

1 **PSYCHOLOGY INTERJURISDICTIONAL COMPACT**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Brian E. Shiozawa**

5 House Sponsor: Edward H. Redd

7 **LONG TITLE**

8 **General Description:**

9 This bill enacts a multi-state compact for psychologist telehealth.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ creates a chapter in the Occupations and Professions Code to establish the
13 Psychologist Interjurisdictional Compact; and
14 ▶ provides administrative rulemaking authority to the Division of Occupational and
15 Professional Licensing to implement the multi-state compact.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 ENACTS:

22 **58-61b-101**, Utah Code Annotated 1953

23 **58-61b-102**, Utah Code Annotated 1953

24 **58-61b-103**, Utah Code Annotated 1953

26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **58-61b-101** is enacted to read:

28 **CHAPTER 61b. PSYCHOLOGY INTERJURISDICTIONAL COMPACT**

29 **58-61b-101. Title.**

This chapter is known as the "Psychology Interjurisdictional Compact."

Section 2. Section **58-61b-102** is enacted to read:

58-61b-102. Psychology Interjurisdictional Compact.

The Psychology Interjurisdictional Compact is enacted and entered into with all other jurisdictions that legally join in the compact, which is, in 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;

Whereas, this Compact is intended to regulate the day to day practice of telepsychology (i.e. the provision of psychological services using telecommunication technologies) by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority;

Whereas, this Compact is intended to regulate the temporary in-person, face-to-face practice of psychology by psychologists across state boundaries for 30 days within a calendar year in the performance of their psychological practice as assigned by an appropriate authority;

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;

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;

Whereas, this Compact does not apply when a psychologist is licensed in both the Home and Receiving States; and

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

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

86 E. "Client/Patient" means: the recipient of psychological services, whether
87 psychological services are delivered in the context of healthcare, corporate, supervision, and/or
88 consulting services.

89 F. "Commissioner" means: the voting representative appointed by each State
90 Psychology Regulatory Authority pursuant to Section X.

91 G. "Compact State" means: a state, the District of Columbia, or United States territory
92 that has enacted this Compact legislation and which has not withdrawn pursuant to Article
93 XIII, Section C or been terminated pursuant to Article XII, Section B.

94 H. "Coordinated Licensure Information System" also referred to as "Coordinated
95 Database" means: an integrated process for collecting, storing, and sharing information on
96 psychologists' licensure and enforcement activities related to psychology licensure laws, which
97 is administered by the recognized membership organization composed of State and Provincial
98 Psychology Regulatory Authorities.

99 I. "Confidentiality" means: the principle that data or information is not made available
100 or disclosed to unauthorized persons and/or processes.

101 J. "Day" means: any part of a day in which psychological work is performed.

102 K. "Distant State" means: the Compact State where a psychologist is physically present
103 (not through the use of telecommunications technologies), to provide temporary in-person,
104 face-to-face psychological services.

105 L. "E.Passport" means: a certificate issued by the Association of State and Provincial
106 Psychology Boards (ASPPB) that promotes the standardization in the criteria of
107 interjurisdictional telepsychology practice and facilitates the process for licensed psychologists
108 to provide telepsychological services across state lines.

109 M. "Executive Board" means: a group of directors elected or appointed to act on behalf
110 of, and within the powers granted to them by, the Commission.

111 N. "Home State" means: a Compact State where a psychologist is licensed to practice
112 psychology. If the psychologist is licensed in more than one Compact State and is practicing
113 under the Authorization to Practice Interjurisdictional Telepsychology, the Home State is the

Compact State where the psychologist is physically present when the telepsychological services are delivered. If the psychologist is licensed in more than one Compact State and is practicing under the Temporary Authorization to Practice, the Home State is any Compact State where the psychologist is licensed.

O. "Identity History Summary" means: a summary of information retained by the FBI, or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization, or military service.

P. "In-Person, Face-to-Face" means: interactions in which the psychologist and the client/patient are in the same physical space and which do not include interactions that may occur through the use of telecommunication technologies.

