

**BEHAVIORAL SCIENCES REGULATORY BOARD
BOARD MEETING AGENDA
March 15, 2021**

Due to COVID-19, the Board office is practicing social distancing. The office space does not allow for a meeting while practicing social distancing, therefore, the meeting will be conducted virtually on the Zoom platform.

You may view the meeting here:

<https://www.youtube.com/watch?v=H4UsNU2F4c>

To join the meeting by conference call: 877-278-8686

The pin: 327072

If there are any technical issues during the meeting, you may call the Board office at, 785-296-3240.

The Behavioral Sciences Regulatory Board may take items out of order as necessary to accommodate the time restrictions of Board members and visitors. All times and items are subject to change

Monday, March 15, 2021

8:00 a.m. Call to order and Roll Call

I. Opening Remarks, Board Vice-Chair

II. Agenda Approval

III. Consideration of Psypact/HB 2209

IV. Adjourn

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2209

By Committee on Health and Human Services

2-3

1 AN ACT concerning the behavioral sciences; relating to psychology;
2 practice and licensing thereof; enacting the psychology
3 interjurisdictional compact; providing for interjurisdictional
4 authorization to practice telepsychology and temporary in-person, face-
5 to-face psychology.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. This section shall be known and may be cited as the
9 psychology interjurisdictional compact (PSYPACT).

10 ARTICLE I

11 PURPOSE

12 WHEREAS, States license psychologists in order to protect the public
13 through verification of education, training and experience and ensure
14 accountability for professional practice; and

15 WHEREAS, This compact is intended to regulate the day-to-day
16 practice of telepsychology, the provision of psychological services using
17 telecommunications technologies, by psychologists across state boundaries
18 in the performance of their psychological practice as assigned by an
19 appropriate authority; and

20 WHEREAS, This compact is intended to regulate the temporary in-
21 person, face-to-face practice of psychology by psychologists across state
22 boundaries for 30 days within a calendar year in the performance of their
23 psychological practice as assigned by an appropriate authority; and

24 WHEREAS, This compact is intended to authorize state psychology
25 regulatory authorities to afford legal recognition, in a manner consistent
26 with the terms of the compact, to psychologists licensed in another state;
27 and

28 WHEREAS, This compact recognizes that states have a vested interest
29 in protecting the public's health and safety through their licensing and
30 regulation of psychologists and that such state regulation will best protect
31 public health and safety; and

32 WHEREAS, This compact does not apply when a psychologist is
33 licensed in both the home and receiving states; and

34 WHEREAS, This compact does not apply to permanent in-person,
35 face-to-face practice, but it does allow for authorization of temporary
36 psychological practice.

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

3 (a) Increase public access to professional psychological services by
4 allowing for telepsychological practice across state lines as well as
5 temporary in-person, face-to-face services into a state which the
6 psychologist is not licensed to practice psychology;

7 (b) enhance the states' ability to protect the public's health and safety,
8 especially client/patient safety;

9 (c) encourage the cooperation of compact states in the areas of
10 psychology licensure and regulation;

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

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

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

18 ARTICLE II
19 DEFINITIONS

20 (a) "Adverse action" means any action taken by a state psychology
21 regulatory authority that finds a violation of a statute or regulation that is
22 identified by the state psychology regulatory authority as discipline and is
23 a matter of public record.

24 (b) "Association of state and provincial psychology boards" means
25 the recognized membership organization composed of state and provincial
26 psychology regulatory authorities responsible for the licensure and
27 registration of psychologists throughout the United States and Canada.

28 (c) "Authority to practice interjurisdictional telepsychology" means a
29 licensed psychologist's authority to practice telepsychology, within the
30 limits authorized under this compact, in another compact state.

31 (d) "Bylaws" means those bylaws established by the psychology
32 interjurisdictional compact commission pursuant to article X for its
33 governance or for directing and controlling its actions and conduct.

34 (e) "Client/patient" means the recipient of psychological services,
35 whether psychological services are delivered in the context of healthcare,
36 corporate, supervision or consulting services.

37 (f) "Commissioner" means the voting representative appointed by
38 each state psychology regulatory authority pursuant to article X.

39 (g) "Compact state" means a state, the District of Columbia or a
40 United States territory that has enacted this compact legislation and that
41 has not withdrawn pursuant to article XIII(c) or been terminated pursuant
42 to article XII(b).

43 (h) "Coordinated licensure information system" or "coordinated

1 database" means an integrated process for collecting, storing and sharing
2 information on psychologists' licensure and enforcement activities related
3 to psychology licensure laws, administered by the recognized membership
4 organization composed of state and provincial psychology regulatory
5 authorities.

6 (i) "Confidentiality" means the principle that data or information is
7 not made available or disclosed to unauthorized persons or processes.

8 (j) "Day" means any part of a day in which psychological work is
9 performed.

10 (k) "Distant state" means the compact state where a psychologist is
11 physically present, not through the use of telecommunications
12 technologies, to provide temporary in-person, face-to-face psychological
13 services.

14 (l) "E.passport" means a certificate issued by the association of state
15 and provincial psychology boards that promotes the standardization in the
16 criteria of interjurisdictional telepsychology practice and facilitates the
17 process for licensed psychologists to provide telepsychological services
18 across state lines.

19 (m) "Executive board" means a group of directors elected or
20 appointed to act on behalf of, and within the powers granted to them by,
21 the commission.

22 (n) "Home state" means a compact state where a psychologist is
23 licensed to practice psychology. If the psychologist is licensed in more
24 than one compact state and is practicing under the authorization to practice
25 interjurisdictional telepsychology, the "home state" is the compact state
26 where the psychologist is physically present when the telepsychological
27 services are delivered. If the psychologist is licensed in more than one
28 compact state and is practicing under the temporary authorization to
29 practice, the "home state" is any compact state where the psychologist is
30 licensed.

31 (o) "Identity history summary" means a summary of information
32 retained by the federal bureau of investigation, or other designee with
33 similar authority, in connection with arrests and, in some instances, federal
34 employment, naturalization or military service.

35 (p) "In-person, face-to-face" means interactions in which the
36 psychologist and the client/patient are in the same physical space and does
37 not include interactions that may occur through the use of
38 telecommunications technologies.

39 (q) "Interjurisdictional practice certificate" means a certificate issued
40 by the association of state and provincial psychology boards that grants
41 temporary authority to practice based on notification to the state
42 psychology regulatory authority of intention to practice temporarily, and
43 verification of one's qualifications for such practice.

1 (r) "License" means authorization by a state psychology regulatory
2 authority to engage in the independent practice of psychology that would
3 be unlawful without the authorization.

4 (s) "Non-compact state" means any state that is not, at the time, a
5 compact state.

6 (t) "Psychologist" means an individual licensed for the independent
7 practice of psychology.

8 (u) "Psychology interjurisdictional compact commission" or
9 "commission" means the national administration of which all compact
10 states are members.

11 (v) "Receiving state" means a compact state where the client/patient
12 is physically located when the telepsychological services are delivered.

13 (w) "Rule" means a written statement by the psychology
14 interjurisdictional compact commission promulgated pursuant to article XI
15 that:

16 (1) Is of general applicability;

17 (2) implements, interprets or prescribes a policy or provision of the
18 compact, or an organizational, procedural or practice requirement of the
19 commission;

20 (3) has the force and effect of statutory law in a compact state; and

21 (4) includes the amendment, repeal or suspension of an existing rule.

22 (x) "Significant investigatory information" means:

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

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

32 (y) "State" means a state, commonwealth, territory or possession of
33 the United States or the District of Columbia.

34 (z) "State psychology regulatory authority" means the board, office or
35 other agency with the legislative mandate to license and regulate the
36 practice of psychology.

37 (aa) "Telepsychology" means the provision of psychological services
38 using telecommunications technologies.

39 (bb) "Temporary authorization to practice" means a licensed
40 psychologist's authority to conduct temporary in-person, face-to-face
41 practice, within the limits authorized under this compact, in another
42 compact state.

43 (cc) "Temporary in-person, face-to-face practice" means a

1 psychologist is physically present, not through the use of
2 telecommunications technologies, in the distant state to provide for the
3 practice of psychology for 30 days within a calendar year and based on
4 notification to the distant state.

5 ARTICLE III

6 HOME STATE LICENSURE

7 (a) The home state shall be a compact state where a psychologist is
8 licensed to practice psychology.

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

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

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

23 (e) A home state's license authorizes a psychologist to practice in a
24 receiving state under the authority to practice interjurisdictional
25 telepsychology only if the compact state:

26 (1) Currently requires the psychologist to hold an active e.passport;

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

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

32 (4) requires an identity history summary of all applicants at initial
33 licensure, including the use of the results of fingerprints or other biometric
34 data checks compliant with the requirements of the federal bureau of
35 investigation, or other designee with similar authority, not later than 10
36 years after activation of the compact; and

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

38 (f) A home state's license grants temporary authorization to practice
39 to a psychologist in a distant state only if the compact state:

40 (1) Currently requires the psychologist to hold an active
41 interjurisdictional practice certificate;

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

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

4 (4) requires an identity history summary of all applicants at initial
5 licensure, including the use of the results of fingerprints or other biometric
6 data checks compliant with the requirements of the federal bureau of
7 investigation, or other designee with similar authority, not later than 10
8 years after activation of the compact; and

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

10 ARTICLE IV

11 COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

12 (a) Compact states shall recognize the right of a psychologist,
13 licensed in a compact state in conformance with article III, to practice
14 telepsychology in other compact states, or receiving states, in which the
15 psychologist is not licensed, under the authority to practice
16 interjurisdictional telepsychology as provided in the compact.

