

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

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SENATE BILL 361

Short Title: Health Care Expansion Act of 2019. (Public)

Sponsors: Senators Krawiec, Bishop, and Hise (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 27, 2019

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS REFORMS THAT WILL INCREASE ACCESS TO HEALTH CARE IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

PART I. INCREASE INNOVATIONS WAIVER SLOTS

SECTION 1.(a) The Department of Health and Human Services, Division of Health Benefits, shall amend the North Carolina Innovations waiver to increase the number of slots available under the waiver by a maximum of 1,000 slots to be made available on January 1, 2020, and by a maximum of 1,000 slots to be made available on January 1, 2021.

SECTION 1.(b) There is appropriated from the General Fund to the Department of Health and Human Services, Division of Health Benefits, the sum of ten million two hundred fifty thousand dollars (\$10,250,000) in recurring funds for the 2019-2020 fiscal year and the sum of thirty million seven hundred fifty thousand dollars (\$30,750,000) in recurring funds for the 2020-2021 fiscal year to be used to fund these additional slots.

PART II. REPEAL OF NORTH CAROLINA'S CERTIFICATE OF NEED LAWS

SECTION 2.(a) G.S. 6-19.1(a) reads as rewritten:

"(a) In any civil action, other than an adjudication for the purpose of establishing or fixing a rate, or a disciplinary action by a licensing board, brought by the State or brought by a party who is contesting State action pursuant to G.S. 150B-43 or any other appropriate provisions of law, unless the prevailing party is the State, the court may, in its discretion, allow the prevailing party to recover reasonable attorney's fees, including attorney's fees applicable to the administrative review portion of the case, in contested cases arising under Article 3 of Chapter 150B, to be taxed as court costs against the appropriate agency if:

- (1) The court finds that the agency acted without substantial justification in pressing its claim against the party; and
- (2) The court finds that there are no special circumstances that would make the award of attorney's fees unjust. The party shall petition for the attorney's fees within 30 days following final disposition of the case. The petition shall be supported by an affidavit setting forth the basis for the request.

~~Nothing in this section shall be deemed to authorize the assessment of attorney's fees for the administrative review portion of the case in contested cases arising under Article 9 of Chapter 131E of the General Statutes.~~



1 Nothing in this section grants permission to bring an action against an agency otherwise
 2 immune from suit or gives a right to bring an action to a party who otherwise lacks standing to
 3 bring the action.

4 Any attorney's fees assessed against an agency under this section shall be charged against the
 5 operating expenses of the agency and shall not be reimbursed from any other source."

6 **SECTION 2.(b)** G.S. 58-50-61(a) reads as rewritten:

7 "(a) Definitions. – As used in this section, in G.S. 58-50-62, and in Part 4 of this Article,
 8 the term:

9 ...

10 (8) "Health care provider" means any person who is licensed, registered, or
 11 certified under Chapter 90 of the General Statutes or the laws of another state
 12 to provide health care services in the ordinary care of business or practice or
 13 a profession or in an approved education or training program; a health care
 14 facility as defined in ~~G.S. 131E-176(9b)~~ this section or the laws of another
 15 state to operate as a health care facility; or a pharmacy.

16 ...

17 (9a) "Health service facility" means a hospital; long-term care hospital; psychiatric
 18 facility; rehabilitation facility; nursing home facility; adult care home; kidney
 19 disease treatment center, including freestanding hemodialysis units;
 20 intermediate care facility for individuals with intellectual disabilities; home
 21 health agency office; chemical dependency treatment facility; diagnostic
 22 center; hospice office, hospice inpatient facility, or hospice residential care
 23 facility; or ambulatory surgical facility.

24"

25 **SECTION 2.(c)** G.S. 58-55-35(a) reads as rewritten:

26 "(a) Whenever long-term care insurance provides coverage for the facilities, services, or
 27 physical or mental conditions listed below, unless otherwise defined in the policy and certificate,
 28 and approved by the Commissioner, such facilities, services, or conditions are defined as follows:

29 ...