Q. "Interjurisdictional Practice Certificate (IPC)" means: a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that grants temporary authority to practice based on notification to the State Psychology Regulatory Authority of intention to practice temporarily, and verification of one's qualifications for such practice.

R. "License" means: authorization by a State Psychology Regulatory Authority to engage in the independent practice of psychology, which would be unlawful without the authorization.

S. "Non-Compact State" means: any state which is not at the time a Compact State.

T. "Psychologist" means: an individual licensed for the independent practice of psychology.

U. "Psychology Interjurisdictional Compact Commission" also referred to as "Commission" means: the national administration of which all Compact States are members.

V. "Receiving State" means: a Compact State where the client/patient is physically located when the telepsychological services are delivered.

W. "Rule" means: a written statement by the Psychology Interjurisdictional Compact Commission promulgated pursuant to Section XI of the Compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or 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.

X. "Significant Investigatory Information" means:

1. 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 more than a violation of state statute or ethics code that would be considered more substantial than minor infraction; or

2. investigative information that indicates that the psychologist represents an immediate threat to public health and safety regardless of whether the psychologist has been notified and/or had an opportunity to respond.

Y. "State" means: a state, commonwealth, territory, or possession of the United States, or the District of Columbia.

Z. "State Psychology Regulatory Authority" means: the Board, office, or other agency with the legislative mandate to license and regulate the practice of psychology.

AA. "Telepsychology" means: the provision of psychological services using telecommunication technologies.

BB. "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.

CC. "Temporary In-Person, Face-to-Face Practice" means: where a psychologist is physically present (not through the use of telecommunications technologies), in the Distant State to provide for the practice of psychology for 30 days within a calendar year and based on notification to the Distant State.

ARTICLE III

HOME STATE LICENSURE

A. The Home State shall be a Compact State where a psychologist is licensed to practice psychology.

B. 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.

C. Any Compact State may require a psychologist not previously licensed in a Compact State to obtain and retain a license to be authorized to practice in the Compact State under circumstances not authorized by the Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.

D. Any Compact State may require a psychologist to obtain and retain a license to be authorized to practice in a Compact State under circumstances not authorized by Temporary Authorization to Practice under the terms of this Compact.

E. 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:

1. Currently requires the psychologist to hold an active E.Passport;
2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;
3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;
4. 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 (FBI), or other designee with similar authority, no later than ten years after activation of the Compact; and
5. Complies with the Bylaws and Rules of the Commission.

F. A Home State's license grants Temporary Authorization to Practice to a psychologist in a Distant State only if the Compact State:

1. Currently requires the psychologist to hold an active IPC;
2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;
3. Notifies the Commission, in compliance with the terms herein, of any adverse action

198 or significant investigatory information regarding a licensed individual;

199 4. Requires an Identity History Summary of all applicants at initial licensure, including
200 the use of the results of fingerprints or other biometric data checks compliant with the
201 requirements of the Federal Bureau of Investigation (FBI), or other designee with similar
202 authority, no later than ten years after activation of the Compact; and

203 5. Complies with the Bylaws and Rules of the Commission.

204 ARTICLE IV

205 COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

206 A. Compact States shall recognize the right of a psychologist, licensed in a Compact
207 State in conformance with Article III, to practice telepsychology in other Compact States
208 (Receiving States) in which the psychologist is not licensed, under the Authority to Practice
209 Interjurisdictional Telepsychology as provided in the Compact.

210 B. To exercise the Authority to Practice Interjurisdictional Telepsychology under the
211 terms and provisions of this Compact, a psychologist licensed to practice in a Compact State
212 must:

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

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

218 b. A foreign college or university deemed to be equivalent to Article IV, Subsection
219 B.1.a., by a foreign credential evaluation service that is a member of the National Association
220 of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation
221 service; and

222 2. Hold a graduate degree in psychology that meets the following criteria:

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

- 226 b. The psychology program must stand as a recognizable, coherent, organizational
227 entity within the institution;
- 228 c. There must be a clear authority and primary responsibility for the core and specialty
229 areas whether or not the program cuts across administrative lines;
- 230 d. The program must consist of an integrated, organized sequence of study;
- 231 e. There must be an identifiable psychology faculty sufficient in size and breadth to
232 carry out its responsibilities;
- 233 f. The designated director of the program must be a psychologist and a member of the
234 core faculty;
- 235 g. The program must have an identifiable body of students who are matriculated in that
236 program for a degree;
- 237 h. The program must include supervised practicum, internship, or field training
238 appropriate to the practice of psychology;
- 239 i. The curriculum shall encompass a minimum of three academic years of full-time
240 graduate study for doctoral degrees and a minimum of one academic year of full-time graduate
241 study for master's degrees; and
- 242 j. The program includes an acceptable residency as defined by the Rules of the
243 Commission.
- 244 3. Possess a current, full, and unrestricted license to practice psychology in a Home
245 State which is a Compact State;
- 246 4. Have no history of adverse action that violates the Rules of the Commission;
- 247 5. Have no criminal record history reported on an Identity History Summary that
248 violates the Rules of the Commission;
- 249 6. Possess a current, active E.Passport;
- 250 7. Provide attestations in regard to areas of intended practice, conformity with
251 standards of practice, and competence in telepsychology technology, criminal background; and
252 knowledge and adherence to legal requirements in the Home and Receiving States, and provide
253 a release of information to allow for primary source verification in a manner specified by the

Commission; and

8. Meet other criteria as defined by the Rules of the Commission.

C. The Home State maintains authority over the license of any psychologist practicing into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology.

D. A psychologist practicing into 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.

E. 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 shall be revoked and therefore the psychologist shall not be eligible to practice telepsychology in a Compact State under the Authority to Practice Interjurisdictional Telepsychology.

ARTICLE V

COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

A. Compact States shall also recognize the right of a psychologist, licensed in a Compact State in conformance with Article III, to practice temporarily in other Compact States (Distant States) in which the psychologist is not licensed, as provided in the Compact.

B. To exercise the Temporary Authorization to Practice under the terms and provisions of this Compact, a psychologist licensed to practice in a Compact State must:

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

a. 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

b. A foreign college or university deemed to be equivalent to Article V, Subsection B.1.a., by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

2. Hold a graduate degree in psychology that meets the following criteria:

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

b. The psychology program must stand as a recognizable, coherent, organizational entity within the institution;

c. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

d. The program must consist of an integrated, organized sequence of study;

e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

f. The designated director of the program must be a psychologist and a member of the core faculty;

g. The program must have an identifiable body of students who are matriculated in that program for a degree;

h. The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;

i. The curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degrees and a minimum of one academic year of full-time graduate study for master's degrees; and

j. The program includes an acceptable residency as defined by the Rules of the Commission.

3. Possess a current, full, and unrestricted license to practice psychology in a Home State which is a Compact State;

310 4. No history of adverse action that violates the Rules of the Commission;

311 5. No criminal record history that violates the Rules of the Commission;

312 6. Possess a current, active IPC;

313 7. Provide attestations in regard to areas of intended practice and work experience and
314 provide a release of information to allow for primary source verification in a manner specified
315 by the Commission; and

316 8. Meet other criteria as defined by the Rules of the Commission.

317 C. A psychologist practicing into a Distant State under the Temporary Authorization to
318 Practice shall practice within the scope of practice authorized by the Distant State.

319 D. A psychologist practicing into a Distant State under the Temporary Authorization to
320 Practice will be subject to the Distant State's authority and law. A Distant State may, in
321 accordance with that state's due process law, limit or revoke a psychologist's Temporary
322 Authorization to Practice in the Distant State and may take any other necessary actions under
323 the Distant State's applicable law to protect the health and safety of the Distant State's citizens.
324 If a Distant State takes action, the state shall promptly notify the Home State and the
325 Commission.

326 E. If a psychologist's license in any Home State or another Compact State, or any
327 Temporary Authorization to Practice in any Distant State, is restricted, suspended, or otherwise
328 limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice
329 in a Compact State under the Temporary Authorization to Practice.