17 (b) To exercise the authority to practice interjurisdictional
18 telepsychology under the terms and provisions of this compact, a
19 psychologist licensed to practice in a compact state shall:

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

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

26 (B) a foreign college or university deemed to be equivalent to
27 subparagraph (A) by a foreign credential evaluation service that is a
28 member of the national association of credential evaluation services or by
29 a recognized foreign credential evaluation service;

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

32 (A) The program, wherever it may be administratively housed, shall
33 be clearly identified and labeled as a psychology program. Such program
34 must specify in pertinent institutional catalogs and brochures its intent to
35 educate and train professional psychologists;

36 (B) the psychology program shall stand as a recognizable, coherent,
37 organizational entity within the institution;

38 (C) there shall be a clear authority and primary responsibility for the
39 core and specialty areas, whether or not the program cuts across
40 administrative lines;

41 (D) the program shall consist of an integrated, organized sequence of
42 study;

43 (E) there shall be an identifiable psychology faculty sufficient in size

1 and breadth to carry out its responsibilities;

2 (F) the designated director of the program shall be a psychologist and
3 a member of the core faculty;

4 (G) the program shall have an identifiable body of students who are
5 matriculated in that program for a degree;

6 (H) the program shall include supervised practicum, internship or
7 field training appropriate to the practice of psychology;

8 (I) the curriculum shall encompass a minimum of three academic
9 years of full-time graduate study for a doctoral degree and a minimum of
10 one academic year of full-time graduate study for a master's degree; and

11 (J) the program includes an acceptable residency as defined by the
12 rules of the commission;

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

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

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

19 (6) possess a current, active e.passport;

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

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

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

30 (d) A psychologist practicing into a receiving state under the authority
31 to practice interjurisdictional telepsychology shall be subject to the
32 receiving state's scope of practice. A receiving state may, in accordance
33 with that state's due process law, limit or revoke a psychologist's authority
34 to practice interjurisdictional telepsychology in the receiving state and may
35 take any other necessary actions under the receiving state's applicable law
36 to protect the health and safety of the receiving state's citizens. If a
37 receiving state takes action, the state shall promptly notify the home state
38 and the commission.

39 (e) If a psychologist's license in any home state or another compact
40 state, or any authority to practice interjurisdictional telepsychology in any
41 receiving state, is restricted, suspended or otherwise limited, the e.passport
42 shall be revoked and therefore the psychologist shall not be eligible to
43 practice telepsychology in a compact state under the authority to practice

1 interjurisdictional telepsychology.

2 ARTICLE V

3 COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

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

8 (b) To exercise the temporary authorization to practice under the
9 terms and provisions of this compact, a psychologist licensed to practice in
10 a compact state shall:

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

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

17 (B) a foreign college or university deemed to be equivalent to
18 subparagraph (A) by a foreign credential evaluation service that is a
19 member of the national association of credential evaluation services or by
20 a recognized foreign credential evaluation service;

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

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

27 (B) the psychology program shall stand as a recognizable, coherent,
28 organizational entity within the institution;

29 (C) there shall be a clear authority and primary responsibility for the
30 core and specialty areas, whether or not the program cuts across
31 administrative lines;

32 (D) the program shall consist of an integrated, organized sequence of
33 study;

34 (E) there shall be an identifiable psychology faculty sufficient in size
35 and breadth to carry out its responsibilities;

36 (F) the designated director of the program shall be a psychologist and
37 a member of the core faculty;

38 (G) the program shall have an identifiable body of students who are
39 matriculated in that program for a degree;

40 (H) the program shall include supervised practicum, internship or
41 field training appropriate to the practice of psychology;

42 (I) the curriculum shall encompass a minimum of three academic
43 years of full-time graduate study for doctoral degrees and a minimum of

1 one academic year of full-time graduate study for master's degrees; and

2 (J) the program includes an acceptable residency as defined by the
3 rules of the commission;

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

6 (4) no history of adverse action that violate the rules of the
7 commission;

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

10 (6) possess a current, active interjurisdictional practice certificate;

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

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

15 (c) A psychologist practicing into a distant state under the temporary
16 authorization to practice shall practice within the scope of practice
17 authorized by the distant state.

18 (d) A psychologist practicing into a distant state under the temporary
19 authorization to practice shall be subject to the distant state's authority and
20 law. A distant state may, in accordance with that state's due process law,
21 limit or revoke a psychologist's temporary authorization to practice in the
22 distant state and may take any other necessary actions under the distant
23 state's applicable law to protect the health and safety of the distant state's
24 citizens. If a distant state takes action, the state shall promptly notify the
25 home state and the commission.

26 (e) If a psychologist's license in any home state or another compact
27 state, or any temporary authorization to practice in any distant state, is
28 restricted, suspended or otherwise limited, the interjurisdictional practice
29 certificate shall be revoked and therefore the psychologist shall not be
30 eligible to practice in a compact state under the temporary authorization to
31 practice.

32 ARTICLE VI

33 CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING 34 STATE

35 A psychologist may practice in a receiving state under the authority to
36 practice interjurisdictional telepsychology only in the performance of the
37 scope of practice for psychology as assigned by an appropriate state
38 psychology regulatory authority, as defined in the rules of the commission,
39 and under the following circumstances:

40 (a) The psychologist initiates a client/patient contact in a home state
41 via telecommunications technologies with a client/patient in a receiving
42 state; and

43 (b) other conditions regarding telepsychology as determined by rules

1 promulgated by the commission.

2 ARTICLE VII

3 ADVERSE ACTIONS

4 (a) A home state shall have the power to impose adverse action
5 against a psychologist's license issued by the home state. A distant state
6 shall have the power to take adverse action on a psychologist's temporary
7 authorization to practice within that distant state.

8 (b) A receiving state may take adverse action on a psychologist's
9 authority to practice interjurisdictional telepsychology within that
10 receiving state. A home state may take adverse action against a
11 psychologist based on an adverse action taken by a distant state regarding
12 temporary in-person, face-to-face practice.

13 (c) If a home state takes adverse action against a psychologist's
14 license, that psychologist's authority to practice interjurisdictional
15 telepsychology is terminated and the e.passport is revoked. Furthermore,
16 that psychologist's temporary authorization to practice is terminated and
17 the interjurisdictional practice certificate is revoked.

18 (1) All home state disciplinary orders that impose adverse action shall
19 be reported to the commission in accordance with the rules promulgated
20 by the commission. A compact state shall report adverse actions in
21 accordance with the rules of the commission.

22 (2) In the event discipline is reported on a psychologist, the
23 psychologist will not be eligible for telepsychology or temporary in-
24 person, face-to-face practice in accordance with the rules of the
25 commission.

26 (3) Other actions may be imposed as determined by the rules
27 promulgated by the commission.

28 (d) A home state's psychology regulatory authority shall investigate
29 and take appropriate action with respect to reported inappropriate conduct
30 engaged in by a licensee that occurred in a receiving state as it would if
31 such conduct had occurred by a licensee within the home state. In such
32 cases, the home state's law shall control in determining any adverse action
33 against a psychologist's license.

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

41 (f) Nothing in this compact shall override a compact state's decision
42 that a psychologist's participation in an alternative program may be used in
43 lieu of adverse action and that such participation shall remain non-public if

1 required by the compact state's law. Compact states shall require
2 psychologists who enter any alternative programs to not provide
3 telepsychology services under the authority to practice interjurisdictional
4 telepsychology or provide temporary psychological services under the
5 temporary authorization to practice in any other compact state during the
6 term of the alternative program.

7 (g) No other judicial or administrative remedies shall be available to a
8 psychologist in the event a compact state imposes an adverse action
9 pursuant to subsection (c).

10 ARTICLE VIII

11 ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S 12 PSYCHOLOGY REGULATORY AUTHORITY

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

16 (a) Issue subpoenas, for both hearings and investigations, that require
17 the attendance and testimony of witnesses and the production of evidence.
18 Subpoenas issued by a compact state's psychology regulatory authority for
19 the attendance and testimony of witnesses or the production of evidence
20 from another compact state shall be enforced in the latter state by any
21 court of competent jurisdiction, according to that court's practice and
22 procedure in considering subpoenas issued in its own proceedings. The
23 issuing state psychology regulatory authority shall pay any witness fees,
24 travel expenses, mileage and other fees required by the service statutes of
25 the state where the witnesses or evidence are located; and

26 (b) issue cease and desist or injunctive relief orders to revoke a
27 psychologist's authority to practice interjurisdictional telepsychology or
28 temporary authorization to practice.

