

CHAPTER 2023-140

Committee Substitute for House Bill No. 33

An act relating to the Psychology Interjurisdictional Compact; creating s. 490.0075, F.S.; creating the Psychology Interjurisdictional Compact; providing purposes and objectives; defining terms; providing for recognition of psychologist licenses in compact states; authorizing a compact state to require licensure under certain circumstances; requiring compact states to meet certain criteria to participate in the compact; providing criteria that a psychologist must satisfy to practice under the compact; maintaining that authority over a psychologist's license remains with the home state but authorizing receiving states to define the scope of and act on a psychologist's authority to practice in the compact state under the compact; prohibiting a psychologist from practicing under the compact if his or her authority to do so has been acted on by any compact state; requiring compact states to report adverse actions they take against psychologists to the Psychology Interjurisdictional Compact Commission; requiring compact states to participate in a coordinated licensure information system; providing for the development of the system, reporting procedures, and the exchange of certain information between compact states; establishing the Psychology Interjurisdictional Compact Commission; providing for the jurisdiction and venue for court proceedings; providing membership, duties, and powers; authorizing the commission to adopt rules; providing rulemaking procedures; providing for state enforcement of the compact; providing for the termination of compact membership; providing procedures for the resolution of certain disputes; providing compact amendment procedures; authorizing nonparty states to participate in commission activities before adoption of the compact; providing construction and severability; amending s. 456.073, F.S.; requiring the Department of Health to report certain investigative information to the coordinated licensure information system; amending s. 456.076, F.S.; requiring monitoring contracts for impaired practitioners participating in treatment programs to contain certain terms; amending s. 490.004, F.S.; requiring the Board of Psychology to appoint an individual to serve as the state's commissioner on the Psychology Interjurisdictional Compact Commission; amending s. 490.005, F.S.; exempting certain persons from licensure requirements; amending s. 490.006, F.S.; exempting certain persons from requirements for licensure by endorsement; amending s. 490.009, F.S.; authorizing certain disciplinary action under the compact for certain prohibited acts; amending s. 768.28, F.S.; designating the state commissioner and other members or employees of the commission as state agents for the purpose of applying sovereign immunity and waivers of sovereign immunity; requiring the commission to pay certain judgments or claims; authorizing the commission to maintain insurance coverage to pay such judgments or claims; providing an effective date.

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

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

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

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

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

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

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

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

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

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

PSYCHOLOGY INTERJURISDICTIONAL COMPACT

ARTICLE I

PURPOSE

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

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

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

(3) Encourage the cooperation of compact states in the areas of psychologist licensure and regulation;

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

(5) Promote compliance with the laws governing the practice of psychology in each compact state; and

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

ARTICLE II

DEFINITIONS

As used in this compact, the term:

(1) “Adverse action” means any disciplinary action that is a matter of public record which is taken by a state’s psychology regulatory authority against an individual’s license to practice psychology in that state.

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

(3) “Authority to practice interjurisdictional telepsychology” means a licensed psychologist’s authority to practice telepsychology, within the limits authorized under this compact, in a compact state other than the one in which he or she is licensed.

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

(5) “Client or patient” means the recipient of psychological services, whether psychological services are delivered in the context of health care, corporate, supervision, or consulting services.

(6) “Commissioner” means the voting representative appointed by each state psychology regulatory authority pursuant to article X.

(7) “Compact state” means a state, the District of Columbia, or a United States territory that has enacted this compact legislation and that has not withdrawn pursuant to subsection (3) of article XIII or been terminated pursuant to subsection (2) of article XII.

(8) “Confidentiality” means the principle that data or information is not made available or disclosed to unauthorized persons or processes.

(9) “Coordinated licensure information system,” also referred to as “coordinated database,” means an integrated process that is administered by the Association of State and Provincial Psychology Boards for collecting, storing, and sharing information on psychologists’ licensure and enforcement activities related to psychology licensure laws and the Psychology Interjurisdictional Compact.

(10) “Day” means any part of a day in which the psychologist practices psychology.

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

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

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

(14) “Home state” means a compact state where a psychologist is licensed to practice psychology, as provided in article III.

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

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

(17) “Interjurisdictional Practice Certificate (IPC)” means the certificate issued by the Association of State and Provincial Psychology Boards which grants temporary authority to practice based on notification to the state psychology regulatory authority of one’s intention to practice temporarily, and verification of one’s qualifications for such practice.

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

(19) “Noncompact state” means a state that is not a compact state.

(20) “Psychologist” means an individual who is licensed by a state psychology regulatory authority to independently practice psychology in that state.

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

(22) “Receiving state” means a compact state where the client or patient is physically located when the telepsychological services are delivered.

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

(24) “Significant investigatory information” means:

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

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

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

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

(27) “Telepsychology” means the provision of psychological services using telecommunication technologies.