330 ARTICLE VI

331 CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

332 A. A psychologist may practice in a Receiving State under the Authority to Practice
333 Interjurisdictional Telepsychology only in the performance of the scope of practice for
334 psychology as assigned by an appropriate State Psychology Regulatory Authority, as defined in
335 the Rules of the Commission, and under the following circumstances:

336 1. The psychologist initiates a client/patient contact in a Home State via
337 telecommunications technologies with a client/patient in a Receiving State; and

338 2. Other conditions regarding telepsychology as determined by Rules promulgated by
339 the Commission.

340 ARTICLE VII

341 ADVERSE ACTIONS

342 A. A Home State shall have the power to impose adverse action against a
343 psychologist's license issued by the Home State. A Distant State shall have the power to take
344 adverse action on a psychologist's Temporary Authorization to Practice within that Distant
345 State.

346 B. A Receiving State may take adverse action on a psychologist's Authority to Practice
347 Interjurisdictional Telepsychology within that Receiving State. A Home State may take adverse
348 action against a psychologist based on an adverse action taken by a Distant State regarding
349 temporary in-person, face-to-face practice.

350 C. If a Home State takes adverse action against a psychologist's license, that
351 psychologist's Authority to Practice Interjurisdictional Telepsychology is terminated and the
352 E.Passport is revoked. Furthermore, that psychologist's Temporary Authorization to Practice is
353 terminated and the IPC is revoked.

354 1. All Home State disciplinary orders which impose adverse action shall be reported to
355 the Commission in accordance with the Rules promulgated by the Commission. A Compact
356 State shall report adverse actions in accordance with the Rules of the Commission.

357 2. In the event discipline is reported on a psychologist, the psychologist will not be
358 eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the
359 Rules of the Commission.

360 3. Other actions may be imposed as determined by the Rules promulgated by the
361 Commission.

362 D. A Home State's Psychology Regulatory Authority shall investigate and take
363 appropriate action with respect to reported inappropriate conduct engaged in by a licensee
364 which occurred in a Receiving State as it would if such conduct had occurred by a licensee
365 within the Home State. In such cases, the Home State's law shall control in determining any

adverse action against a psychologist's license.

E. 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 as it would if such conduct had occurred by a licensee within the Home State. In such cases, Distant State's law shall control in determining any adverse action against a psychologist's Temporary Authorization to Practice.

F. 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 non-public 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 provide temporary psychological services under the Temporary Authorization to Practice in any other Compact State during the term of the alternative program.

G. No other judicial or administrative remedies shall be available to a psychologist in the event a Compact State imposes an adverse action pursuant to Article VII, Section C.

ARTICLE VIII

ADDITIONAL AUTHORITIES INVESTED IN A COMPACT

STATE'S PSYCHOLOGY REGULATORY AUTHORITY

A. 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:

1. 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, and/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

394 service statutes of the state where the witnesses and/or evidence are located; and

395 2. Issue cease and desist and/or injunctive relief orders to revoke a psychologist's
396 Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to
397 Practice.

398 B. During the course of any investigation, a psychologist may not change his/her Home
399 State licensure. A Home State Psychology Regulatory Authority is authorized to complete any
400 pending investigations of a psychologist and to take any actions appropriate under its law. The
401 Home State Psychology Regulatory Authority shall promptly report the conclusions of such
402 investigations to the Commission. Once an investigation has been completed, and pending the
403 outcome of said investigation, the psychologist may change his/her Home State licensure. The
404 Commission shall promptly notify the new Home State of any such decisions as provided in the
405 Rules of the Commission. All information provided to the Commission or distributed by
406 Compact States pursuant to the psychologist shall be confidential, filed under seal, and used for
407 investigatory or disciplinary matters. The Commission may create additional rules for
408 mandated or discretionary sharing of information by Compact States.

409 ARTICLE IX

410 COORDINATED LICENSURE INFORMATION SYSTEM

411 A. The Commission shall provide for the development and maintenance of a
412 Coordinated Licensure Information System (Coordinated Database) and reporting system
413 containing licensure and disciplinary action information on all psychologists to whom this
414 Compact is applicable in all Compact States as defined by the Rules of the Commission.