29 (c) During the course of any investigation, a psychologist may not
30 change such psychologist's home state licensure. A home state psychology
31 regulatory authority is authorized to complete any pending investigations
32 of a psychologist and to take any actions appropriate under its law. The
33 home state psychology regulatory authority shall promptly report the
34 conclusions of such investigations to the commission. Once an
35 investigation has been completed, and pending the outcome of such
36 investigation, the psychologist may change the psychologist's home state
37 licensure. The commission shall promptly notify the new home state of
38 any such decisions as provided in the rules of the commission. All
39 information provided to the commission or distributed by compact states
40 pursuant to the psychologist shall be confidential, filed under seal and used
41 for investigatory or disciplinary matters. The commission may create
42 additional rules for mandated or discretionary sharing of information by
43 compact states.

ARTICLE IX

COORDINATED LICENSURE INFORMATION SYSTEM

(a) The Commission shall provide for the development and maintenance of a coordinated licensure information system and reporting system containing licensure and disciplinary action information on all individuals to whom this compact is applicable in all compact states as defined by the rules of the commission.

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

- (1) Identifying information;
- (2) licensure data;
- (3) significant investigatory information;
- (4) adverse actions against a psychologist's license;
- (5) an indicator that a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice is revoked;
- (6) non-confidential information related to alternative program participation information;
- (7) any denial of application for licensure and the reasons for such denial; and
- (8) other information that may facilitate the administration of this compact, as determined by the rules of the commission.

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

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

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

ARTICLE X

ESTABLISHMENT OF THE PSYCHOLOGY

INTERJURISDICTIONAL COMPACT COMMISSION

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

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

(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to

1 the extent it adopts or consents to participate in alternative dispute
2 resolution proceedings.

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

5 (b) *Membership, Voting, and Meetings.*

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

11 (A) The executive director, executive secretary or similar executive;

12 (B) a current member of the state psychology regulatory authority of
13 a compact state; or

14 (C) a designee empowered with the appropriate delegate authority to
15 act on behalf of the compact state.

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

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

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

28 (5) All meetings shall be open to the public, and public notice of
29 meetings shall be given in the same manner as required under the
30 rulemaking provisions in article XI.

31 (6) The commission may convene in a closed, non-public meeting if
32 the commission must discuss:

33 (A) Non-compliance of a compact state with its obligations under the
34 compact;

35 (B) the employment, compensation, discipline or other personnel
36 matters, practices or procedures related to specific employees or other
37 matters related to the commission's internal personnel practices and
38 procedures;

39 (C) current, threatened or reasonably anticipated litigation against the
40 commission;

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

43 (E) accusation against any person of a crime or formally censuring

1 any person;

2 (F) disclosure of trade secrets or commercial or financial information
3 that is privileged or confidential;

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

6 (H) disclosure of investigatory records compiled for law enforcement
7 purposes;

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

12 (J) matters specifically exempted from disclosure by federal and state
13 statute.

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

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

29 (1) Establishing the fiscal year of the commission;

30 (2) providing reasonable standards and procedures:

31 (A) For the establishment and meetings of other committees; and

32 (B) governing any general or specific delegation of any authority or
33 function of the commission;

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

- 1 (4) establishing the titles, duties and authority and reasonable
2 procedures for the election of the officers of the commission;
 - 3 (5) providing reasonable standards and procedures for the
4 establishment of the personnel policies and programs of the commission.
5 Notwithstanding any civil service or other similar law of any compact
6 state, the bylaws shall exclusively govern the personnel policies and
7 programs of the commission;
 - 8 (6) promulgating a code of ethics to address permissible and
9 prohibited activities of commission members and employees;
 - 10 (7) providing a mechanism for concluding the operations of the
11 commission and the equitable disposition of any surplus funds that may
12 exist after the termination of the compact after the payment or reserving of
13 all of its debts and obligations;
 - 14 (8) the commission shall publish its bylaws in a convenient form and
15 file a copy thereof and a copy of any amendment thereto with the
16 appropriate agency or officer in each of the compact states;
 - 17 (9) the commission shall maintain its financial records in accordance
18 with the bylaws; and
 - 19 (10) the commission shall meet and take such actions as are
20 consistent with the provisions of this compact and the bylaws.
- 21 (d) The commission shall have the following powers:
 - 22 (1) The authority to promulgate uniform rules to facilitate and
23 coordinate implementation and administration of this compact. Such
24 uniform rules shall have the force and effect of law and shall be binding in
25 all compact states;
 - 26 (2) to bring and prosecute legal proceedings or actions in the name of
27 the commission, provided that the standing of any state psychology
28 regulatory authority or other regulatory body responsible for psychology
29 licensure to sue or be sued under applicable law shall not be affected;
 - 30 (3) to purchase and maintain insurance and bonds;
 - 31 (4) to borrow, accept or contract for services of personnel, including,
32 but not limited to, employees of a compact state;
 - 33 (5) to hire employees, elect or appoint officers, fix compensation,
34 define duties, grant such individuals appropriate authority to carry out the
35 purposes of the compact, and to establish the commission's personnel
36 policies and programs relating to conflicts of interest, qualifications of
37 personnel and other related personnel matters;
 - 38 (6) to accept any and all appropriate donations and grants of money,
39 equipment, supplies, materials and services, and to receive, utilize and
40 dispose of the same, provided that at all times the commission shall strive
41 to avoid any appearance of impropriety or conflict of interest;
 - 42 (7) to lease, purchase, accept appropriate gifts or donations of, or
43 otherwise to own, hold, improve or use, any real or personal property, or

1 mixed, provided that at all times the commission shall strive to avoid any
2 appearance of impropriety;

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

5 (9) to establish a budget and make expenditures;

6 (10) to borrow money;

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

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

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

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

18 (e) *The Executive Board.* The elected officers shall serve as the
19 executive board, and the executive board shall have the power to act on
20 behalf of the commission according to the terms of this compact.

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

22 (A) Five voting members who are elected from the current
23 membership of the commission by the commission; and

24 (B) one ex-officio, nonvoting member from the recognized
25 membership organization composed of state and provincial psychology
26 regulatory authorities.

27 (2) The ex-officio member shall have served as staff or member on a
28 state psychology regulatory authority and shall be selected by its
29 respective organization.

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

32 (4) The executive board shall meet at least annually.

33 (5) The executive board shall have the following duties and
34 responsibilities:

35 (A) Recommend to the entire commission changes to the rules or
36 bylaws, changes to this compact legislation, fees paid by compact states,
37 such as annual dues and any other applicable fees;

38 (B) ensure compact administration services are appropriately
39 provided, contractual or otherwise;

40 (C) prepare and recommend the budget;

41 (D) maintain financial records on behalf of the commission;

42 (E) monitor compact compliance of member states and provide
43 compliance reports to the commission;

1 (F) establish additional committees as necessary; and

2 (G) other duties as provided in rules or bylaws.

3 (f) *Financing of the Commission.*

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

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

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

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

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

29 (g) *Qualified immunity, defense, and indemnification.*

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

41 (2) The commission shall defend any member, officer, executive
42 director, employee or representative of the commission in any civil action
43 seeking to impose liability arising out of any actual or alleged act, error or

1 omission that occurred within the scope of commission employment,
2 duties or responsibilities, or that the person against whom the claim is
3 made had a reasonable basis for believing occurred within the scope of
4 commission employment, duties or responsibilities: *Provided*, That
5 nothing herein shall be construed to prohibit that person from retaining
6 such person's own counsel: *And provided further*, That the actual or alleged
7 act, error or omission did not result from that person's intentional or willful
8 or wanton misconduct.

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

18 ARTICLE XI
19 RULEMAKING

20 (a) The commission shall exercise its rulemaking powers pursuant to
21 the criteria set forth in this article and the rules adopted thereunder. Rules
22 and amendments shall become binding as of the date specified in each rule
23 or amendment.

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

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

30 (d) Prior to promulgation and adoption of a final rule or rules by the
31 commission, and at least 60 days in advance of the meeting at which the
32 rule will be considered and voted upon, the commission shall file a notice
33 of proposed rulemaking:

34 (1) On the website of the commission; and

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

38 (e) The notice of proposed rulemaking shall include:

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

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

43 (3) a request for comments on the proposed rule from any interested

1 person; and

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

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

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

10 (1) At least 25 persons who submit comments independently of each
11 other;

12 (2) a governmental subdivision or agency; or

13 (3) a duly appointed person in an association that has at least 25
14 members.

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

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

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

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

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

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

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

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

43 (l) Upon determination that an emergency exists, the commission

1 may consider and adopt an emergency rule without prior notice,
2 opportunity for comment, or hearing, provided that the usual rulemaking
3 procedures provided in the compact and in this article shall be
4 retroactively applied to the rule as soon as reasonably possible, in no event
5 later than 90 days after the effective date of the rule. For the purposes of
6 this provision, an emergency rule is one that must be adopted immediately
7 in order to:

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

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

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

12 (4) protect public health and safety.

