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SENATE BILL 141

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Gerald Ortiz y Pino

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO PROFESSIONAL LICENSURE; ENACTING THE PSYCHOLOGY
INTERJURISDICTIONAL COMPACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] PSYCHOLOGY INTERJURISDICTIONAL
COMPACT ENTERED INTO.--The Psychology Interjurisdictional
Compact is entered into law and entered into with all other
jurisdictions legally joining therein in a form substantially
as follows:

"ARTICLE I

PURPOSE

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

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1 Whereas, this compact is intended to regulate the day-to-
2 day practice of telepsychology, i.e., the provision of
3 psychological services using telecommunication technologies, by
4 psychologists across state boundaries in the performance of
5 their psychological practice as assigned by an appropriate
6 authority; and

7 Whereas, this compact is intended to regulate the
8 temporary in-person, face-to-face practice of psychology by
9 psychologists across state boundaries for thirty days within a
10 calendar year in the performance of their psychological
11 practice as assigned by an appropriate authority; and

12 Whereas, this compact is intended to authorize state
13 psychology regulatory authorities to afford legal recognition,
14 in a manner consistent with the terms of the compact, to
15 psychologists licensed in another state; and

16 Whereas, this compact recognizes that states have a vested
17 interest in protecting the public's health and safety through
18 their licensing and regulation of psychologists and that such
19 state regulation will best protect public health and safety;
20 and

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

23 Whereas, while this compact does not apply to permanent
24 in-person, face-to-face practice, it does allow for
25 authorization of temporary psychological practice.

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1 psychology regulatory authority as discipline and is a matter
2 of public record;

3 B. "association of state and provincial psychology
4 boards" means the recognized membership organization composed
5 of state and provincial psychology regulatory authorities
6 responsible for the licensure and registration of psychologists
7 throughout the United States and Canada;

8 C. "authority to practice interjurisdictional
9 telepsychology" means a licensed psychologist's authority to
10 practice telepsychology, within the limits authorized under
11 this compact, in another compact state;

12 D. "bylaws" means those bylaws established by the
13 Psychology Interjurisdictional Compact commission pursuant to
14 Article X of this compact for its governance or for directing
15 and controlling its actions and conduct;

16 E. "client/patient" means the recipient of
17 psychological services, whether psychological services are
18 delivered in the context of health care, corporate, supervision
19 or consulting services;

20 F. "commissioner" means the voting representative
21 appointed by each state psychology regulatory authority
22 pursuant to Article X of this compact;

23 G. "compact state" means a state, the District of
24 Columbia or a United States territory that has enacted this
25 compact legislation and that has not withdrawn pursuant to

1 Subsection C of Article XIII of this compact or been terminated
2 pursuant to Subsection B of Article XII of this compact;

3 H. "confidentiality" means the principle that data
4 or information is not made available or disclosed to
5 unauthorized persons or processes;

6 I. "coordinated licensure information system", also
7 referred to as "coordinated database", means an integrated
8 process for collecting, storing and sharing information on
9 psychologists' licensure and enforcement activities related to
10 psychology licensure laws and the Psychology
11 Interjurisdictional Compact, which is administered by the
12 recognized membership organization composed of state and
13 provincial psychology regulatory authorities;

14 J. "day" means any part of a day in which
15 psychological work is performed;

16 K. "distant state" means the compact state where a
17 psychologist is physically present, not through the use of
18 telecommunications technologies, to provide temporary
19 in-person, face-to-face psychological services;

20 L. "E.Passport" means a certificate issued by the
21 association of state and provincial psychology boards that
22 promotes the standardization in the criteria of
23 interjurisdictional telepsychology practice and facilitates the
24 process for licensed psychologists to provide telepsychological
25 services across state lines;

1 M. "executive board" means a group of directors
2 elected or appointed to act on behalf of, and within the powers
3 granted to them by, the commission;

4 N. "home state" means a compact state where a
5 psychologist is licensed to practice psychology. If the
6 psychologist is licensed in more than one compact state and is
7 practicing under the authorization to practice
8 interjurisdictional telepsychology, the home state is the
9 compact state where the psychologist is physically present when
10 the telepsychological services are delivered. If the
11 psychologist is licensed in more than one compact state and is
12 practicing under a temporary authorization to practice, the
13 home state is any compact state where the psychologist is
14 licensed;

15 O. "identity history summary" means a summary of
16 information retained by the United States federal bureau of
17 investigation, or other designee with similar authority, in
18 connection with arrests and, in some instances, federal
19 employment, naturalization or military service;

20 P. "in-person, face-to-face" means interactions in
21 which the psychologist and the client/patient are in the same
22 physical space and does not include interactions that may occur
23 through the use of telecommunication technologies;

24 Q. "interjurisdictional practice certificate" means
25 a certificate issued by the association of state and provincial

1 psychology boards that grants temporary authority to practice
2 based on notification to the state psychology regulatory
3 authority of intention to practice temporarily and verification
4 of one's qualifications for such practice;