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

(29) “Temporary in-person, face-to-face practice” means when a psychologist is physically present, not through the use of telecommunication technologies, in the distant state to provide psychological services for up

to 30 days within a calendar year and based on notification to the distant state.

ARTICLE III

HOME STATE LICENSURE

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

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

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

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

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

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

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

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

(d) Requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, or other designee with similar authority, no later than 10 years after activation of the compact; and

(e) Complies with the bylaws and rules of the commission.

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

- (a) Currently requires the psychologist to hold an active IPC;
- (b) Has a mechanism in place for receiving and investigating complaints about licensed individuals;
- (c) Notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;
- (d) Requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, or other designee with similar authority, no later than 10 years after activation of the compact; and
- (e) Complies with the bylaws and rules of the commission.

ARTICLE IV

COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

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

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

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

1. Regionally accredited by an accrediting body recognized by the United States Department of Education to grant graduate degrees, or authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) If a 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, the e-passport must be revoked and the psychologist is not eligible to practice telepsychology in a compact state under the authority to practice interjurisdictional telepsychology.

ARTICLE V

COMPACT TEMPORARY
AUTHORIZATION TO PRACTICE

(1) Compact states shall 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Possess a current, active IPC;

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

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

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

(4) A psychologist practicing in a distant state under a temporary authorization to practice will be subject to the distant state's authority and law. A distant state may, in accordance with that state's due process law, limit or revoke a psychologist's temporary authorization to practice in the

distant state and may take any other necessary actions under the distant state's applicable law to protect the health and safety of the distant state's citizens. If a distant state takes action, the state shall promptly notify the home state and the commission.

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

ARTICLE VI

CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

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

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

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

ARTICLE VII

ADVERSE ACTIONS

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

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

(3) If a home state takes adverse action against a psychologist's license, that psychologist's authority to practice interjurisdictional telepsychology is terminated and the e-passport is revoked. Furthermore, that psychologist's temporary authorization to practice is terminated and the IPC is revoked.

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

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

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

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

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

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

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

ARTICLE VIII

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

(1) In addition to any other powers granted under state law, a compact state's psychology regulatory authority shall have the authority under this compact to:

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

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

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

ARTICLE IX

COORDINATED LICENSURE INFORMATION SYSTEM

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

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

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

- (d) Adverse actions against a psychologist's license;
 - (e) An indicator that a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice is revoked;
 - (f) Nonconfidential information related to alternative program participation information;
 - (g) Any denial of application for licensure, and the reasons for such denial; and
 - (h) Other information that may facilitate the administration of this compact, as determined by the rules of the commission.
- (3) The coordinated database administrator shall promptly notify all compact states of any adverse action taken against, or significant investigatory information on, any licensee in a compact state.
- (4) Compact states reporting information to the coordinated database may designate information that may not be shared with the public without the express permission of the compact state reporting the information.
- (5) Any information submitted to the coordinated database which 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

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

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

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

(c) This compact does not waive sovereign immunity except to the extent sovereign immunity is waived in the party states.

(2) MEMBERSHIP, VOTING, AND MEETINGS.—

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

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

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

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

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

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

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

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

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

1. Noncompliance of a compact state with its obligations under the compact;

2. Employment, compensation, or discipline of or other personnel matters, practices, or procedures related to specific employees, or other matters related to the commission’s internal personnel practices and procedures;

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

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

5. An accusation of any person of a crime or a formal censure of any person;

6. Information disclosing trade secrets or commercial or financial information which is privileged or confidential;

7. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

8. Investigatory records compiled for law enforcement purposes;

9. Information related to any investigatory reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the compact; or

10. Matters specifically exempted from disclosure by federal or state statute.

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

(3) BYLAWS.—

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

1. Establishing the fiscal year of the commission;

2. Providing reasonable standards and procedures:

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

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

3. Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's

interest, the privacy of individuals involved in such proceedings, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the commissioners vote to close a meeting to the public in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting which reveals the vote of each commissioner with no proxy votes allowed;

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

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

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

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

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

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

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

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

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

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

(c) Purchase and maintain insurance and bonds;

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

(e) Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the

purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

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

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

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

(i) Establish a budget and make expenditures;

(j) Borrow money;

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

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

(m) Adopt and use an official seal; and

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

(5) EXECUTIVE BOARD.—

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

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

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

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

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

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

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

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

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

3. Prepare and recommend the budget;

4. Maintain financial records on behalf of the commission;

5. Monitor compact compliance of member states and provide compliance reports to the commission;

6. Establish additional committees as necessary; and

7. Other duties as provided in rules or bylaws.

(6) FINANCING.—

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

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

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

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

(e) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be

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

(7) QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.

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

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

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

ARTICLE XI

RULEMAKING

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

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

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

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

(a) On the website of the commission; and

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

(5) The notice of proposed rulemaking shall include:

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

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

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

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

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

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

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

(b) A governmental subdivision or agency; or

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

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

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

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

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

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

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

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

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

(12) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, but no later than 90 days after the effective date of the rule. For the purposes of this subsection, an emergency rule is one that must be adopted immediately in order to:

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

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

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

(d) Protect public health and safety.