13 (m) The commission or an authorized committee of the commission
14 may direct revisions to a previously adopted rule or amendment for
15 purposes of correcting typographical errors, errors in format, errors in
16 consistency or grammatical errors. Public notice of any revisions shall be
17 posted on the website of the commission. The revision shall be subject to
18 challenge by any person for a period of 30 days after posting. The revision
19 may be challenged only on grounds that the revision results in a material
20 change to a rule. A challenge shall be made in writing and delivered to the
21 chair of the commission prior to the end of the notice period. If no
22 challenge is made, the revision shall take effect without further action. If
23 the revision is challenged, the revision may not take effect without the
24 approval of the commission.

25 ARTICLE XII

26 OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

27 (a) *Oversight.*

28 (1) The executive, legislative and judicial branches of state
29 government in each compact state shall enforce this compact and take all
30 actions necessary and appropriate to effectuate the compact's purposes and
31 intent. The provisions of this compact and the rules promulgated hereunder
32 shall have standing as statutory law.

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

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

42 (b) *Default, Technical Assistance and Termination.*

43 (1) If the commission determines that a compact state has defaulted in

1 the performance of its obligations or responsibilities under this compact or
2 the promulgated rules, the commission shall:

3 (A) Provide written notice to the defaulting state and other compact
4 states of the nature of the default, the proposed means of remedying the
5 default and any other action to be taken by the commission; and

6 (B) provide remedial training and specific technical assistance
7 regarding the default.

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

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

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

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

27 (6) The defaulting state may appeal the action of the commission by
28 petitioning the United States district court for the state of Georgia or the
29 federal district where the compact has its principal offices. The prevailing
30 member shall be awarded all costs of such litigation, including reasonable
31 attorney fees.

32 (c) *Dispute resolution.*

33 (1) Upon request by a compact state, the commission shall attempt to
34 resolve disputes related to the compact that arise among compact states
35 and between compact and non-compact states.

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

39 (d) *Enforcement.*

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

42 (2) By majority vote, the commission may initiate legal action in the
43 United States district court for the state of Georgia or the federal district

1 where the compact has its principal offices against a compact state in
2 default to enforce compliance with the provisions of the compact and its
3 promulgated rules and bylaws. The relief sought may include both
4 injunctive relief and damages. In the event judicial enforcement is
5 necessary, the prevailing member shall be awarded all costs of such
6 litigation, including reasonable attorney fees.

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

10 ARTICLE XIII

11 DATE OF IMPLEMENTATION OF THE PSYCHOLOGY 12 INTERJURISDICTIONAL COMPACT COMMISSION AND 13 ASSOCIATED RULES, WITHDRAWAL AND AMENDMENTS

14 (a) The compact shall come into effect on the date on which the
15 compact is enacted into law in the 7th compact state. The provisions that
16 become effective at that time shall be limited to the powers granted to the
17 commission relating to assembly and the promulgation of rules. Thereafter,
18 the commission shall meet and exercise rulemaking powers necessary to
19 the implementation and administration of the compact.

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

25 (c) Any compact state may withdraw from this compact by enacting a
26 statute repealing the same.

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

29 (2) withdrawal shall not affect the continuing requirement of the
30 withdrawing state's psychology regulatory authority to comply with the
31 investigative and adverse action reporting requirements of this act prior to
32 the effective date of withdrawal.

33 (d) Nothing contained in this compact shall be construed to invalidate
34 or prevent any psychology licensure agreement or other cooperative
35 arrangement between a compact state and a non-compact state that does
36 not conflict with the provisions of this compact.

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

40 ARTICLE XIV

41 CONSTRUCTION AND SEVERABILITY

42 This compact shall be liberally construed so as to effectuate the
43 purposes thereof. If this compact shall be held contrary to the constitution

1 of any state member thereto, the compact shall remain in full force and
2 effect as to the remaining compact states.

3 Sec. 2. This act shall take effect and be in force from and after
4 **January 1, 2022, and** its publication in the statute book.

Licensed Psychology Information - Licenses, Complaints, and Violations

Representatives and advocates for the Kansas Psychological Association (KPA) requested the number of Licensed Psychology permanent licenses, temporary licenses, and out-of-state temporary permits; the number of out-of-state practitioners; the number of complaints against licensed psychologists; and the number of violations against licensed psychologists. Information provided to these individuals is listed below.

Licensed Psychology – Permanent Licenses

Currently, there are 1,063 Licensed Psychologists with a Kansas permanent active license. This total includes 959 individuals with a permanent active license, for which the expiration date for their license has not passed, and 104 individuals with a permanent active license whose license is active under the Governor’s Executive Order not to expire occupational licenses that would have expired during the pandemic. These licenses are active until the Emergency Disaster Declaration ends or they are renewed.

Licensed Psychology Permanent Licenses – Out-of-State Practitioners

Of the 1,063 Licensed Psychologists with an active license, 596 have a Kansas business address, 373 have a business address out-of-state, and 94 did not provide a business address.

Licensed Psychology Temporary Licenses and Out-of-State Temporary Permits

Additionally, there are currently 28 Licensed Psychologists with Temporary Licenses and 23 Licensed Psychologists with Temporary Out-of-State Permits.

Complaints/Reports of Alleged Violation (RAVs) Against Licensed Psychologists

The number of complaints/RAVs against Licensed Psychologists for the last five years are provided below:

- 2016 – 8
- 2017 – 14
- 2018 – 7
- 2019 – 17
- 2020 – 22

The number of violations is more difficult to track. Cautionary letters and diversions are not public and are not categorized as violations. Also, the BSRB does not have jurisdiction over the unlicensed practice of psychology, as it is a class B misdemeanor. So, if a determination is made of a probable case of practicing without a license, it is referred to the appropriate counties after investigation and is not categorized as a public violation, but rather treated as an action to refer these cases to the appropriate authority. The number of public violations against Licensed Psychologists are provided below:

- 2016 – 1
- 2017 – 0
- 2018 – 1
- 2019 – 0
- 2020 – 0

PSYPACT

Reducing Regulatory Barriers. Increasing Access to Mental Health Care.

TESTIMONY

HB 2209

Legislation Enacting the Interjurisdictional Authorization to Practice Telepsychology and Temporary In-person, Face-to-Face Psychology

February 11, 2021

Committee Chair Landwehr and Members of the Committee:

Hello, I am Janet Orwig, Executive Director for PSYPACT. I am writing to you in support of HB 2209 that would open the door to the State of Kansas becoming a part of PSYPACT.

I would like to express my appreciation for your consideration of the Psychology Interjurisdictional Compact (PSYPACT) legislation. The Association of State and Provincial Psychology Boards (ASPPB) is the association of all psychology regulatory boards throughout the United States and Canada. Since 1961, ASPPB has existed to support the consumer protection functions afforded by psychology regulatory boards throughout North America. ASPPB is dedicated to making psychology regulation efficient, effective and focused on protecting the consumer of psychological services by assisting its member boards to adopt the best practices in the field of credentialing and regulation. In doing so, ASPPB created PSYPACT, allowing for the interstate practice of telehealth as well as the ability to practice for a limited period of time while physically located in a PSYPACT participating state. PSYPACT, is an interstate compact which provides a mechanism for the ethical and legal practice of telepsychology, as it reduces regulatory barriers and provides for client or patient protection. The goal of PSYPACT is to improve access to mental health services by facilitating the competent practice of telehealth by licensed psychologists across state lines and represents a significant and crucial step in the profession of psychology.

As people begin to understand more about mental health issues and the need to treat them, an increase in those seeking the services of psychologists may continue to grow. Unfortunately, like so many other health professionals, psychologists are not always available in underserved areas. Increasingly, psychologists are using telehealth as a means of responding to the demand for services. Psychology is uniquely suited to taking advantage of telehealth services as psychology intervention is talking and doesn't need additional equipment like some medical specialties. When done via live video links, treatments are as effective via telehealth as when patients come to the psychologist's office.

Psychology Interjurisdictional Compact (PSYPACT)

210 Market Road Suite D • Tyrone, Georgia • 30290 • (678) 216-1175

• www.psypact.org

PSYPACT would be particularly helpful when patients travel out of state, for patients such as family of military personnel who move frequently and as has been seen during COVID.

PSYPACT provides protection to the public by certifying that psychologists have met acceptable standards of practice. Importantly, it provides compact states with a mechanism to address disciplinary issues that occur across state lines. It increases access to mental health care where care is not readily available, while at the same time, providing for continuity of care for an increasingly mobile society. PSYPACT promotes public protection, where none may currently exist, for the interstate practice of telehealth.

PSYPACT has been enacted in 15 states and several of those states are direct neighbors with Kansas (Colorado, Missouri, Nebraska, and Oklahoma. In addition to Kansas, legislation has been introduced in 13 more states with one of those being Iowa.

Several years of work preceded the final version of PSYPACT, much of which was completed in collaboration with many other psychology professional organizations such as the American Psychological Association and the American Insurance Trust. Through this collective process, PSYPACT provides a means for providers to legitimately practice as well as a mechanism for the oversight of such practice in such a manner as to benefit all parties. This is important for the profession as well as for protection of the public.