5 R. "license" means authorization by a state
6 psychology regulatory authority to engage in the independent
7 practice of psychology, which would be unlawful without the
8 authorization;

9 S. "non-compact state" means any state that is not
10 at the time a compact state;

11 T. "psychologist" means an individual licensed for
12 the independent practice of psychology;

13 U. "Psychology Interjurisdictional Compact
14 commission", also referred to as "commission", means the
15 national administration of which all compact states are
16 members;

17 V. "receiving state" means a compact state where
18 the client/patient is physically located when the
19 telepsychological services are delivered;

20 W. "rule" means a written statement by the
21 Psychology Interjurisdictional Compact commission promulgated
22 pursuant to Article XI of this compact that is of general
23 applicability, implements, interprets or prescribes a policy or
24 provision of the compact, or an organizational, procedural or
25 practice requirement of the commission, and has the force and

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

3 X. "significant investigatory information" means:

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

11 (2) investigative information that indicates
12 that the psychologist represents an immediate threat to public
13 health and safety regardless of whether the psychologist has
14 been notified or has had an opportunity to respond;

15 Y. "state" means a state, commonwealth, territory
16 or possession of the United States or the District of Columbia;

17 Z. "state psychology regulatory authority" means
18 the board, office or other agency with the legislative mandate
19 to license and regulate the practice of psychology;

20 AA. "telepsychology" means the provision of
21 psychological services using telecommunication technologies;

22 BB. "temporary authorization to practice" means a
23 licensed psychologist's authority to conduct temporary
24 in-person, face-to-face practice, within the limits authorized
25 under this compact, in another compact state; and

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1 CC. "temporary in-person, face-to-face practice"
2 means where a psychologist is physically present, not through
3 the use of telecommunications technologies, in a distant state
4 to provide for the practice of psychology for thirty days
5 within a calendar year and based on notification to the distant
6 state.

7 ARTICLE III

8 HOME STATE LICENSURE

9 A. The home state shall be a compact state where a
10 psychologist is licensed to practice psychology.

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

18 C. Any compact state may require a psychologist not
19 previously licensed in a compact state to obtain and retain a
20 license to be authorized to practice in the compact state under
21 circumstances not authorized by the authority to practice
22 interjurisdictional telepsychology under the terms of this
23 compact.

24 D. Any compact state may require a psychologist to
25 obtain and retain a license to be authorized to practice in a

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1 compact state under circumstances not authorized by temporary
2 authorization to practice under the terms of this compact.

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

7 (1) currently requires the psychologist to
8 hold an active E.Passport;

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

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

14 (4) requires an identity history summary of
15 all applicants at initial licensure, including the use of the
16 results of fingerprints or other biometric data checks
17 compliant with the requirements of the United States federal
18 bureau of investigation, Psychology Interjurisdictional Compact
19 or other designee with similar authority, no later than ten
20 years after activation of the compact; and

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

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

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1 (1) currently requires the psychologist to
2 hold an active interjurisdictional practice certificate;

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

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

8 (4) requires an identity history summary of
9 all applicants at initial licensure, including the use of the
10 results of fingerprints or other biometric data checks
11 compliant with the requirements of the United States federal
12 bureau of investigation, or other designee with similar
13 authority, no later than ten years after activation of the
14 compact; and

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

17 ARTICLE IV

18 COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

19 A. Compact states shall recognize the right of a
20 psychologist, licensed in a compact state in conformance with
21 Article III of this compact, to practice telepsychology in
22 other compact states (receiving states) in which the
23 psychologist is not licensed, under the authority to practice
24 interjurisdictional telepsychology as provided in the compact.

25 B. To exercise the authority to practice

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1 interjurisdictional telepsychology under the terms and
2 provisions of this compact, a psychologist licensed to practice
3 in a compact state must:

4 (1) hold a graduate degree in psychology from
5 an institute of higher education that was, at the time the
6 degree was awarded:

7 (a) regionally accredited by an
8 accrediting body recognized by the United States department of
9 education to grant graduate degrees or authorized by provincial
10 statute or royal charter to grant doctoral degrees; or

11 (b) a foreign college or university
12 deemed to be equivalent to Subparagraph (a) of this paragraph
13 by a foreign credential evaluation service that is a member of
14 the national association of credential evaluation services or
15 by a recognized foreign credential evaluation service;

16 (2) hold a graduate degree in psychology that
17 meets the following criteria:

18 (a) the program, wherever it may be
19 administratively housed, must be clearly identified and labeled
20 as a psychology program. Such a program must specify in
21 pertinent institutional catalogues and brochures its intent to
22 educate and train professional psychologists;

23 (b) the psychology program must stand as
24 a recognizable, coherent, organizational entity within the
25 institution;

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1 (c) there must be a clear authority and
2 primary responsibility for the core and specialty areas,
3 whether or not the program cuts across administrative lines;

4 (d) the program must consist of an
5 integrated, organized sequence of study;