(13) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of

correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the commission before the end of the notice period. If a challenge is not made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

ARTICLE XII

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

(1) OVERSIGHT.—

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

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

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

(2) DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION.—

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

1. Provide written notice to the defaulting state and other compact states of the nature of the default, the proposed means of remedying the default, and any other action to be taken by the commission; and

2. Provide remedial training and specific technical assistance regarding the default.

(b) If a state in default fails to remedy the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority

of the compact states, and all rights, privileges, and benefits conferred by this compact shall be terminated on the effective date of termination. A remedy of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(c) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. The commission shall submit a notice of intent to suspend or terminate a defaulting compact state to the state's governor, the majority and minority leaders of the state's legislature, and each of the compact states.

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

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

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

(3) DISPUTE RESOLUTION.—

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

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

(4) ENFORCEMENT.—

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

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

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

ARTICLE XIII

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

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

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

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

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

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

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

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

ARTICLE XIV

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any state

member thereto, the compact shall remain in full force and effect as to the remaining compact states.

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

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

(10) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first. The department shall report any significant investigation information relating to a nurse holding a multistate license to the coordinated licensure information system pursuant to s. 464.0095, and any significant investigatory information relating to a health care practitioner practicing under the Professional Counselors Licensure Compact to the data system pursuant to s. 491.017, and any significant investigatory information relating to a psychologist practicing under the Psychology Interjurisdictional Compact to the coordinated licensure information system pursuant to s. 490.0075. Upon completion of the investigation and a recommendation by the department to find probable cause, and pursuant to a written request by the subject or the subject's attorney, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days of mailing by the department, unless an extension of time has been granted by the department. This subsection does not prohibit the department from providing such information to any law enforcement agency or to any other regulatory agency.

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

456.076 Impaired practitioner programs.—

(5) A consultant shall enter into a participant contract with an impaired practitioner and shall establish the terms of monitoring and shall include the terms in a participant contract. In establishing the terms of monitoring, the consultant may consider the recommendations of one or more approved evaluators, treatment programs, or treatment providers. A consultant may modify the terms of monitoring if the consultant concludes, through the

course of monitoring, that extended, additional, or amended terms of monitoring are required for the protection of the health, safety, and welfare of the public. If the impaired practitioner is a health care practitioner practicing under the Professional Counselors Licensure Compact pursuant to s. 491.017, the terms of the monitoring contract must include the impaired practitioner’s withdrawal from all practice under the compact. If the impaired practitioner is a psychologist practicing under the Psychology Interjurisdictional Compact pursuant to s. 490.0075, the terms of the monitoring contract must include the impaired practitioner’s withdrawal from all practice under the compact.

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

490.004 Board of Psychology.—

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

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

490.005 Licensure by examination.—

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

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

490.006 Licensure by endorsement.—

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

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

490.009 Discipline.—

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

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

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

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of his or her profession or the ability to practice his or her profession. A plea of nolo contendere creates a rebuttable presumption of guilt of the underlying criminal charges. However, the board shall allow the person who is the subject of the disciplinary proceeding to present any evidence relevant to the underlying charges and circumstances surrounding the plea.

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

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

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

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

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

(i) Willfully making or filing a false report or record; failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record; or inducing another person to make or file a false report or record or to impede or obstruct the filing of a report or record. Such report or record includes only a report or record which requires the signature of a person licensed under this chapter.

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

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

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

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

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

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

(p) Being unable to practice the profession for which he or she is licensed under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the State Surgeon General, the State Surgeon General's designee, or the board that probable cause exists to believe that the licensee is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee to submit to a mental or physical examination by psychologists or physicians designated by the department or board. If the licensee refuses to comply with the department's order, the department may file a petition for enforcement in the circuit court of the circuit in which the licensee resides or does business. The licensee may ~~shall~~ not be named or identified by initials in the petition or in any other public court records or documents, and the enforcement proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall be afforded an opportunity at reasonable intervals to demonstrate that he or she can resume the competent practice for which he or she is licensed with reasonable skill and safety to patients.

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

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

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

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

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

(v) Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.

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

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

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

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

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

(10)

(i) For purposes of this section, the individual appointed under s. 490.004(7) as the state's commissioner on the Psychology Interjurisdictional Compact Commission, when serving in that capacity pursuant to s. 490.0075, and any administrator, officer, executive director, employee, or representative of the Psychology Interjurisdictional Compact Commission, when acting within the scope of his or her employment, duties, or responsibilities in this state, is considered an agent of the state. The commission shall pay any claims or judgments pursuant to this section and may maintain insurance coverage to pay any such claims or judgments.

Section 9. This act shall take effect July 1, 2023.

Approved by the Governor May 25, 2023.

Filed in Office Secretary of State May 25, 2023.