foreign credential evaluation service; and

28       b. Hold a graduate degree in psychology which meets the following criteria:

29           (1) The program, wherever it may be administratively housed, must be  
30           identified clearly and labeled as a psychology program. Such a program

- 1                   must specify in pertinent institutional catalogs and brochures its intent to
- 2                   educate and train professional psychologists;
- 3                   (2) The psychology program must stand as a recognizable, coherent,
- 4                   organizational entity within the institution;
- 5                   (3) There must be a clear authority and primary responsibility for the core and
- 6                   specialty areas whether or not the program cuts across administrative lines;
- 7                   (4) The program must consist of an integrated, organized sequence of study;
- 8                   (5) There must be an identifiable psychology faculty sufficient in size and
- 9                   breadth to carry out its responsibilities;
- 10                  (6) The designated director of the program must be a psychologist and a
- 11                  member of the core faculty;
- 12                  (7) The program must have an identifiable body of students who are
- 13                  matriculated in that program for a degree;
- 14                  (8) The program must include supervised practicum, internship, or field training
- 15                  appropriate to the practice of psychology;
- 16                  (9) The curriculum must encompass a minimum of three academic years of
- 17                  full-time graduate study for doctoral degrees and a minimum of one
- 18                  academic year of full-time graduate study for master's degree;
- 19                  (10) The program includes an acceptable residency as defined by the rules of
- 20                  the commission.
- 21                  c. Possess a current, full and unrestricted license to practice psychology in a home
- 22                  state that is a compact state;
- 23                  d. No history of adverse action that violate the rules of the commission;
- 24                  e. No criminal record history that violates the rules of the commission;
- 25                  f. Possess a current, active interjurisdictional practice certificate;
- 26                  g. Provide attestations in regard to areas of intended practice and work experience
- 27                  and provide a release of information to allow for primary source verification in a
- 28                  manner specified by the commission; and
- 29                  h. Meet other criteria as defined by the rules of the commission.
- 30                  3. A psychologist practicing into a distant state under the temporary authorization to
- 31                  practice shall practice within the scope of practice authorized by the distant state.

- 1       4. A psychologist practicing into a distant state under the temporary authorization to  
2       practice will be subject to the distant state's authority and law. A distant state may, in  
3       accordance with that state's due process law, limit or revoke a psychologist's  
4       temporary authorization to practice in the distant state and may take any other  
5       necessary actions under the distant state's applicable law to protect the health and  
6       safety of the distant state's citizens. If a distant state takes action, the state shall  
7       promptly notify the home state and the commission.
- 8       5. If a psychologist's license in any home state, another compact state, or any temporary  
9       authorization to practice in any distant state, is restricted, suspended or otherwise  
10      limited, the interjurisdictional practice certificate must be revoked and therefore the  
11      psychologist is not eligible to practice in a compact state under the temporary  
12      authorization to practice.

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

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

- 18      1. The psychologist initiates a client or patient contact in a home state via  
19      telecommunications technologies with a client or patient in a receiving state;
- 20      2. Other conditions regarding telepsychology as determined by rules promulgated by the  
21      commission.

22                      **ARTICLE VII - ADVERSE ACTIONS**

- 23      1. A home state shall have the power to impose adverse action against a psychologist's  
24      license issued by the home state. A distant state shall have the power to take adverse  
25      action on a psychologist's temporary authorization to practice within that distant state.
- 26      2. A receiving state may take adverse action on a psychologist's authority to practice  
27      interjurisdictional telepsychology within that receiving state. A home state may take  
28      adverse action against a psychologist based on an adverse action taken by a distant  
29      state regarding temporary in-person, face-to-face practice.
- 30      3. If a home state takes adverse action against a psychologist's license, that  
31      psychologist's authority to practice interjurisdictional telepsychology is terminated and

the E.Passport is revoked. Furthermore, the psychologist's temporary authorization to practice is terminated and the interjurisdictional practice certificate is revoked.

a. All home state disciplinary orders that 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.

b. 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.

c. Other actions may be imposed as determined by the rules promulgated by the commission.