6 (e) there must be an identifiable
7 psychology faculty sufficient in size and breadth to carry out
8 its responsibilities;

9 (f) the designated director of the
10 program must be a psychologist and a member of the core
11 faculty;

12 (g) the program must have an
13 identifiable body of students who are matriculated in that
14 program for a degree;

15 (h) the program must include supervised
16 practicum, internship or field training appropriate to the
17 practice of psychology;

18 (i) the curriculum shall encompass a
19 minimum of three academic years of full-time graduate study for
20 doctoral degrees and a minimum of one academic year of full-
21 time graduate study for master's degrees; and

22 (j) the program includes an acceptable
23 residency as defined by the rules of the commission;

24 (3) possess a current, full and unrestricted
25 license to practice psychology in a home state that is a

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1 compact state;

2 (4) have no history of adverse action that
3 violates the rules of the commission;

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

7 (6) possess a current, active E.Passport;

8 (7) provide attestations in regard to areas of
9 intended practice, conformity with standards of practice and
10 competence in telepsychology technology; criminal background;
11 and knowledge and adherence to legal requirements in the home
12 and receiving states, and must provide a release of information
13 to allow for primary source verification in a manner specified
14 by the commission; and

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

17 C. The home state maintains authority over the
18 license of any psychologist practicing into a receiving state
19 under the authority to practice interjurisdictional
20 telepsychology.

21 D. A psychologist practicing in a receiving state
22 under the authority to practice interjurisdictional
23 telepsychology will be subject to the receiving state's scope
24 of practice. A receiving state may, in accordance with that
25 state's due process law, limit or revoke a psychologist's

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1 authority to practice interjurisdictional telepsychology in the
2 receiving state and may take any other necessary actions under
3 the receiving state's applicable law to protect the health and
4 safety of the receiving state's citizens. If a receiving state
5 takes action, the state shall promptly notify the home state
6 and the commission.

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

14 ARTICLE V

15 COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

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

21 B. To exercise the temporary authorization to
22 practice under the terms and provisions of this compact, a
23 psychologist licensed to practice in a compact state must:

24 (1) hold a graduate degree in psychology from
25 an institute of higher education that was, at the time the

1 degree was awarded:

2 (a) regionally accredited by an
3 accrediting body recognized by the United States department of
4 education to grant graduate degrees or authorized by provincial
5 statute or royal charter to grant doctoral degrees; or

6 (b) a foreign college or university
7 deemed to be equivalent to Subparagraph (a) of this paragraph
8 by a foreign credential evaluation service that is a member of
9 the national association of credential evaluation services or
10 by a recognized foreign credential evaluation service;

11 (2) hold a graduate degree in psychology that
12 meets the following criteria:

13 (a) the program, wherever it may be
14 administratively housed, must be clearly identified and labeled
15 as a psychology program. Such a program must specify in
16 pertinent institutional catalogues and brochures its intent to
17 educate and train professional psychologists;

18 (b) the psychology program must stand as
19 a recognizable, coherent, organizational entity within the
20 institution;

21 (c) there must be a clear authority and
22 primary responsibility for the core and specialty areas,
23 whether or not the program cuts across administrative lines;

24 (d) the program must consist of an
25 integrated, organized sequence of study;

1 (e) there must be an identifiable
2 psychology faculty sufficient in size and breadth to carry out
3 its responsibilities;

4 (f) the designated director of the
5 program must be a psychologist and a member of the core
6 faculty;

7 (g) the program must have an
8 identifiable body of students who are matriculated in that
9 program for a degree;

10 (h) the program must include a
11 supervised practicum or internship or field training
12 appropriate to the practice of psychology;

13 (i) the curriculum shall encompass a
14 minimum of three academic years of full-time graduate study for
15 doctoral degrees and a minimum of one academic year of full-
16 time graduate study for master's degrees; and

17 (j) the program includes an acceptable
18 residency as defined by the rules of the commission;

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

22 (4) have no history of adverse action that
23 violates the rules of the commission;

24 (5) have no criminal record history that
25 violates the rules of the commission;

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

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

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

9 C. A psychologist practicing in a distant state
10 under the temporary authorization to practice shall practice
11 within the scope of practice authorized by the distant state.

12 D. A psychologist practicing in a distant state
13 under the temporary authorization to practice will be subject
14 to the distant state's authority and law. A distant state may,
15 in accordance with that state's due process law, limit or
16 revoke a psychologist's temporary authorization to practice in
17 the distant state and may take any other necessary actions
18 under the distant state's applicable law to protect the health
19 and safety of the distant state's citizens. If a distant state
20 takes action, the state shall promptly notify the home state
21 and the commission.

22 E. If a psychologist's license in any home state or
23 another compact state, or any temporary authorization to
24 practice in any distant state, is restricted, suspended or
25 otherwise limited, the interjurisdictional practice certificate

1 shall be revoked and, therefore, the psychologist shall not be
2 eligible to practice in a compact state under the temporary
3 authorization to practice interjurisdictional telepsychology.