Thank you for considering this very important mental health care issue.



Janet Orwig, MBA, CAE
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Office Phone: 678-216-1188
Cell Phone: 404-788-8354

Attachments:

- PsyPact Legislation Summary
- PsyPact Reducing Regulatory Barriers Informational Sheet

PSYPACT LEGISLATION SUMMARY

ARTICLE I PURPOSE

- Allows for the delivery of psychological services via telecommunications from providers to patients in separate states.
- Allows for up to 30 days of in-person, face-to-face practice.
- Recognizes that states have a vested interest in the protection of public health and safety and through this compact and regulation will afford the best available protection.

ARTICLE II DEFINITIONS

- This article defines terms used throughout the compact to alleviate confusion on the part of the states and practitioners.
 - (N) "Home State" is the Compact State where a psychologist is licensed to practice.
 - When delivering telepsychology services it is where the psychologist is physically located, and in this case the client/patient is in the (V) "Receiving State."
 - When practicing in-person and face-to-face on a temporary basis, both the psychologist and the client/patient are present is the (K) "Distant State."
- (L) "E.Passport" is the credential vetted and issued by ASPPB granting authorization to practice interjurisdictional telepsychology in a "Receiving State" where the psychologist with this credential is not currently licensed.
- (Q) "Interjurisdictional Practice Certificate" or "IPC" is the credential vetted and issued by ASPPB granting temporary authority to practice in a "Distant State" where the psychologist with this credential is not currently licensed.

ARTICLE III HOME STATE LICENSURE

This article denotes what home state licensure means, what the minimum requirements to provide services through the compact are, and what must be required by the state to allow for the practice of telepsychology and the temporary in-person, face-to-face practice of psychology.

ARTICLE IV COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

This section lays out the education and training requirements to provide services through the compact. This section also requires a psychologist practicing under the compact to practice within his or her areas of competencies, be subject to the scope of practice of the Receiving State, and possess a current and active E.Passport. A psychologist must be licensed at the doctoral level to qualify for the E.Passport.

ARTICLE V COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

By accepting the compact, the jurisdiction will allow for temporary in-person, face-to-face practice for up to 30 days within each calendar year. The education requirements are similar to those listed in Article IV with the substitution of a requirement to hold an IPC instead of the E.Passport. The psychologist must be licensed at the doctoral level to qualify for the IPC. The other components are like those in Article IV.

ARTICLE VI CONDITION OF TELEPSYCHOLOGICAL PRACTICE IN A RECEIVING STATE

A psychologist must practice interjurisdictional telepsychology in accordance with the scope of practice of the Receiving State and within the rules of the Commission. Specifically, this means that any psychologist practicing telepsychology into a Receiving State via PSYPACT would abide by the Receiving State's scope of practice; therefore, no psychologist would be afforded prescriptive privileges even if those privileges were granted by his/her Home State.

ARTICLE VI ADVERSE ACTIONS

This section covers how the Home, Receiving, and Distant States will conduct and report adverse actions to each other, as well as the consequences for a psychologist who receives an adverse action. Any compact state can cause the E.Passport or IPC to be revoked for an out-of-state psychologist who violates that state's laws.

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

- This section provides all compact states the right to maintain their psychology regulatory authority and the right to: Issue Subpoenas, for both hearings and investigations.
- Issue Cease and Desist and/or Injunctive Relief Orders to revoke a psychologist's authority to practice interjurisdictional telepsychology and/or authorization for temporary practice.

ARTICLE IX COORDINATED LICENSURE INFORMATION SYSTEM

This section denotes the requirement of sharing licensee information for all compact states.

ARTICLE X ESTABLISHMENT OF THE PSYPACT COMMISSION

This section establishes the ruling Commission of the compact. The compact is not a waiver of sovereign immunity.

- The Commission shall consist of one voting representative appointed by each compact state who shall serve as that state's Commissioner, appointed by each state's psychology regulatory authority.
- Each Commissioner is granted (1) vote regarding creation of rules and bylaws and shall otherwise have the opportunity to participate in the business and affairs of the Commission.

ARTICLE XI RULEMAKING

This section lays out the requirements for rules made to the current compact once accepted by the first seven (7) states. Commission rules are limited to Compact administration and do not constitute new rules for the State Regulatory Authority as to its state responsibilities. The rules of PSYPACT would only supersede any state law pertaining to the interjurisdictional practice of telepsychology and temporary in-person, face-to-face practice pursuant to the compact.

ARTICLE XII OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

This section details the oversight and enforcement of the compact by accepting states.

ARTICLE XIII DATE OF IMPLEMENTATION OF PSYPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWALS, AND AMENDMENT

The compact becomes effective on the date of enactment in the seventh compact state. States that join after the adoption of the rules shall be subject to the rules as they exist on the date which the compact becomes law in that state.

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.

PSYPACT Reducing Regulatory Barriers. Increasing Access to Mental Health Care.

Created by the Association of State and Provincial Psychology Boards (ASPPB), the Psychology Interjurisdictional Compact (PSYPACT) is an interstate compact that facilitates the practice of psychology using telecommunications technologies (telepsychology) and/or temporary in-person, face-to-face psychological practice.

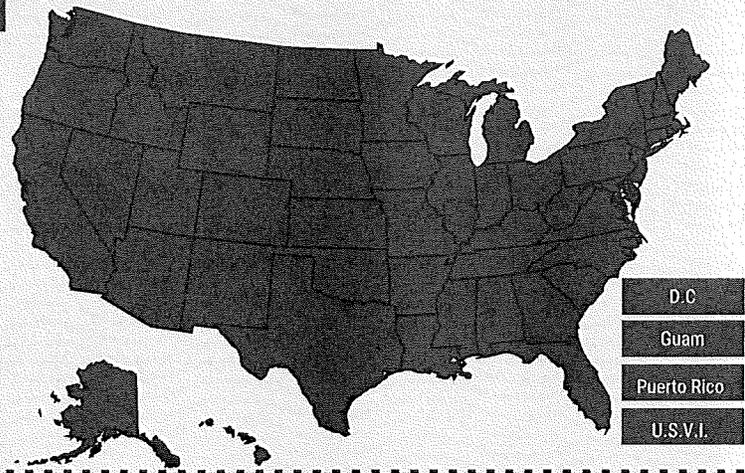
ABOUT PSYPACT

PSYPACT is a cooperative agreement enacted into law by participating states

Addresses increased demand to provide/receive psychological services via electronic means (telepsychology)

Authorizes both telepsychology and temporary in-person, face-to-face practice of psychology across state lines in PSYPACT states

PSYPACT states have the ability to regulate telepsychology and temporary in-person, face-to-face practice



HOW PSYPACT WORKS

 PSYPACT must be enacted by a state legislature. Once enacted, a state joins the PSYPACT Commission, the governing body of PSYPACT.

Psychologists licensed in a PSYPACT state can practice under PSYPACT via two different methods:

Telepsychology:
Psychologists obtain an Authority to Practice Interjurisdictional Telepsychology from the PSYPACT Commission, which requires an active ASPPB E.Passport.

Temporary Practice:
Psychologists obtain a Temporary Authorization to Practice from the PSYPACT Commission, which requires an active ASPPB IPC.

 PSYPACT states communicate and exchange information including verification of licensure and disciplinary sanctions.

BENEFITS OF PSYPACT

-  Increases client/patient access to care
-  Facilitates continuity of care when client/patient relocates, travels, etc.
-  Certifies that psychologists have met acceptable standards of practice
-  Promotes cooperation between PSYPACT states in the areas of licensure and regulation
-  Offers a higher degree of consumer protection across state lines

HOW PSYPACT IMPACTS PSYCHOLOGISTS

Allows licensed psychologists to practice telepsychology and/or conduct temporary in-person, face-to-face practice across state lines without having to become licensed in additional PSYPACT states

Permits psychologists to provide services to populations currently underserved or geographically isolated

Standardizes time allowances for temporary practice regulations in PSYPACT states

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E-Transmittal

March 4, 2021

Mr. David Fye, JD
Executive Director
Behavioral Sciences Regulatory Board
700 SW Harrison Street, #420
Topeka, Kansas 66603

Re: HB 2209 – Psychology Interjurisdictional Compact (PsyPact)

Dear BSRB Director Fye:

On behalf of the Kansas Psychological Association, I appreciate the opportunity for the KPA and supporters of PsyPact to address the Behavioral Sciences Regulatory Board (BSRB) on Monday, March 8 during its board meeting to discuss HB 2209 and respond to questions of board members. In advance of the meeting, per your email, the Board Chair requested we address the questions and concerns previously raised by the Board and be available to respond to further questions from Board Members. This memorandum and an accompanying copy of PsyPact executive director Janet Orwig's testimony to the House Health and Human Services Committee is provided in response to that request.