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

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

6. Nothing in this compact may 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 must remain nonpublic if required by the compact state's law.

Compact states shall 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.

- 1       7. No other judicial or administrative remedies are available to a psychologist in the event  
2       a compact state imposes an adverse action pursuant to subsection 3 of this article.

3       **ARTICLE VIII - ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S**  
4       **PSYCHOLOGY REGULATORY AUTHORITY**

5       A compact state's psychology regulatory authority, in addition to any other powers granted  
6       under state law, is authorized under this compact to:

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

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

1. The commission shall provide for the development and maintenance of a coordinated database and reporting system containing licensure and disciplinary action information on all psychologists individuals to whom this compact is applicable in all compact states as defined by the rules of the commission.
2. 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:
  - a. Identifying information;
  - b. Licensure data;
  - c. Significant investigatory information;
  - d. Adverse actions against a psychologist's license;
  - e. An indicator that a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice is revoked;
  - f. Nonconfidential information related to alternative program participation information;
  - g. Any denial of application for licensure, and the reasons for the denial; and
  - h. Other information that may facilitate the administration of this compact, as determined by the rules of the commission.
3. The coordinated database administrator promptly shall notify all compact states of any adverse action taken against, or significant investigative information on, any licensee in a compact state.
4. 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.
5. Any information submitted to the coordinated database that subsequently is required to be expunged by the law of the compact state reporting the information must be removed from the coordinated database.

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

### **INTERJURISDICTIONAL COMPACT COMMISSION**

1. The compact states hereby create and establish a joint public agency known as the psychology interjurisdictional compact commission.

- 1           a. The commission is a body politic and an instrumentality of the compact states.
- 2           b. Venue is proper and judicial proceedings by or against the commission must be
- 3               brought solely and exclusively in a court of competent jurisdiction where the
- 4               principal office of the commission is located. The commission may waive venue
- 5               and jurisdictional defenses to the extent it adopts or consents to participate in
- 6               alternative dispute resolution proceedings.
- 7           c. Nothing in this compact may be construed to be a waiver of sovereign immunity.
- 8        2.   a. The commission consists of one voting representative appointed by each
- 9               compact state who shall serve as that state's commissioner. The state
- 10              psychology regulatory authority shall appoint its delegate. This delegate is
- 11              empowered to act on behalf of the compact state. This delegate is limited to:
- 12              (1) Executive director, executive secretary or similar executive;
- 13              (2) Current member of the state psychology regulatory authority of a compact
- 14                 state; or
- 15              (3) Designee empowered with the appropriate delegate authority to act on
- 16                 behalf of the compact state.
- 17           b. Any commissioner may be removed or suspended from office as provided by the
- 18               law of the state from which the commissioner is appointed. Any vacancy
- 19               occurring in the commission must be filled in accordance with the laws of the
- 20               compact state in which the vacancy exists.
- 21           c. Each commissioner is entitled to one vote with regard to the promulgation of
- 22               rules and creation of bylaws and shall otherwise have an opportunity to
- 23               participate in the business and affairs of the commission. A commissioner shall
- 24               vote in person or by such other means as provided in the bylaws. The bylaws
- 25               may provide for commissioners' participation in meetings by telephone or other
- 26               means of communication.
- 27           d. The commission shall meet at least once during each calendar year. Additional
- 28               meetings must be held as set forth in the bylaws.
- 29           e. All meetings must be open to the public, and public notice of meetings must be
- 30               given in the same manner as required under the rulemaking provisions in
- 31               article XI.

f. The commission may convene in a closed, nonpublic meeting if the commission must discuss:

(1) Non-compliance of a compact state with its obligations under the compact;

(2) 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;

(3) Current, threatened, or reasonably anticipated litigation against the commission;

(4) Negotiation of contracts for the purchase or sale of goods, services, or real estate;

(5) Accusation against any person of a crime or formally censuring any person;

(6) Disclosure of trade secrets or commercial or financial information which is privileged or confidential;

(7) Disclosure of information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;