4 ARTICLE VI

5 CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

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

12 A. the psychologist initiates a client/patient
13 contact in a home state via telecommunication technologies with
14 a client/patient in a receiving state; or

15 B. other conditions regarding telepsychology as
16 determined by rules promulgated by the commission.

17 ARTICLE VII

18 ADVERSE ACTIONS

19 A. A home state shall have the power to impose
20 adverse action against a psychologist's license issued by the
21 home state. A distant state shall have the power to take
22 adverse action on a psychologist's temporary authorization to
23 practice within that distant state.

24 B. A receiving state may take adverse action on a
25 psychologist's authority to practice interjurisdictional

1 telepsychology within that receiving state. A home state may
2 take adverse action against a psychologist based on an adverse
3 action taken by a distant state regarding temporary in-person,
4 face-to-face practice.

5 C. If a home state takes adverse action against a
6 psychologist's license, that psychologist's authority to
7 practice interjurisdictional telepsychology is terminated and
8 the E.Passport is revoked. Furthermore, that psychologist's
9 temporary authorization to practice is terminated and the
10 interjurisdictional practice certificate is revoked; provided
11 that:

12 (1) all home state disciplinary orders that
13 impose adverse action shall be reported to the commission in
14 accordance with the rules promulgated by the commission. A
15 compact state shall report adverse actions in accordance with
16 the rules of the commission;

17 (2) in the event discipline is reported on a
18 psychologist, the psychologist will not be eligible for
19 telepsychology or temporary in-person, face-to-face practice in
20 accordance with the rules of the commission; and

21 (3) other actions may be imposed as determined
22 by the rules promulgated by the commission.

23 D. A home state's psychology regulatory authority
24 shall investigate and take appropriate action with respect to
25 reported inappropriate conduct engaged in by a licensee that

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1 occurred in a receiving state as it would if such conduct had
2 occurred by a licensee within the home state. In such cases,
3 the home state's law shall control in determining any adverse
4 action against a psychologist's license.

5 E. A distant state's psychology regulatory
6 authority shall investigate and take appropriate action with
7 respect to reported inappropriate conduct engaged in by a
8 psychologist practicing under temporary authorization practice
9 that occurred in that distant state as it would if such conduct
10 had occurred by a licensee within the home state. In such
11 cases, the distant state's law shall control in determining any
12 adverse action against a psychologist's temporary authorization
13 to practice.

14 F. Nothing in this compact shall override a compact
15 state's decision that a psychologist's participation in an
16 alternative program may be used in lieu of adverse action and
17 that such participation shall remain nonpublic if required by
18 the compact state's law. Compact states must require
19 psychologists who enter any alternative programs to not provide
20 telepsychology services under the authority to practice
21 interjurisdictional telepsychology or provide temporary
22 psychological services under the temporary authorization to
23 practice in any other compact state during the term of the
24 alternative program.

25 G. No other judicial or administrative remedies

1 shall be available to a psychologist in the event a compact
2 state imposes an adverse action pursuant to Subsection C of
3 this article.

4 ARTICLE VIII

5 ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S PSYCHOLOGY

6 REGULATORY AUTHORITY

7 A. In addition to any other powers granted under
8 state law, a compact state's psychology regulatory authority
9 shall have the authority under this compact to:

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

23 (2) issue cease and desist or injunctive
24 relief orders to revoke a psychologist's authority to practice
25 interjurisdictional telepsychology or temporary authorization

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1 to practice.
2 B. During the course of any investigation, a
3 psychologist shall not change the psychologist's home state
4 licensure. A home state psychology regulatory authority is
5 authorized to complete any pending investigations of a
6 psychologist and to take any actions appropriate under its law.
7 The home state psychology regulatory authority shall promptly
8 report the conclusions of such investigations to the
9 commission. Once an investigation has been completed, and
10 pending the outcome of said investigation, the psychologist may
11 change the psychologist's home state licensure. The commission
12 shall promptly notify the new home state of any such decisions
13 as provided in the rules of the commission. All information
14 provided to the commission or distributed by compact states
15 pursuant to the psychologist shall be confidential, filed under
16 seal and used for investigatory or Psychology
17 Interjurisdictional Compact disciplinary matters. The
18 commission may create additional rules for mandated or
19 discretionary sharing of information by compact states.

20 ARTICLE IX

21 COORDINATED LICENSURE INFORMATION SYSTEM

22 A. The commission shall provide for the development
23 and maintenance of a coordinated licensure information system
24 (coordinated database) and reporting system containing
25 licensure and disciplinary action information on all

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1 psychologists and individuals to whom this compact is
2 applicable in all compact states as defined by the rules of the
3 commission.