30 (10) ~~"Hospice" shall be defined in accordance with the terms of G.S.~~
 31 ~~131E-176(13a).~~ means any coordinated program of home care with provision
 32 for inpatient care for terminally ill patients and their families. This care is
 33 provided by a medically directed interdisciplinary team directly or through an
 34 agreement under the direction of an identifiable hospice administration. A
 35 hospice program of care provides palliative and supportive medical and other
 36 health services to meet the physical, psychological, social, spiritual, and
 37 special needs of patients and their families, which are experienced during the
 38 final stages of terminal illness and during dying and bereavement.

39 (11) ~~"Intermediate care facility for the mentally retarded" shall be defined in~~
 40 ~~accordance with the terms of G.S. 131E-176(14a).~~ individuals with intellectual
 41 disabilities" means facilities licensed pursuant to Article 2 of Chapter 122C of
 42 the General Statutes for the purpose of providing health and habilitative
 43 services based on the developmental model and principles of normalization
 44 for individuals with intellectual disabilities, autism, cerebral palsy, epilepsy,
 45 or related conditions.

46"

47 **SECTION 2.(d)** G.S. 113A-12(3)e. reads as rewritten:

48 "e. A health care facility financed pursuant to Chapter 131A of the
 49 General Statutes ~~or receiving a certificate of need under Article 9 of~~
 50 ~~Chapter 131E of the General Statutes."~~

51 **SECTION 2.(e)** G.S. 122C-23.1(e) reads as rewritten:

1 "(e) As used in this section, "residential treatment facility" means a "residential facility"
2 as defined in and licensed under this Chapter, ~~but not subject to Certificate of Need requirements~~
3 ~~under Article 9 of Chapter 131E of the General Statutes.~~ Chapter."

4 **SECTION 2.(f)** G.S. 131E-13(a)(1) reads as rewritten:

5 "(1) The corporation shall continue to provide the same or similar clinical hospital
6 services to its patients in medical-surgery, obstetrics, pediatrics, outpatient
7 and emergency treatment, including emergency services for the indigent, that
8 the hospital facility provided prior to the lease, sale, or conveyance. These
9 services may be terminated only as prescribed by ~~Certificate of Need Law~~
10 ~~prescribed in Article 9 of Chapter 131E of the General Statutes, or, if~~
11 ~~Certificate of Need Law is inapplicable,~~ by review procedure designed to
12 guarantee public participation pursuant to rules adopted by the Secretary of
13 the Department of Health and Human Services."

14 **SECTION 2.(g)** G.S. 131E-136(4) reads as rewritten:

15 "(4) "Home health agency" means a home care agency which is certified to receive
16 Medicare and Medicaid reimbursement for providing nursing care, therapy,
17 medical social services, and home health aide services on a part-time,
18 intermittent ~~basis as set out in G.S. 131E-176(12), and is thereby also subject~~
19 ~~to Article 9 of Chapter 131E.basis."~~

20 **SECTION 2.(h)** G.S. 148-19.1 reads as rewritten:

21 **"§ 148-19.1. Exemption from licensure and certificate of need.licensure.**

22 (a) Inpatient chemical dependency or substance abuse facilities that provide services
23 exclusively to inmates of the Division of Adult Correction of the Department of Public Safety
24 shall be exempt from licensure by the Department of Health and Human Services under Chapter
25 122C of the General Statutes. If an inpatient chemical dependency or substance abuse facility
26 provides services both to inmates of the Division of Adult Correction of the Department of Public
27 Safety and to members of the general public, the portion of the facility that serves inmates shall
28 be exempt from licensure.

29 (b) ~~Any person who contracts to provide inpatient chemical dependency or substance~~
30 ~~abuse services to inmates of the Division of Adult Correction of the Department of Public Safety~~
31 ~~may construct and operate a new chemical dependency or substance abuse facility for that~~
32 ~~purpose without first obtaining a certificate of need from the Department of Health and Human~~
33 ~~Services pursuant to Article 9 of Chapter 131E of the General Statutes. However, a new facility~~
34 ~~or addition developed for that purpose without a certificate of need shall not be licensed pursuant~~
35 ~~to Chapter 122C of the General Statutes and shall not admit anyone other than inmates unless the~~
36 ~~owner or operator first obtains a certificate of need."~~

37 **SECTION 2.(i)** Article 9 of Chapter 131E of the General Statutes,
38 G.S. 130A-45.02(i), 143B-1292, 150B-2(8a)k., and 150B-21.1(6) are repealed.