415 B. Notwithstanding any other provision of state law to the contrary, a Compact State
416 shall submit a uniform data set to the Coordinated Database on all licensees as required by the
417 Rules of the Commission, including:

- 418 1. Identifying information;
- 419 2. Licensure data;
- 420 3. Significant investigatory information;
- 421 4. Adverse actions against a psychologist's license;

5. An indicator that a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice is revoked;

6. Non-confidential information related to alternative program participation
information;

7. Any denial of application for licensure, and the reasons for such denial; and

8. Other information which may facilitate the administration of this Compact, as determined by the Rules of the Commission.

C. The Coordinated Database administrator shall promptly notify all Compact States of any adverse action taken against, or significant investigative information on, any licensee in a Compact State.

D. Compact States reporting information to the Coordinated Database may designate information that may not be shared with the public without the express permission of the Compact State reporting the information.

E. Any information submitted to the Coordinated Database that is subsequently required to be expunged by the law of the Compact State reporting the information shall be removed from the Coordinated Database.

ARTICLE X

ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION

A. The Compact States hereby create and establish a joint public agency known as the
Psychology Interjurisdictional Compact Commission.

1. The Commission is a body politic and an instrumentality of the Compact States.

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

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, voting, and meetings

450 1. The Commission shall consist of one voting representative appointed by each
451 Compact State who shall serve as that state's Commissioner. The State Psychology Regulatory
452 Authority shall appoint its delegate. This delegate shall be empowered to act on behalf of the
453 Compact State. This delegate shall be limited to:

454 a. Executive Director, Executive Secretary, or similar executive;

455 b. Current member of the State Psychology Regulatory Authority of a Compact State;

456 or

457 c. Designee empowered with the appropriate delegate authority to act on behalf of the
458 Compact State.

459 2. Any Commissioner may be removed or suspended from office as provided by the
460 law of the state from which the Commissioner is appointed. Any vacancy occurring in the
461 Commission shall be filled in accordance with the laws of the Compact State in which the
462 vacancy exists.

463 3. Each Commissioner shall be entitled to one (1) vote with regard to the promulgation
464 of Rules and creation of Bylaws and shall otherwise have an opportunity to participate in the
465 business and affairs of the Commission. A Commissioner shall vote in person or by such other
466 means as provided in the Bylaws. The Bylaws may provide for Commissioners' participation in
467 meetings by telephone or other means of communication.

468 4. The Commission shall meet at least once during each calendar year. Additional
469 meetings shall be held as set forth in the Bylaws.

470 5. All meetings shall be open to the public, and public notice of meetings shall be
471 given in the same manner as required under the rulemaking provisions in Article XI.

472 6. The Commission may convene in a closed, non-public meeting if the Commission
473 must discuss:

474 a. Non-compliance of a Compact State with its obligations under the Compact;

475 b. The employment, compensation, discipline or other personnel matters, practices or
476 procedures related to specific employees, or other matters related to the Commission's internal
477 personnel practices and procedures;

- 478 c. Current, threatened, or reasonably anticipated litigation against the Commission;
479 d. Negotiation of contracts for the purchase or sale of goods, services, or real estate;
480 e. Accusation against any person of a crime or formally censuring any person;
481 f. Disclosure of trade secrets or commercial or financial information which is
482 privileged or confidential;
483 g. Disclosure of information of a personal nature where disclosure would constitute a
484 clearly unwarranted invasion of personal privacy;
485 h. Disclosure of investigatory records compiled for law enforcement purposes;
486 i. Disclosure of information related to any investigatory reports prepared by or on
487 behalf of or for use of the Commission or other committee charged with responsibility for
488 investigation or determination of compliance issues pursuant to the Compact; or
489 j. Matters specifically exempted from disclosure by federal and state statute.
490 7. If a meeting, or portion of a meeting, is closed pursuant to this provision, the
491 Commission's legal counsel or designee shall certify that the meeting may be closed and shall
492 reference each relevant exempting provision. The Commission shall keep minutes which fully
493 and clearly describe all matters discussed in a meeting and shall provide a full and accurate
494 summary of actions taken, of any person participating in the meeting, and the reasons therefore,
495 including a description of the views expressed. All documents considered in connection with
496 an action shall be identified in such minutes. All minutes and documents of a closed meeting
497 shall remain under seal, subject to release only by a majority vote of the Commission or order
498 of a court of competent jurisdiction.
499 C. The Commission shall, by a majority vote of the Commissioners, prescribe Bylaws
500 and/or Rules to govern its conduct as may be necessary or appropriate to carry out the purposes
501 and exercise the powers of the Compact, including but not limited to:
502 1. Establishing the fiscal year of the Commission;
503 2. Providing reasonable standards and procedures:
504 a. for the establishment and meetings of other committees; and
505 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 of 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 revealing 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;