4 B. Notwithstanding any other provision of state law
5 to the contrary, a compact state shall submit a uniform data
6 set to the coordinated database on all licensees as required by
7 the rules of the commission, including:

- 8 (1) identifying information;
- 9 (2) licensure data;
- 10 (3) significant investigatory information;
- 11 (4) adverse actions against a psychologist's
12 license;

13 (5) an indicator that a psychologist's
14 authority to practice interjurisdictional telepsychology or
15 temporary authorization to practice is revoked;

16 (6) non-confidential information related to
17 alternative program participation information;

18 (7) any denial of application for licensure
19 and the reasons for such denial; and

20 (8) other information that may facilitate the
21 administration of this compact, as determined by the rules of
22 the commission.

23 C. The coordinated database administrator shall
24 promptly notify all compact states of any adverse action taken
25 against, or significant investigative information on, any

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1 licensee in a compact state.

2 D. Compact states reporting information to the
3 coordinated database may designate information that shall not
4 be shared with the public without the express permission of the
5 compact state reporting the information.

6 E. Any information submitted to the coordinated
7 database that is subsequently required to be expunged by the
8 law of the compact state reporting the information shall be
9 removed from the coordinated database.

10 ARTICLE X

11 ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT
12 COMMISSION

13 A. The compact states hereby create and establish a
14 joint public agency known as the Psychology Interjurisdictional
15 Compact commission as follows:

16 (1) the commission is a body politic and an
17 instrumentality of the compact states;

18 (2) venue is proper, and judicial proceedings
19 by or against the commission shall be brought solely and
20 exclusively in a court of competent jurisdiction where the
21 principal office of the commission is located. The commission
22 may waive venue and jurisdictional defenses to the extent it
23 adopts or consents to participate in alternative dispute
24 resolution proceedings; and

25 (3) nothing in this compact shall be construed

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1 to be a waiver of sovereign immunity.

2 B. Membership, voting and meetings are as follows:

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

9 (a) the executive director, executive
10 secretary or similar executive;

11 (b) a current member of the state
12 psychology regulatory authority of a compact state; or

13 (c) a designee empowered with the
14 appropriate delegate authority to act on behalf of the compact
15 state;

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

21 (3) each commissioner shall be entitled to one
22 vote with regard to the promulgation of rules and creation of
23 bylaws and shall otherwise have an opportunity to participate
24 in the business and affairs of the commission. A commissioner
25 shall vote in person or by such other means as provided in the

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1 bylaws. The bylaws may provide for commissioners'
2 participation in meetings by telephone or other means of
3 communication;

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

7 (5) all meetings shall be open to the public,
8 and public notice of meetings shall be given in the same manner
9 as required under the rulemaking provisions in Article XI of
10 this compact;

11 (6) the commission may convene in a closed,
12 nonpublic meeting if the commission must discuss:

13 (a) noncompliance of a compact state
14 with its obligations under the compact;

15 (b) employment, compensation, discipline
16 or other personnel matters, practices or procedures related to
17 specific employees or other matters related to the commission's
18 internal personnel practices and procedures;

19 (c) current, threatened or reasonably
20 anticipated litigation against the commission;

21 (d) negotiation of contracts for the
22 purchase or sale of goods, services or real estate;

23 (e) accusation against any person of a
24 crime or formally censuring any person;

25 (f) disclosure of trade secrets or

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1 commercial or financial information that is privileged or
2 confidential;

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

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

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

13 (j) matters specifically exempted from
14 disclosure by federal and state statute; and

15 (7) if a meeting, or portion of a meeting, is
16 closed pursuant to this subsection, the commission's legal
17 counsel or designee shall certify that the meeting may be
18 closed and shall reference each relevant exempting provision.
19 The commission shall keep minutes that fully and clearly
20 describe all matters discussed in a meeting and shall provide a
21 full and accurate summary of actions taken, of any person
22 participating in the meeting and the reasons therefore,
23 including a description of the views expressed. All documents
24 considered in connection with an action shall be identified in
25 such minutes. All minutes and documents of a closed meeting

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1 shall remain under seal, subject to release only by a majority
2 vote of the commission or order of a court of competent
3 jurisdiction.

4 C. The commission shall, by a majority vote of the
5 commissioners, prescribe bylaws or rules to govern its conduct
6 as may be necessary or appropriate to carry out the purposes
7 and exercise the powers of this compact, including but not
8 limited to:

9 (1) establishing the fiscal year of the
10 commission;

11 (2) providing reasonable standards and
12 procedures:

13 (a) for the establishment and meetings
14 of other committees; and

15 (b) governing any general or specific
16 delegation of any authority or function of the commission;

17 (3) providing reasonable procedures for
18 calling and conducting meetings of the commission, ensuring
19 reasonable advance notice of all meetings and providing an
20 opportunity for attendance of such meetings by interested
21 parties, with enumerated exceptions designed to protect the
22 public's interest, the privacy of individuals of such
23 proceedings and proprietary information, including trade
24 secrets. The commission may meet in closed session only after
25 a majority of the commissioners vote to close a meeting to the

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1 public in whole or in part. As soon as practicable, the
2 commission must make public a copy of the vote to close the
3 meeting revealing the vote of each commissioner with no proxy
4 votes allowed;