(8) Disclosure of investigatory records compiled for law enforcement purposes;

(9) 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

(10) Matters specifically exempted from disclosure by federal and state statute.

g. If a meeting, or portion of a meeting, is closed under this article, the commission's legal counsel or designee shall certify the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that 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 must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

- 1       3. The commission, by a majority vote of the commissioners, shall prescribe bylaws or  
2       rules, or both, to govern its conduct as may be necessary or appropriate to carry out  
3       the purposes and exercise the powers of the compact, including:
- 4       a. Establishing the fiscal year of the commission;  
5       b. Providing reasonable standards and procedures:  
6           (1) For the establishment and meetings of other committees; and  
7           (2) Governing any general or specific delegation of any authority or function of  
8           the commission;
- 9       c. Providing reasonable procedures for calling and conducting meetings of the  
10       commission, ensuring reasonable advance notice of all meetings and providing  
11       an opportunity for attendance of such meetings by interested parties, with  
12       enumerated exceptions designed to protect the public's interest, the privacy of  
13       individuals of such proceedings, and proprietary information, including trade  
14       secrets. The commission may meet in closed session only after a majority of the  
15       commissioners vote to close a meeting to the public in whole or in part. As soon  
16       as practicable, the commission shall make public a copy of the vote to close the  
17       meeting revealing the vote of each commissioner with no proxy votes allowed;
- 18       d. Establishing the titles, duties and authority, and reasonable procedures for the  
19       election of the officers of the commission;
- 20       e. Providing reasonable standards and procedures for the establishment of the  
21       personnel policies and programs of the commission. Notwithstanding any civil  
22       service or other similar law of any compact state, the bylaws exclusively govern  
23       the personnel policies and programs of the commission;
- 24       f. Promulgating a code of ethics to address permissible and prohibited activities of  
25       commission members and employees;
- 26       g. Providing a mechanism for concluding the operations of the commission and the  
27       equitable disposition of any surplus funds that may exist after the termination of  
28       the compact after the payment or reserving of all of its debts and obligations;
- 29       h. The commission shall publish its bylaws in a convenient form and file a copy  
30       thereof, and a copy of any amendment, with the appropriate agency or officer in  
31       each of the compact states;

1           i. The commission shall maintain its financial records in accordance with the  
2           bylaws; and

3           j. The commission shall meet and take such actions as are consistent with the  
4           provisions of this compact and the bylaws.

5       4. The commission shall have the following powers:

6           a. The authority to promulgate uniform rules to facilitate and coordinate  
7           implementation and administration of this compact. The rules have the force and  
8           effect of law and are binding in all compact states;

9           b. To bring and prosecute legal proceedings or actions in the name of the  
10          commission, provided the standing of any state psychology regulatory authority  
11          or other regulatory body responsible for psychology licensure to sue or be sued  
12          under applicable law may not be affected;

13          c. To purchase and maintain insurance and bonds;

14          d. To borrow, accept, or contract for services of personnel, including employees of a  
15          compact state;

16          e. To hire employees, elect or appoint officers, fix compensation, define duties,  
17          grant such individuals appropriate authority to carry out the purposes of the  
18          compact, and to establish the commission's personnel policies and programs  
19          relating to conflicts of interest, qualifications of personnel, and other related  
20          personnel matters;

21          f. To accept any and all appropriate donations and grants of money, equipment,  
22          supplies, materials, and services, and to receive, utilize, and dispose of the  
23          same; provided that at all times the commission shall strive to avoid any  
24          appearance of impropriety or conflict of interest;

25          g. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own,  
26          hold, improve or use, any property, whether real, personal or mixed; provided that  
27          at all times the commission shall strive to avoid any appearance of impropriety;

28          h. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise  
29          dispose of any property, whether real, personal or mixed;

30          i. To establish a budget and make expenditures;

31          j. To borrow money;

1           k. To appoint committees, including advisory committees comprised of members,  
2           state regulators, state legislators or their representatives, and consumer  
3           representatives, and such other interested persons as may be designated in this  
4           compact and the bylaws;

5           l. To provide and receive information from, and to cooperate with, law enforcement  
6           agencies;

7           m. To adopt and use an official seal; and

8           n. To perform other functions as may be necessary or appropriate to achieve the  
9           purposes of this compact consistent with the state regulation of psychology  
10          licensure, temporary in-person, face-to-face practice, and telepsychology  
11          practice.