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 and/or reserving of all of its debts and obligations;

8. 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;

9. The Commission shall maintain its financial records in accordance with the Bylaws;
and

10. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the Bylaws.

D. The Commission shall have the following powers:

- 534 1. The authority to promulgate uniform rules to facilitate and coordinate
535 implementation and administration of this Compact. The rule shall have the force and effect of
536 law and shall be binding in all Compact States;
- 537 2. To bring and prosecute legal proceedings or actions in the name of the Commission,
538 provided that the standing of any State Psychology Regulatory Authority or other regulatory
539 body responsible for psychology licensure to sue or be sued under applicable law shall not be
540 affected;
- 541 3. To purchase and maintain insurance and bonds;
- 542 4. To borrow, accept, or contract for services of personnel, including, but not limited
543 to, employees of a Compact State;
- 544 5. To hire employees, elect or appoint officers, fix compensation, define duties, grant
545 such individuals appropriate authority to carry out the purposes of the Compact, and to
546 establish the Commission's personnel policies and programs relating to conflicts of interest,
547 qualifications of personnel, and other related personnel matters;
- 548 6. To accept any and all appropriate donations and grants of money, equipment,
549 supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that
550 at all times the Commission shall strive to avoid any appearance of impropriety and/or conflict
551 of interest;
- 552 7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own,
553 hold, improve, or use, any property, real, personal, or mixed; provided that at all times the
554 Commission shall strive to avoid any appearance of impropriety;
- 555 8. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
556 any property, real, personal, or mixed;
- 557 9. To establish a budget and make expenditures;
- 558 10. To borrow money;
- 559 11. To appoint committees, including advisory committees comprised of Members,
560 state regulators, state legislators or their representatives, and consumer representatives, and
561 such other interested persons as may be designated in this Compact and the Bylaws;

562 12. To provide and receive information from, and to cooperate with, law enforcement
563 agencies;

564 13. To adopt and use an official seal; and

565 14. To perform such other functions as may be necessary or appropriate to achieve the
566 purposes of this Compact consistent with the state regulation of psychology licensure,
567 temporary in-person, face-to-face practice, and telepsychology practice.

568 E. The Executive Board

569 The elected officers shall serve as the Executive Board, which shall have the power to
570 act on behalf of the Commission according to the terms of this Compact.

571 1. The Executive Board shall be comprised of six members:

572 a. Five voting members who are elected from the current membership of the
573 Commission by the Commission; and

574 b. One ex-officio, nonvoting member from the recognized membership organization
575 composed of State and Provincial Psychology Regulatory Authorities.

576 2. The ex-officio member must have served as staff or member on a State Psychology
577 Regulatory Authority and will be selected by its respective organization.

578 3. The Commission may remove any member of the Executive Board as provided in
579 Bylaws.

580 4. The Executive Board shall meet at least annually.

581 5. The Executive Board shall have the following duties and responsibilities:

582 a. Recommend to the entire Commission changes to the Rules or Bylaws, changes to
583 this Compact legislation, and fees paid by Compact States such as annual dues and any other
584 applicable fees;

585 b. Ensure Compact administration services are appropriately provided, contractual or
586 otherwise;

587 c. Prepare and recommend the budget;

588 d. Maintain financial records on behalf of the Commission;

589 e. Monitor Compact compliance of member states and provide compliance reports to

the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in Rules or Bylaws.