5 (4) establishing the titles, duties and
6 authority, and reasonable procedures for the election, of the
7 officers of the commission;

8 (5) providing reasonable standards and
9 procedures for the establishment of the personnel policies and
10 programs of the commission. Notwithstanding any civil service
11 or other similar law of any compact state, the bylaws shall
12 exclusively govern the personnel policies and programs of the
13 commission;

14 (6) promulgating a code of ethics to address
15 permissible and prohibited activities of commission members and
16 employees;

17 (7) providing a mechanism for concluding the
18 operations of the commission and the equitable disposition of
19 any surplus funds that may exist after the termination of the
20 compact, after the payment, and/or reserving, of all of its
21 debts and obligations;

22 (8) the commission shall publish its bylaws in
23 a convenient form and file a copy thereof, and a copy of any
24 amendment thereto, with the appropriate agency or officer in
25 each of the compact states;

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1 (9) the commission shall maintain its
2 financial records in accordance with the bylaws; and

3 (10) the commission shall meet and take such
4 actions as are consistent with the provisions of this compact
5 and the bylaws.

6 D. The commission shall have the following powers:

7 (1) the authority to promulgate uniform rules
8 to facilitate and coordinate implementation and administration
9 of this compact. The rules shall have the force and effect of
10 law and shall be binding in all compact states;

11 (2) to bring and prosecute legal proceedings
12 or actions in the name of the commission; provided that the
13 standing of any state psychology regulatory authority or other
14 regulatory body responsible for psychology licensure to sue or
15 be sued under applicable law shall not be affected;

16 (3) to purchase and maintain insurance and
17 bonds;

18 (4) to borrow, accept or contract for services
19 of personnel, including, but not limited to, employees of a
20 compact state;

21 (5) to hire employees, elect or appoint
22 officers, fix compensation, define duties, grant such
23 individuals appropriate authority to carry out the purposes of
24 the compact and establish the commission's personnel policies
25 and programs relating to conflicts of interest, qualifications

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1 of personnel and other related personnel matters;

2 (6) to accept any and all appropriate
3 donations and grants of money, equipment, supplies, materials
4 and services and to receive, utilize and dispose of the same;
5 provided that at all times the commission shall strive to avoid
6 any appearance of impropriety and/or conflict of interest;

7 (7) to lease, purchase, accept appropriate
8 gifts or donations of, or otherwise to own, hold, improve or
9 use, any property real, personal or mixed; provided that at all
10 times the commission shall strive to avoid any appearance of
11 impropriety;

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

15 (9) to establish a budget and make
16 expenditures;

17 (10) to borrow money;

18 (11) to appoint committees, including advisory
19 committees composed of members, state regulators, state
20 legislators or their representatives and consumer
21 representatives, and such other interested persons as may be
22 designated in this compact and the bylaws;

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

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

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

6 E. The executive board is created as follows: the
7 elected officers shall serve as the executive board, which
8 shall have the power to act on behalf of the commission
9 according to the terms of this compact;

10 (1) the executive board shall be composed of
11 six members:

12 (a) five voting members who are elected
13 from the current membership of the commission by the
14 commission; and

15 (b) one ex-officio, nonvoting member
16 from the recognized membership organization composed of state
17 and provincial psychology regulatory authorities;

18 (2) the ex-officio member must have served as
19 staff or member on a state psychology regulatory authority and
20 will be selected by its respective organization;

21 (3) the commission may remove any member of
22 the executive board as provided in the bylaws;

23 (4) the executive board shall meet at least
24 annually; and

25 (5) the executive board shall have the

1 following duties and responsibilities:

2 (a) recommend to the entire commission
3 changes to the rules or bylaws, changes to this compact,
4 legislation, fees paid by compact states such as annual dues
5 and any other applicable fees;

6 (b) ensure that compact administration
7 services are appropriately provided, contractual or otherwise;

8 (c) prepare and recommend the budget;

9 (d) maintain financial records on behalf
10 of the commission;

11 (e) monitor compact compliance of member
12 states and provide compliance reports to the commission;

13 (f) establish additional committees as
14 necessary; and

15 (g) other duties as provided in rules or
16 bylaws.

17 F. Financing of the commission:

18 (1) the commission shall pay, or provide for
19 the payment of, the reasonable expenses of its establishment,
20 organization and ongoing activities;

21 (2) the commission may accept any and all
22 appropriate revenue sources, donations and grants of money,
23 equipment, supplies, materials and services;

24 (3) the commission may levy on and collect an
25 annual assessment from each compact state, or impose fees on

1 other parties to cover the cost of the operations and
2 activities of the commission and its staff, which must be in a
3 total amount sufficient to cover its annual budget as approved
4 each year for which revenue is not provided by other sources.
5 The aggregate annual assessment amount shall be allocated based
6 upon a formula to be determined by the commission, which shall
7 promulgate a rule binding upon all compact states;

8 (4) the commission shall not incur obligations
9 of any kind prior to securing the funds adequate to meet the
10 same; nor shall the commission pledge the credit of any of the
11 compact states, except by and with the authority of the compact
12 state; and

13 (5) the commission shall keep accurate
14 accounts of all receipts and disbursements. The receipts and
15 disbursements of the commission shall be subject to the audit
16 and accounting procedures established under its bylaws.
17 However, all receipts and disbursements of funds handled by the
18 commission shall be audited yearly by a certified or licensed
19 public accountant, and the report of the audit shall be
20 included in and become part of the annual report of the
21 commission.