In advance of our meeting with the Board, I offer the following comments for consideration and information to the BSRB and to you:

The Kansas Psychological Association (KPA) is committed to working in good faith with the BSRB on the enactment of PsyPact this year. We understand the Board has not had an opportunity to become familiar with how PsyPact works, how patients are protected and can be better served by this law and how the Board can fulfill its role to ensure the public's safety and regulatory oversight. As evidence of our good faith, during my opening remarks to the House Committee I offered to delay enactment of HB 2209 from publication in the statute book (July 1, 2021) to January 1, 2022. The House Committee made this amendment when they worked the bill. It is my understanding that after a PsyPact bill is enacted in any state, the enacting state has up to ninety (90) days to appoint its representative to PsyPact, which means with a January 1, 2022 enactment date the State of Kansas would have up to April 1, 2022 to make an appointment and become formal a part of PsyPact.

PsyPact is an interstate compact and as with other compact bills and statutes, there is little room to make substantive changes to a compact bill. That said, if there are specific changes to HB 2209 that we can adopt this year that are acceptable to PsyPact, we will work with the Board to make those changes. Furthermore, if changes are requested during the interim, we would make the same commitment for seeking an amendment during the 2022 session before the BSRB would be required to make an appointment to PsyPact as the bill is currently drafted.

Hopefully, this commitment will offer some degree of comfort to the Board that implementation of this legislation this year is manageable. Given the fact this legislation has been adopted by fifteen states to date and another fourteen states and the District of Columbia are considering the Model Act this year, there will be any number of states and resources from which to consult in regard to any implementation challenges that arise.

Thank you for your consideration.

Sincerely,

Whitney Damron

Specific Concerns Stated by the BSRB in written testimony to the Committee:

- 1. Lack of clarity regarding the process that consumers would use to submit complaints against out-of-state psychologists providing services to Kansans.**

Response.

- Consumers can file a complaint with the State of Kansas or with the home state of a psychologist. If filed in Kansas, BSRB may investigate; if filed in home state, the regulatory agency must investigate. Kansas and the home state may conduct separate investigations, a joint investigation, cooperate with each other, or otherwise collaborate as appropriate. Adverse action by BSRB can preclude nonresident psychologist from further practice under PsyPact in Kansas. In summary, a Kansas consumer would file a complaint against an out-of-state provider with the BSRB as they do now for a Kansas provider.

- 2. Lack of specificity regarding several aspects of how the BSRB would be able to utilize an effective investigation process for out-of-state psychologists who would provide services to Kansas under the provisions of the bill.**

Response.

- PsyPact provides protection to the public by certifying that psychologists have met acceptable standards of practice. PsyPact has been adopted through the collaboration of state regulators, the American Psychological Association, and the American Insurance Trust. The experience in participating states has certainly not discouraged other states to follow this path as cited earlier in this memorandum. As noted, any participating PsyPact state has full regulatory authority over those practicing within their state in-person or through telepsychology.

- 3. Concerns regarding economic impact on agency operations. There would be a decrease in revenue from fees to the BSRB from out-of-state psychologists in PsyPact states (both from permanent licenses and those seeking a temporary permit), which would provide fewer resources to investigate complaints. However, with more psychologists providing services in Kansas, there would be an increase in reported complaints and a need for more investigative resources.**

Response.

- Facts presented in the record taken from BSRB information seem to indicate there is not a significant risk of a significant increase in investigative costs. The BSRB has had relatively few complaints filed against psychologists over the past five years and national numbers are not significant, either.

- The BSRB suggests PsyPact could lead to a loss of out-of-state licensees and thus reduce its revenues. If out-of-state psychologists sought credentialing through PsyPact rather than the current out-of-state license option, that process would necessarily accomplish a significant piece of the verification process without any cost to the BSRB. If there are cost increases to the BSRB from the passage of PsyPact, we are confident the parties of interest can work to ensure the agency is properly funded heading into the BSRB's FY 2022 budget cycle.

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PsyPact has a robust and informative website that is easy to navigate with a wealth of information. I would encourage all BSRB Board Members to check out the website in advance of our discussion on Monday.

www.psypact.org

Thank you for your consideration of this information. On behalf of the Kansas Psychological Association, we respectfully ask for your favorable consideration of this important piece of legislation.

I look forward to our discussion on Monday, March 8.

Whitney Damron
wbdamron@gmail.com
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SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2209

As Amended by House Committee on Health
and Human Services

Brief*

HB 2209, as amended, would enact the Psychology Interjurisdictional Compact, PSYPACT (Compact), and provide for the interjurisdictional authorization of psychologists across state boundaries to practice telepsychology using telecommunication technologies and to provide temporary in-person, face-to-face psychology services.

Article I—Purpose

The purpose of the Compact would be to regulate the day-to-day practice of telepsychology, the provision of psychological services using telecommunication technologies; to regulate the temporary (30 days within a calendar year) in-person, face-to-face practice of telepsychology by psychologists across state boundaries in performing their psychological practice as assigned by an appropriate authority; and to authorize state psychology regulatory authorities to legally recognize, in a manner consistent with the terms of the Compact, psychologists licensed in another state.

The Compact would not apply to a psychologist licensed in both the home and receiving states and to the permanent, in-person, face-to-face practice of psychology.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The Compact's design would be to achieve the following purposes and objectives:

- Increase public access to professional psychological services by allowing telepsychological practice across state lines and temporary in-person, face-to-face services into a state in which the psychologist is not licensed to practice psychology;
- Enhance the states' ability to protect the public's health and safety, especially client/patient safety;
- Encourage the cooperation of compact states in the areas of psychology licensure and regulation;
- Facilitate the exchange of information between compact states regarding psychologist licensure, adverse actions, and disciplinary history;
- Promote compliance with the laws governing psychological practice in each compact state; and
- Invest all compact states with the authority to hold licensed psychologists accountable through the mutual recognition of compact state licenses.

Article II—Definitions

The Compact would define applicable terms, including the following:

- "Association of State and Provincial Psychology Boards" (Association) would mean the recognized membership organization composed of state and provincial psychology regulatory authorities responsible for the licensure of psychologists throughout the United States and Canada;

- “Authority to practice interjurisdictional telepsychology” would mean a licensed psychologist’s authority to practice telepsychology, within the limits authorized under the Compact, in another compact state;
- “Commissioner” would mean the voting representative appointed by each state psychology regulatory authority pursuant to Article X;
- “Compact state” would mean a state, the District of Columbia, or a U.S. territory that has enacted Compact legislation and has not withdrawn pursuant to Article XIII(c) or been terminated pursuant to Article XII(b);
- “Coordinated licensure information system” or “coordinated database” would mean an integrated process for collecting, storing, and sharing information on psychologists’ licensure and enforcement activities related to psychology licensure laws, administered by the recognized membership organization composed of state and provincial psychology regulatory authorities;
- “Distant state” would mean the compact state where a psychologist is physically present, not through the use of telecommunications technologies, to provide temporary in-person, face-to-face psychological services;
- “E.Passport” would mean a certificate issued by the Association that promotes the standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines;
- “Home state” would mean the compact state where a psychologist is licensed to practice psychology. If

the psychologist is licensed in more than one compact state and is practicing interjurisdictional psychology, the home state would be the compact state where the psychologist is physically present when the services are delivered. If the psychologist is licensed in more than one compact state under a temporary authorization to practice, the home state would be any compact state where the psychologist is licensed;

- “Interjurisdictional practice certificate” would mean a certificate issued by the Association that grants temporary authority to practice based on notification to the state psychology regulatory authority of intention to practice temporarily and verification of one’s qualifications for such practice;
- “Psychology Interjurisdictional Compact Commission” (Commission) would mean the national administration of which all compact states are members;
- “Receiving state” would mean a compact state where the client/patient is physically located when the telepsychological services are delivered; and
- “Rule” would mean a written statement by the Commission promulgated pursuant to Article XI that meets the four requirements set out, including having the force and effect of statutory law in a compact state.

Article III—Home State Licensure

Under the Compact, a home state’s license would authorize a psychologist to practice in a receiving state under the authority to practice interjurisdictional telepsychology only if the compact state:

- Currently requires the psychologist to hold an active E.Passport;
- Has a mechanism in place for receiving and investigating complaints about licensed individuals;
- Notifies the Commission, in compliance with the terms of the Compact, of any adverse action or significant investigatory information regarding a licensed individual;
- Requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, or other designee with similar authority, not later than ten years after activation of the Compact; and
- Complies with the bylaws and rules of the Commission.

Under the Compact, a home state's license would grant temporary authorization to practice to a psychologist in a distant state only if the same five conditions noted above required for authorization to practice interjurisdictional psychology were met.

Article IV—Compact Privilege to Practice Telepsychology

The Compact would require compact states to 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.

The Compact would establish specific requirements for a psychologist licensed to practice in a compact state to

exercise the authority to practice interjurisdictional telepsychology under the terms and provisions of the Compact.

The Compact would provide the home state would maintain authority over the license of any psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology. A psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology would be subject to the receiving state's scope of practice.

The Compact would authorize a receiving state, in accordance with the state's due process laws, to limit or revoke a psychologist's authority to practice interjurisdictional telepsychology in the receiving state and to take any other necessary actions under that state's applicable law to protect the health and safety of the receiving state's citizens. The Compact would require a state taking such disciplinary action to notify the home state and the Commission.