F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources and donations and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each Compact State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff which 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.

4. The Commission shall not incur obligations of any kind prior to 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.

5. 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.

G. Qualified immunity, defense, and indemnification

1. 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,

618 or that the person against whom the claim is made had a reasonable basis for believing
619 occurred, within the scope of Commission employment, duties, or responsibilities; provided
620 that nothing in this paragraph shall be construed to protect any such person from suit and/or
621 liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton
622 misconduct of that person.

623 2. The Commission shall defend any member, officer, Executive Director, employee,
624 or representative of the Commission in any civil action seeking to impose liability arising out
625 of any actual or alleged act, error, or omission that occurred within the scope of Commission
626 employment, duties, or responsibilities, or that the person against whom the claim is made had
627 a reasonable basis for believing occurred within the scope of Commission employment, duties,
628 or responsibilities; provided that nothing herein shall be construed to prohibit that person from
629 retaining his or her own counsel; and provided further that the actual or alleged act, error, or
630 omission did not result from that person's intentional or willful or wanton misconduct.

631 3. The Commission shall indemnify and hold harmless any member, officer, Executive
632 Director, employee, or representative of the Commission for the amount of any settlement or
633 judgment obtained against that person arising out of any actual or alleged act, error, or
634 omission that occurred within the scope of Commission employment, duties, or
635 responsibilities, or that such person had a reasonable basis for believing occurred within the
636 scope of Commission employment, duties, or responsibilities; provided that the actual or
637 alleged act, error, or omission did not result from the intentional or willful or wanton
638 misconduct of that person.

639 ARTICLE XI

640 RULEMAKING

641 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set
642 forth in this Article and the Rules adopted thereunder. Rules and amendments shall become
643 binding as of the date specified in each rule or amendment.

644 B. If a majority of the legislatures of the Compact States rejects a rule, by enactment of
645 a statute or resolution in the same manner used to adopt the Compact, then such rule shall have

no further force and effect in any Compact State.

C. Rules or amendments to the Rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or Rules by the Commission, and at least sixty (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:

1. On the website of the Commission; and

2. On the website of each Compact States' Psychology Regulatory Authority or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

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

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

F. Prior to 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.

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

1. At least twenty-five (25) persons who submit comments independently of each other;

2. A governmental subdivision or agency; or

3. A duly appointed person in an association that has at least twenty-five (25) members.

H. 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.

1. All persons 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 not less than five (5) business days before the scheduled date of the hearing.

2. 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.

3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.

4. 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.

I. 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.

J. 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, if any, based on the rulemaking record and the full text of the rule.

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

L. 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, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or Compact State funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. Protect public health and safety.

M. 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 thirty (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 prior to the end of the notice period. If no challenge is 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, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. 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.

2. 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.

3. 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.

B. Default, Technical Assistance, and Termination

1. 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:

a. 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/or any other action to be taken by the Commission; and

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

2. 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.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be submitted by the Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the Compact States.

4. A Compact State which has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations which extend beyond the effective date of termination.

5. The Commission shall not bear any costs incurred by the state which is found to be in default or which has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the state of Georgia or the federal district where the Compact has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. 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 Non-Compact States.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the Commission.

D. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the U.S. District Court for the state of Georgia or the federal district where the Compact has its principal offices against a Compact State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and Bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be 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

A. The Compact shall come into effect on the date on which the Compact is enacted into law in the seventh Compact State. The provisions which 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.

B. Any state which 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 which 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.

C. Any Compact State may withdraw from this Compact by enacting a statute repealing the same.

1. A Compact State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall 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 prior to the effective date of withdrawal.

D. 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 Non-Compact State which does not conflict with the provisions of this Compact.

E. This Compact may be amended by the Compact States. No amendment to this Compact shall 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 3. Section **58-61b-103** is enacted to read:

58-61b-103. Rulemaking Authority.

The division may make administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement Section [58-61b-102](#).