12        5. The elected officers shall serve as the executive board, which may act on behalf of the  
13        commission according to the terms of this compact.

14        a. The executive board is comprised of six members:

15           (1) Five voting members who are elected from the current membership of the  
16           commission by the commission;

17           (2) One ex-officio, nonvoting member from the recognized membership  
18           organization composed of state and provincial psychology regulatory  
19           authorities.

20        b. The ex-officio member must have served as staff or member on a state  
21        psychology regulatory authority and will be selected by its respective  
22        organization.

23        c. The commission may remove any member of the executive board as provided in  
24        the bylaws.

25        d. The executive board shall meet at least annually.

26        e. The executive board has the following duties and responsibilities:

27           (1) Recommend to the entire commission changes to the rules or bylaws,  
28           changes to this compact legislation, fees paid by compact states such as  
29           annual dues, and any other applicable fees;

30           (2) Ensure compact administration services are appropriately provided,  
31           contractual or otherwise;

- 1                   (3) Prepare and recommend the budget;
- 2                   (4) Maintain financial records on behalf of the commission;
- 3                   (5) Monitor compact compliance of member states and provide compliance
- 4                         reports to the commission;
- 5                   (6) Establish additional committees as necessary; and
- 6                   (7) Other duties as provided in rules or bylaws.
- 7       6.   a.   The commission shall pay, or provide for the payment of, the reasonable
- 8                         expenses of its establishment, organization, and ongoing activities.
- 9                   b.   The commission may accept appropriate revenue sources, donations, and grants
- 10                         of money, equipment, supplies, materials, and services.
- 11                   c.   The commission may levy on and collect an annual assessment from each
- 12                         compact state or impose fees on other parties to cover the cost of the operations
- 13                         and activities of the commission and its staff which must be in a total amount
- 14                         sufficient to cover its annual budget as approved each year for which revenue is
- 15                         not provided by other sources. The aggregate annual assessment amount must
- 16                         be allocated based upon a formula to be determined by the commission which
- 17                         shall promulgate a rule binding upon all compact states.
- 18                   d.   The commission may not incur obligations of any kind before securing the funds
- 19                         adequate to meet the same; nor may the commission pledge the credit of any of
- 20                         the compact states, except by and with the authority of the compact state.
- 21                   e.   The commission shall keep accurate accounts of all receipts and disbursements.
- 22                         The receipts and disbursements of the commission are subject to the audit and
- 23                         accounting procedures established under its bylaws. However, all receipts and
- 24                         disbursements of funds handled by the commission must be audited yearly by a
- 25                         certified or licensed public accountant and the report of the audit must be
- 26                         included in and become part of the annual report of the commission.
- 27       7.   a.   The members, officers, executive director, employees and representatives of the
- 28                         commission are immune from suit and liability, either personally or in their official
- 29                         capacity, for any claim for damage to or loss of property or personal injury or
- 30                         other civil liability caused by or arising out of any actual or alleged act, error, or
- 31                         omission that occurred, or that the person against whom the claim is made had a

1 reasonable basis for believing occurred within the scope of commission  
2 employment, duties, or responsibilities. This subdivision may not be construed to  
3 protect any such person from suit or liability for any damage, loss, injury, or  
4 liability caused by the intentional or willful or wanton misconduct of that person.

5 b. The commission shall defend any member, officer, executive director, employee,  
6 or representative of the commission in any civil action seeking to impose liability  
7 arising out of any actual or alleged act, error, or omission that occurred within the  
8 scope of commission employment, duties, or responsibilities, or that the person  
9 against whom the claim is made had a reasonable basis for believing occurred  
10 within the scope of commission employment, duties, or responsibilities; provided  
11 that nothing herein may be construed to prohibit that person from retaining his or  
12 her own counsel; and provided further, that the actual or alleged act, error, or  
13 omission did not result from that person's intentional or willful or wanton  
14 misconduct.