22 G. Qualified immunity, defense and indemnification:

23 (1) the members, officers, executive director,
24 employees and representatives of the commission shall be immune
25 from suit and liability, either personally or in their official

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1 capacity, for any claim for damage to or loss of property or
2 personal injury or other civil liability caused by or arising
3 out of any actual or alleged act, error or commission that
4 occurred, or that the person against whom the claim is made had
5 a reasonable basis for believing occurred, within the scope of
6 commission employment, duties or responsibilities; provided
7 that nothing in this paragraph shall be construed to protect
8 any such person from suit and/or liability for any damage,
9 loss, injury or liability caused by the intentional or willful
10 or wanton misconduct of that person;

11 (2) the commission shall defend any member,
12 officer, executive director, employee or representative of the
13 commission in any civil action seeking to impose liability
14 arising out of any actual or alleged act, error or omission
15 that occurred within the scope of commission employment, duties
16 or responsibilities, or that the person against whom the claim
17 is made had a reasonable basis for believing occurred within
18 the scope of commission employment, duties or responsibilities;
19 provided that nothing herein shall be construed to prohibit
20 that person from retaining the person's own counsel; and
21 provided further that the actual or alleged act, error or
22 omission did not result from that person's intentional or
23 willful or wanton misconduct; and

24 (3) the commission shall indemnify and hold
25 harmless any member, officer, executive director, employee or

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1 representative of the commission for the amount of any
2 settlement or judgment obtained against that person arising out
3 of any actual or alleged act, error or omission that occurred
4 within the scope of commission or Psychology
5 Interjurisdictional Compact employment, duties or
6 responsibilities; or that such person had a reasonable basis
7 for believing occurred within the scope of commission
8 employment, duties or responsibilities; provided that the
9 actual or alleged act, error or omission did not result from
10 the intentional or willful or wanton misconduct of that person.

11 ARTICLE XI

12 RULEMAKING

13 A. The commission shall exercise its rulemaking
14 powers pursuant to the criteria set forth in this article and
15 the rules adopted thereunder. Rules and amendments shall
16 become binding as of the date specified in each rule or
17 amendment.

18 B. If a majority of the legislatures of the compact
19 states rejects a rule, by enactment of a statute or resolution
20 in the same manner used to adopt the compact, then such rule
21 shall have no further force and effect in any compact state.

22 C. Rules or amendments to the rules shall be
23 adopted at a regular or special meeting of the commission.

24 D. Prior to promulgation and adoption of a final
25 rule or rules by the commission, and at least sixty days in

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1 advance of the meeting at which the rule will be considered and
2 voted upon, the commission shall file a notice of proposed
3 rulemaking:

4 (1) on the website of the commission; and

5 (2) on the website of each compact state's
6 psychology regulatory authority or the publication in which
7 each state would otherwise publish proposed rules.

8 E. The notice of proposed rulemaking shall include:

9 (1) the proposed time, date and location of
10 the meeting in which the rule will be considered and voted
11 upon;

12 (2) the text of the proposed rule or amendment
13 and the reason for the proposed rule;

14 (3) a request for comments on the proposed
15 rule from any interested person; and

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

19 F. Prior to adoption of a proposed rule, the
20 commission shall allow persons to submit written data, facts,
21 opinions and arguments, which shall be made available to the
22 public.

23 G. The commission shall grant an opportunity for a
24 public hearing before it adopts a rule or amendment if a
25 hearing is requested by:

1 (1) at least twenty-five persons who submit
2 comments independently of each other;

3 (2) a governmental subdivision or agency; or

4 (3) a duly appointed person in an association
5 that has at least twenty-five members.

6 H. If a hearing is held on the proposed rule or
7 amendment, the commission shall publish the place, time and
8 date of the scheduled public hearing; provided that:

9 (1) all persons wishing to be heard at the
10 hearing shall notify the executive director of the commission
11 or other designated member in writing of their desire to appear
12 and testify at the hearing not less than five business days
13 before the scheduled date of the hearing;

14 (2) hearings shall be conducted in a manner
15 providing each person who wishes to comment a fair and
16 reasonable opportunity to comment orally or in writing;

17 (3) no transcript of the hearing is required,
18 unless a written request for a transcript is made, in which
19 case the person requesting the transcript shall bear the cost
20 of producing the transcript. A recording may be made in lieu
21 of a transcript under the same terms and conditions as a
22 transcript. This paragraph shall not preclude the commission
23 from making a transcript or recording of the hearing if it so
24 chooses; and

25 (4) nothing in this article shall be construed

1 as requiring a separate hearing on each rule. Rules may be
2 grouped for the convenience of the commission at hearings
3 required by this article.