The Compact would require the E.Passport to be revoked and a psychologist no longer be eligible to practice telepsychology in a compact state under the authority to practice interjurisdictional telepsychology if the psychologist's license in any home state or another compact state, or any authority to practice interjurisdictional telepsychology in any receiving state, is restricted, suspended, or otherwise limited.

Article V—Compact Temporary Authorization to Practice

The Compact would require compact states to also recognize the right of a psychologist licensed in a compact state in conformance with Article III to practice temporarily in other compact states, or distant states, in which the psychologist is not licensed, as provided in the Compact.

The Compact would establish specific requirements for a psychologist licensed to practice in a compact state to

exercise the temporary authorization to practice under the terms and provisions of the Compact. These requirements would be the same as those for Compact privilege to practice telepsychology.

With regard to a psychologist practicing into a distant state under the temporary authorization to practice, the Compact would require the psychologist to:

- Practice within the scope of practice authorized by the distant state; and
- Be subject to the distant state's authority and law.

The distant state's authority to limit or revoke a psychologist's temporary authorization to practice in the distant state and its requirement to promptly notify the home state and the Commission of such disciplinary actions would be the same as that of a receiving state with regard to a psychologist's authority to practice interjurisdictional authority in a receiving state.

The Compact would require the revocation of an interjurisdictional practice certificate under the same conditions that would require the revocation of an E.Passport.

Article VI—Conditions of Telepsychology Practice in a Receiving State

The Compact would authorize a psychologist to practice in a receiving state under the authority to practice interjurisdictional telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate state psychology regulatory authority, as defined in the rules of the Commission, and under the following circumstances:

- The psychologist initiates a client/patient contact in a home state *via* telecommunications technologies with a client/patient in a receiving state; and
- Other conditions regarding telepsychology as determined by rules promulgated by the Commission.

Article VII—Adverse Actions

The Compact would establish the following with regard to adverse actions against a psychologist:

- A home state would have the power to impose adverse action against a psychologist's license issued by the home state. A distant state would have the power to take adverse action on a psychologist's temporary authorization to practice within the distant state;
- A receiving state would be authorized to take action on a psychologist's authority to practice interjurisdictional telepsychology within that receiving state. A home state would be allowed to take adverse action based on an adverse action taken by a distant state regarding temporary in-person, face-to-face practice;
- If a home state takes adverse action against a psychologist's license, that psychologist's authority to practice interjurisdictional telepsychology would be terminated and the E.Passport revoked. The psychologist's temporary authorization to practice would be terminated and the interjurisdictional practice certificate would be revoked. The Compact would require all home state disciplinary orders that impose adverse action and adverse actions by compact states to be reported to the Commission, in accordance with the rules of the Commission;

- A home state's psychology regulatory authority would be required to investigate and take appropriate disciplinary action with regard to reported inappropriate conduct that occurred in a receiving state as it would if such conduct had occurred within the home state. In these cases, the home state's law would control the determination of any adverse action against a psychologist's license. In like manner, a distant state would be required to investigate and take appropriate action against a psychologist practicing under a temporary authorization that occurred in the distant state, as if such conduct had occurred within the home state. The distant state's law would control in determining any adverse action against a psychologist's temporary authorization to practice;
- The Compact would not override a compact state's decision that a psychologist's participation in an alternative program would be used in lieu of adverse action and that participation would remain non-public if required by the compact state's law. During the term of the alternative program, compact states would be prohibited from allowing psychologists in an alternative program to practice interjurisdictional telepsychology or provide temporary psychological services under the temporary authorization to practice in any other compact state; and
- No other judicial or administrative remedies would be available to a psychologist in the event a compact state imposes an adverse action that results in the revocation of an E.Passport or an interjurisdictional practice certificate.

Article VIII—Additional Authorities Invested in a Compact State’s Psychology Regulatory Authority

In addition to powers granted under state law, the Compact would provide a compact state’s psychology regulatory authority with additional authorities including:

- Issuing subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence; and
- Issuing cease and desist or injunctive relief orders to revoke a psychologist’s authority to practice interjurisdictional telepsychology or temporary authorization to practice.

Article IX—Coordinated Licensure Information System

The Compact would provide for the development and maintenance of a coordinated licensure information system and reporting system containing licensure and disciplinary action information on all individuals to whom the Compact is applicable in all compact states.

Notwithstanding any other provision of state law to the contrary, a compact state would be required to submit a specified uniform data set to the coordinated database on all licensees as required by the rules of the Commission. The Compact would require the coordinated database administrator to promptly notify all compact states of any adverse action taken against, or significant investigative information on, any licensee in a compact state. Compact states would be allowed to designate information reported to the coordinated database that would not be shared with the public without the express permission of the compact state reporting the information. Information submitted to the coordinated database subsequently required to be expunged

by state law of the compact state reporting the information would be removed from the coordinated database.

Article X—Establishment of the Commission

Creation of Commission

The Compact would require compact states to create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission. The Commission would be a body politic and an instrumentality of the compact states. Venue would be proper and judicial proceeding by or against the Commission would be required to be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. To the extent the Commission adopts or consents to participate in alternative dispute resolution, the Commission could waive venue and jurisdictional defenses. Nothing in the Compact would be construed to be a waiver of sovereign immunity.

Membership, Voting, and Meetings

The Commission would consist of one voting representative appointed by each compact state who would serve as that state's commissioner. The state psychology regulatory authority would appoint its delegate, who would be empowered to act on behalf of the compact state. Limitations on who may be appointed as a delegate would be as outlined in the Compact.

The Compact would allow any commissioner to be removed or suspended from office as provided by the law of the state from which the commissioner is appointed. Any vacancy occurring in the Commission would be filled according to the laws of the compact state in which the vacancy exists.

The Compact would provide for the voting procedure for commissioners and establish the meeting requirements, including requiring meetings be open to the public and providing public notice of the meetings. The Compact would allow closed, non-public meetings to be convened if the Commission is required to discuss specific matters as outlined in the Compact and would require specific procedures be followed when such meetings are held.

Bylaws and Rules

The Compact would require the Commission, by a majority vote of the commissioners, to prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the Compact. The Compact would describe the nature of such bylaws and rules.

Powers of the Commission

The Compact would grant the following powers to the Commission:

- Promulgating uniform rules to facilitate and coordinate implementation and administration of the Compact, which would have the force and effect of law and would be binding in all compact states;
- Bringing and prosecuting legal proceedings or actions in the name of the Commission, provided the standing of any state psychology regulatory authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law would not be affected;
- Purchasing and maintaining insurance and bonds;

- Borrowing, accepting, or contracting for services of personnel, including, but not limited to, employees of a compact state;
- Hiring employees, electing or appointing officers, fixing compensation, defining duties, granting such individuals appropriate authority to carry out the purposes of the Compact, and establishing the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
- Accepting any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and receiving, utilizing, and disposing of the same, provided that at all times the Commission strives to avoid any appearance of impropriety or conflict of interest;
- Leasing, purchasing, accepting appropriate gifts or donations of, or otherwise owning, holding, improving, or using, any real or personal property, or mixed, provided the Commission at all times strives to avoid the appearance of impropriety;
- Selling, conveying, mortgaging, pledging, leasing, exchanging, abandoning, or otherwise disposing of any real or personal property, or mixed;
- Establishing a budget and making expenditures;
- Borrowing money;
- Appointing committees, including advisory committees, with membership as described;
- Providing and receiving information from, and cooperating with, law enforcement agencies;
- Adopting and using an official seal; and

- Performing such other functions as may be necessary or appropriate to achieve the purpose of the Compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face, and telepsychology practice.

Executive Board

The Compact would provide the elected officers would serve as the Executive Board (Board). The Board would have the power to act on behalf of the Commission according to the terms of the Compact. The Compact would designate the composition of the six-member Board, including one ex-officio member from the recognized membership organization composed of state and provincial psychology regulatory authorities, allow for removal of a Board member as provided in the bylaws, set the frequency of the Board meetings, and establish the duties and responsibilities of the Board.

Financing of the Commission

The Compact would require the Commission to pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities. The Commission would be:

- Allowed to accept any and all appropriate revenue resources, donations and grants of money, equipment, supplies, material, and resources;
- Allowed to levy on and collect an annual assessment from each compact state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff which would be required to be in an amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment would be allocated based on a formula determined

by the Commission, and the Commission would be required to promulgate a rule binding upon all compact states;

- Prohibited from incurring obligations of any kind prior to securing the funds adequate to meet the same or from pledging the credit of any of the compact states, except by and with the authority of the compact state; and
- Required to keep accurate accounts of all receipts and disbursements. Such receipts and disbursements would be subject to the audit and accounting procedures established under the Commission's bylaws. Additionally, the Compact would require that all receipts and disbursements of funds handled by the Commission be audited yearly by a certified or licensed public accountant and the report of the audit be included in and become part of the annual report of the Commission.

Qualified Immunity, Defense, and Indemnification

The Compact would provide the members, officers, executive director, employees, and representatives of the Commission would be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of Commission employment, duties, or responsibilities, provided that no such person would be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of such person.