15 c. The commission shall indemnify and hold harmless any member, officer,  
16 executive director, employee, or representative of the commission for the amount  
17 of any settlement or judgment obtained against that person arising out of any  
18 actual or alleged act, error, or omission that occurred within the scope of  
19 commission employment, duties, or responsibilities, or that such person had a  
20 reasonable basis for believing occurred within the scope of commission  
21 employment, duties, or responsibilities, provided the actual or alleged act, error,  
22 or omission did not result from the intentional or willful or wanton misconduct of  
23 that person.

#### 24 **ARTICLE XI - RULEMAKING**

- 25 1. The commission shall exercise its rulemaking powers pursuant to the criteria set forth  
26 in this article and the rules adopted thereunder. Rules and amendments are binding as  
27 of the date specified in each rule or amendment.
- 28 2. If a majority of the legislatures of the compact states rejects a rule, by enactment of a  
29 statute or resolution in the same manner used to adopt the compact, then such rule  
30 has no further force and effect in any compact state.

- 1       3. Rules or amendments to the rules must be adopted at a regular or special meeting of  
2       the commission.
- 3       4. Prior to promulgation and adoption of a final rule or rules by the commission, and at  
4       least sixty days in advance of the meeting at which the rule will be considered and  
5       voted upon, the commission shall file a notice of proposed rulemaking:
  - 6       a. On the website of the commission; and
  - 7       b. On the website of each compact states' psychology regulatory authority or the  
8       publication in which each state would otherwise publish proposed rules.
- 9       5. The notice of proposed rulemaking must include:
  - 10      a. The proposed time, date, and location of the meeting in which the rule will be  
11      considered and voted upon;
  - 12      b. The text of the proposed rule or amendment and the reason for the proposed  
13      rule;
  - 14      c. A request for comments on the proposed rule from any interested person; and
  - 15      d. The manner in which an interested person may submit notice to the commission  
16      of the person's intention to attend the public hearing and any written comments.
- 17      6. Prior to adoption of a proposed rule, the commission shall allow persons to submit  
18      written data, facts, opinions, and arguments, which must be made available to the  
19      public.
- 20      7. The commission shall grant an opportunity for a public hearing before it adopts a rule  
21      or amendment if a hearing is requested by:
  - 22      a. At least twenty-five persons who submit comments independently of each other;
  - 23      b. A governmental subdivision or agency; or
  - 24      c. A duly appointed person in an association having at least twenty-five members.
- 25      8. If a hearing is held on the proposed rule or amendment, the commission shall publish  
26      the place, time, and date of the scheduled public hearing.
  - 27      a. A person wishing to be heard at the hearing shall notify the executive director of  
28      the commission or other designated member in writing of the person's desire to  
29      appear and testify at the hearing not less than five business days before the  
30      scheduled date of the hearing.

- b. Hearings must be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.
- c. 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 subdivision does not preclude the commission from making a transcript or recording of the hearing if it so chooses.
- d. Nothing in this article may 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.
9. 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.
10. The commission, by majority vote of all members, shall 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.
11. 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.
12. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided the usual rulemaking procedures provided in the compact and in this article are retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately to:
- a. Meet an imminent threat to public health, safety, or welfare;
- b. Prevent a loss of commission or compact state funds;
- c. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
- d. Protect public health and safety.

- 1       13.   The commission or an authorized committee of the commission may direct revisions to  
2       a previously adopted rule or amendment for purposes of correcting typographical  
3       errors, errors in format, errors in consistency, or grammatical errors. Public notice of  
4       any revisions must be posted on the website of the commission. The revision is  
5       subject to challenge by any person for a period of thirty days after posting. The  
6       revision may be challenged only on grounds that the revision results in a material  
7       change to a rule. A challenge must be made in writing, and delivered to the chair of the  
8       commission before the end of the notice period. If a challenge is not made, the  
9       revision will take effect without further action. If the revision is challenged, the revision  
10      may not take effect without the approval of the commission.