4 I. Following the scheduled hearing date, or by the
5 close of business on the scheduled hearing date if the hearing
6 was not held, the commission shall consider all written and
7 oral comments received.

8 J. The commission shall, by majority vote of all
9 members, take final action on the proposed rule and shall
10 determine the effective date of the rule, if any, based on the
11 rulemaking record and the full text of the rule.

12 K. If no written notice of intent to attend the
13 public hearing by interested parties is received, the
14 commission may proceed with promulgation of the proposed rule
15 without a public hearing.

16 L. Upon determination that an emergency exists, the
17 commission may consider and adopt an emergency rule without
18 prior notice, opportunity for comment or hearing; provided that
19 the usual rulemaking procedures provided in the compact and in
20 this article shall be retroactively applied to the rule as soon
21 as reasonably possible, in no event later than ninety days
22 after the effective date of the rule. For the purposes of this
23 provision, an emergency rule is one that must be adopted
24 immediately in order to:

25 (1) meet an imminent threat to public health,

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1 safety or welfare;

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

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

7 (4) protect public health and safety.

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

22 ARTICLE XII

23 OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

24 A. Oversight:

25 (1) the executive, legislative and judicial

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1 branches of state government in each compact state shall
2 enforce this compact and take all actions necessary and
3 appropriate to effectuate the compact's purposes and intent.
4 The provisions of this compact and the rules promulgated
5 hereunder shall have standing as statutory law;

6 (2) all courts shall take judicial notice of
7 the compact and the rules in any judicial or administrative
8 proceeding in a compact state pertaining to the subject matter
9 of this compact that may affect the powers, responsibilities or
10 actions of the commission; and

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

17 B. Default, technical assistance and termination:

18 (1) if the commission determines that a
19 compact state has defaulted in the performance of its
20 obligations or responsibilities under this compact or the
21 promulgated rules, the commission shall:

22 (a) provide written notice to the
23 defaulting state and other compact states of the nature of the
24 default, the proposed means of remedying the default or any
25 other action to be taken by the commission; and

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1 (b) provide remedial training and
2 specific technical assistance regarding the default;

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

11 (3) termination of membership in the compact
12 shall be imposed only after all other means of securing
13 compliance have been exhausted, and notice of intent to suspend
14 or terminate shall be submitted by the commission to the
15 governor, the majority and minority leaders of the defaulting
16 state's legislature and each of the compact states;

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

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

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

7 C. Dispute resolution:

8 (1) upon request by a compact state, the
9 commission shall attempt to resolve disputes related to the
10 compact that arise among compact states and between compact and
11 non-compact states; and

12 (2) the commission shall promulgate a rule
13 providing for both mediation and binding dispute resolution for
14 disputes that arise before the commission.

15 D. Enforcement:

16 (1) the commission, in the reasonable exercise
17 of its discretion, shall enforce the provisions and rules of
18 this compact;

19 (2) by majority vote, the commission may
20 initiate legal action in the United States district court for
21 the state of Georgia or the federal district where the compact
22 has its principal offices against a compact state in default to
23 enforce compliance with the provisions of the compact and its
24 promulgated rules and bylaws. The relief sought may include
25 both injunctive relief and damages. In the event judicial

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1 enforcement is necessary, the prevailing member shall be
2 awarded all costs of such litigation, including reasonable
3 attorney fees; and

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

7 ARTICLE XIII

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

11 A. The compact shall come into effect on the date
12 on which the compact is enacted into law in the seventh compact
13 state. The provisions that become effective at that time shall
14 be limited to the powers granted to the commission relating to
15 assembly and the promulgation of rules. Thereafter, the
16 commission shall meet and exercise rulemaking powers necessary
17 to the implementation and administration of the compact.

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

24 C. Any compact state may withdraw from this compact
25 by enacting a statute repealing the same; provided that:

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1 (1) A compact state's withdrawal shall not
2 take effect until six months after enactment of the repealing
3 statute; and

4 (2) Withdrawal shall not affect the continuing
5 requirement of the withdrawing state's psychology regulatory
6 authority to comply with the investigative and adverse action
7 reporting requirements of this act prior to the effective date
8 of withdrawal.

9 D. Nothing contained in this compact shall be
10 construed to invalidate or prevent any psychology licensure
11 agreement or other cooperative arrangement between a compact
12 state and a non-compact state that does not conflict with the
13 provisions of this compact.

14 E. This compact may be amended by the compact
15 states. No amendment to this compact shall become effective
16 and binding upon any compact state until it is enacted into the
17 law of all compact states.

18 ARTICLE XIV

19 CONSTRUCTION AND SEVERABILITY

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