The Compact would require the Commission to defend any member, officer, executive director, employee, or

representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that incurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities. Such person would not be prohibited from retaining his or her own counsel. The actual or alleged act, error, or omission could not have resulted from such person's intentional, willful, or wanton misconduct.

Further, the Compact would require the Commission indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided the act, error, or omission did not result from the intentional, willful, or wanton misconduct of that person.

Article XI—Rulemaking

The Compact would require the Commission to exercise its rulemaking power according to this Article and the rules adopted thereunder. Additional rulemaking provisions would include the following:

- Rules and amendments would become binding as of the date specified in each rule or amendment;
- If a majority of the legislatures of the compact states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule would have no further force and effect in any compact state;

- Rules or amendments to the rules would be adopted at a regular or special meeting of the Commission;
- The Commission would be required to file a notice of proposed rulemaking prior to the promulgation and adoption of a final rule or rules by the Commission at least 60 days in advance of the meeting at which the rule would be considered and voted upon;
- The notice of proposed rulemaking would be required to contain certain specific items, as outlined in the bill;
- Prior to the adoption of a proposed rule, the Commission would be required to allow persons to submit written data, facts, opinions, and arguments, which would be made available to the public;
- The Commission would be required to grant an opportunity for a public hearing before the adoption of a rule or amendment if a hearing is requested by at least 25 persons who submit comments independently of each other, a governmental subdivision or agency, or a duly appointed person in an association that has at least 25 members;
- If a hearing is held on the proposed rule or amendment, the Commission would be required to publish the place, time, and date of the scheduled public hearing. The Compact would provide for written notification by persons wishing to provide public comment, the manner of conduct of the meeting to allow for such public comment, and provisions for transcripts and recordings of the hearing, and allow for rules grouped for hearings for the convenience of the Commission;

- Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission would be required to consider all written and oral comments received;
- The Commission would take final action on the proposed rule by a majority vote of all members and determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule;
- The Commission would be allowed to proceed with the promulgation of the proposed rule without a public hearing if no written notice of intent to attend the public hearing by interested parties is received;
- Upon determination that an emergency exists, the Commission would be authorized to consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided for in the Compact and in this Article are retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. The Compact would provide for what constitutes an emergency rule; and
- The Commission or an authorized committee of the Commission would be allowed to direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. The method of public notice and challenges to such revisions would be as outlined in the bill.

Article XII—Oversight, Dispute Resolution, and Enforcement

Oversight

The Compact would provide for the following oversight:

- Executive, legislative, and judicial branches of state government in each compact state would be required to enforce the Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of the Compact and the rules promulgated thereunder would have standing as statutory law;
- All courts would be required to take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a compact state pertaining to the subject matter of the Compact that may affect the powers, responsibilities, or actions of the Commission; and
- The Commission would be entitled to receive service of process and would have standing to intervene in such proceedings for all purposes. Failure to provide service of process to the Commission would render the judgment or order void as to the Commission, the Compact, or promulgated rules.

Default, Technical Assistance, and Termination

The Compact would require the Commission, upon determination that a compact state has defaulted in the performance of its obligations or responsibilities under the Compact or promulgated rules, to provide written notice to the defaulting state and other compact states of the default, the proposed means of remedying the default, and any other action to be taken by the Commission, and provide remedial

training and specific technical assistance regarding the default.

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

Termination of membership in the Compact would be imposed only after all other means of securing compliance have been exhausted. The Compact would require the Commission to provide written notice of the intent to suspend or terminate to the governor and the majority and minority leaders of the defaulting state's legislature and each of the compact states.

The Compact would require a compact state that has been terminated to be responsible for all assessments, obligations, and liabilities incurred through the effective date of termination.

Unless agreed upon in writing between the Commission and the defaulting state, the Compact would prohibit the Commission from bearing the costs incurred by the state found to be in default or that has been terminated from the Compact.

The Compact would allow a defaulting state to appeal the action of the Commission by petitioning the U.S. District Court for the State of Georgia or the federal district where the Compact has its principal offices. The prevailing state would be awarded all costs of such litigation, including reasonable attorney fees.

Dispute Resolution

Upon request by a compact state, the Commission would be required to attempt to resolve disputes related to the Compact that arise among compact states and between compact and non-compact states. The Compact would require the Commission to promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the Commission.

Enforcement

The Compact would require the Commission, in the reasonable exercise of its discretion, to enforce the provisions and rules of the Compact. By majority vote, the Commission would be authorized to initiate legal action in the U.S. District Court for the State of Georgia, or the federal district court 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 Compact would provide that both injunctive relief and damages may be sought. If judicial enforcement would be necessary, the prevailing member would be awarded all costs of such litigation, including reasonable attorney fees. The Compact would provide the remedies in this Article would not be the exclusive remedies of the Commission, and the Commission would be authorized to pursue other remedies available under federal or state law.

Article XIII—Date of Implementation of the Commission and Associated Rules, Withdrawal, and Amendments

Effective Date

The Compact would come into effect on the date on which it is enacted into law in the seventh compact state. The provisions that would come into effect at that time would be limited to the powers granted to the Commission related to

assembly and promulgation of rules. The Commission would then meet and exercise rulemaking powers necessary to implement and administer the Compact. [Note: The seventh state enacted the Compact in April 2019.]

The Compact would require any state joining the Compact after the Commission's initial adoption of rules to be subject to the rules as they exist on the date on which the Compact becomes law in such state and would have the full force and effect of law.

A compact state would be allowed to withdraw from the Compact by enacting a statute repealing the same. The Compact would provide that a compact state's withdrawal would not take effect until six months after enactment of the repealing statute and would not affect the continuing requirement of the withdrawing state's psychology regulatory authority to comply with the investigative and adverse action reporting requirements of the Compact prior to the effective date of withdrawal.

The Compact would not invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a compact state and a non-compact state that does not conflict with the provisions of the Compact.

The compact states would be authorized to amend the Compact. No amendment to the Compact would become effective and binding upon any compact state until it is enacted into the law of all compact states.

Article XIV—Construction and Severability

The Compact would be liberally construed to effectuate its purposes. If the Compact would be held contrary to the constitution of any state member, the Compact would remain in full force and effect in the remaining compact states.

Effective Date

The bill would become effective on January 1, 2022.

Background

The bill was introduced by the House Committee on Health and Human Services at the request of a representative of the Kansas Psychological Association.

House Committee on Health and Human Services

In the House Committee hearing, representatives of the Kansas Psychology Association, the Compact, and a Kansas-licensed psychologist provided **proponent** testimony. The Kansas Psychology Association representative reviewed the dialogue the association had engaged in with the Behavioral Sciences Regulatory Board (BSRB) regarding the legislation and indicated, in light of the BSRB's position on the July 1, 2021, effective date, the association would be willing to consider extending the effective date to January 1, 2022, to allow the BSRB additional time. The Compact representative stated the Compact has been enacted in 15 states, including Colorado, Missouri, Nebraska, and Oklahoma, and provided the Compact's history. The Compact representative stated the Compact increases access to mental health care where care is not readily available, while providing for continuity of care for an increasingly mobile society, and promotes public protection for the interstate practice of telehealth, where none may exist. The psychologist stated the benefits of providing services *via* telepsychology during the COVID-19 pandemic and the expanded opportunities for Kansas psychologists for interjurisdictional practice, without requiring them to maintain permanent and temporary licenses in multiple states. Written-only **proponent** testimony was provided by a psychologist.

No neutral testimony was provided.

Opponent testimony was provided by a representative of the BSRB who stated concerns about the lack of clarity regarding the process consumers would use to submit complaints against out-of-state psychologists providing services in Kansas, the lack of specificity regarding how the BSRB would utilize an effective investigation process for out-of-state psychologists providing services in Kansas, and the economic impact of enactment of the Compact on agency operations. The BSRB representative asked the bill be tabled for the 2021 Legislative Session to allow time for the sponsors and the BSRB to craft a bill for the 2022 Legislative Session that would achieve the objectives of the sponsor but with clearer protections of the public.

The House Committee amended the effective date of the bill to January 1, 2022.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, BSRB indicates enactment of the bill could increase annual expenditures for additional hours spent by staff investigating complaints on new practitioners from compact states. The agency indicates it is unable to provide a fiscal effect, as the number of additional complaints that would need to be investigated cannot be estimated. The BSRB indicates the bill could also decrease revenues to the BSRB Fee Fund if psychologists licensed by the BSRB would choose not to renew their Kansas license or apply for temporary out-of-state permits and practice under the provisions of the Compact. Since 10.0 percent of fee fund revenue is remitted to the State General Fund (SGF), the BSRB indicates the bill could also decrease revenue to the SGF. A fiscal effect cannot be estimated as the number of licensed psychologists who may choose to practice under the provisions of the Compact and not renew their Kansas license or seek a temporary, out-of-state permit is not known.

Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Behavioral sciences; Behavioral Sciences Regulatory Board; psychology; licensure; Psychology Interjurisdictional Compact; telepsychology; temporary in-person, face-to-face psychology