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

- 12      1.    a.   The executive, legislative and judicial branches of state government in each  
13           compact state shall enforce this compact and take all actions necessary and  
14           appropriate to effectuate the compact's purposes and intent. The provisions of  
15           this compact and the rules promulgated hereunder have standing as statutory  
16           law.
- 17           b.   All courts shall take judicial notice of the compact and the rules in any judicial or  
18           administrative proceeding in a compact state pertaining to the subject matter of  
19           this compact which may affect the powers, responsibilities, or actions of the  
20           commission.
- 21           c.   The commission is entitled to receive service of process in any such proceeding,  
22           and has standing to intervene in such a proceeding for all purposes. Failure to  
23           provide service of process to the commission renders a judgment or order void  
24           as to the commission, this compact, or promulgated rules.
- 25      2.    a.   If the commission determines a compact state has defaulted in the performance  
26           of its obligations or responsibilities under this compact or the promulgated rules,  
27           the commission shall:
- 28           (1)   Provide written notice to the defaulting state and other compact states of the  
29           nature of the default, the proposed means of remedying the default, or any  
30           other action to be taken by the commission; and

- 1                   (2) Provide remedial training and specific technical assistance regarding the  
2                   default.
- 3           b. If a state in default fails to remedy the default, the defaulting state may be  
4           terminated from the compact upon an affirmative vote of a majority of the  
5           compact states, and all rights, privileges, and benefits conferred by this compact  
6           may be terminated on the effective date of termination. A remedy of the default  
7           does not relieve the offending state of obligations or liabilities incurred during the  
8           period of default.
- 9           c. Termination of membership in the compact may be imposed only after all other  
10           means of securing compliance have been exhausted. Notice of intent to suspend  
11           or terminate shall be submitted by the commission to the governor, the majority  
12           and minority leaders of the defaulting state's legislature, and each of the compact  
13           states.
- 14           d. A compact state that has been terminated is responsible for all assessments,  
15           obligations, and liabilities incurred through the effective date of termination,  
16           including obligations that extend beyond the effective date of termination.
- 17           e. The commission may not bear any costs incurred by the state that is found to be  
18           in default or that has been terminated from the compact, unless agreed upon in  
19           writing between the commission and the defaulting state.
- 20           f. The defaulting state may appeal the action of the commission by petitioning the  
21           United States district court for the state of Georgia or the federal district where  
22           the compact has its principal offices. The prevailing member shall be awarded all  
23           costs of such litigation, including reasonable attorney's fees.
- 24       3.   a. Upon request by a compact state, the commission shall attempt to resolve  
25           disputes related to the compact that arise among compact states and between  
26           compact and non-compact states.
- 27           b. The commission shall promulgate a rule providing for both mediation and binding  
28           dispute resolution for disputes that arise before the commission.
- 29       4.   a. The commission, in the reasonable exercise of its discretion, shall enforce the  
30           provisions and rules of this compact.

b. 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.

c. The remedies herein are not 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**

1. The compact becomes effective on the date on which the compact statute is enacted into law in the seventh compact state. The provisions, which become effective at that time, are 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.
2. Any state which joins the compact subsequent to the commission's initial adoption of the rules is subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission has the full force and effect of law on the day the compact becomes law in that state.
3. Any compact state may withdraw from this compact by enacting a statute repealing the same.
  - a. A compact state's withdrawal may not take effect until six months after enactment of the repealing statute.
  - b. Withdrawal may not affect the continuing requirement of the withdrawing state's psychology regulatory authority to comply with the investigative and adverse action reporting requirements of this act before the effective date of withdrawal.
4. Nothing contained in this compact may be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a

1           compact state and a non-compact state that does not conflict with the provisions of  
2           this compact.

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

6                           **ARTICLE XIV - CONSTRUCTION AND SEVERABILITY**

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