39 **SECTION 2.(j)** This section becomes effective January 1, 2020. Subsection (a) of
40 this section applies to contested cases arising on or after January 1, 2020.

41 **PART III. PSYCHOLOGY INTERJURISDICTIONAL LICENSURE COMPACT**

42 **SECTION 3.(a)** Article 18A of Chapter 90 of the General Statutes, G.S. 90-270.1
43 through G.S. 90-270.22, is recodified as Article 18G of Chapter 90 of the General Statutes,
44 G.S. 90-270.135 through G.S. 90-270.159.

45 **SECTION 3.(b)** Chapter 90 of the General Statutes is amended by adding a new
46 Article to read:

47 "Article 18H.

48 "Psychology Interjurisdictional Licensure Compact.

49 **"§ 90-270.160. Purpose.**

50 This Compact is designed to achieve the following purposes and objectives:
51

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

15 **"§ 90-270.161. Definitions.**

- 16 (1) Adverse action. – Any action taken by a State Psychology Regulatory
17 Authority which finds a violation of a statute or regulation that is identified
18 by the State Psychology Regulatory Authority as discipline and is a matter of
19 public record.
- 20 (2) Association of State and Provincial Psychology Boards (ASPPB). – The
21 recognized membership organization composed of State and Provincial
22 Psychology Regulatory Authorities responsible for the licensure and
23 registration of psychologists throughout the United States and Canada.
- 24 (3) Authority to Practice Interjurisdictional Telepsychology. – A licensed
25 psychologist's authority to practice telepsychology, within the limits
26 authorized under this Compact, in another Compact State.
- 27 (4) Bylaws. – Those Bylaws established by the Psychology Interjurisdictional
28 Compact Commission pursuant to G.S. 90-270.169 for its governance or for
29 directing and controlling its actions and conduct.
- 30 (5) Client/patient. – The recipient of psychological services, whether
31 psychological services are delivered in the context of health care, corporate,
32 supervision, and/or consulting services.
- 33 (6) Commissioner. – The voting representative appointed by each State
34 Psychology Regulatory Authority pursuant to G.S. 90-270.169.
- 35 (7) Compact State. – A state, the District of Columbia, or United States territory
36 that has enacted this Compact legislation and which has not withdrawn
37 pursuant to G.S. 90-270.172(c) or been terminated pursuant to
38 G.S. 90-270.171(b).
- 39 (8) Confidentiality. – The principle that data or information is not made available
40 or disclosed to unauthorized persons and/or processes.
- 41 (9) Coordinated Licensure Information System or Coordinated Database. – An
42 integrated process for collecting, storing, and sharing information on
43 psychologists' licensure and enforcement activities related to psychology
44 licensure laws, which is administered by the recognized membership
45 organization composed of State and Provincial Psychology Regulatory
46 Authorities.
- 47 (10) Day. – Any part of a day in which psychological work is performed.
- 48 (11) Distant State. – The Compact State where a psychologist is physically present
49 (not through the use of telecommunications technologies) to provide
50 temporary in-person, face-to-face psychological services.

- 1 (12) E.Passport. – A certificate issued by the Association of State and Provincial
2 Psychology Boards (ASPPB) that promotes the standardization in the criteria
3 of interjurisdictional telepsychology practice and facilitates the process for
4 licensed psychologists to provide telepsychological services across state lines.
5 (13) Executive Board. – A group of directors elected or appointed to act on behalf
6 of, and within the powers granted to them by, the Commission.
7 (14) Home State. – A Compact State where a psychologist is licensed to practice
8 psychology. If the psychologist is licensed in more than one Compact State
9 and is practicing under the Authority to Practice Interjurisdictional
10 Telepsychology, the Home State is the Compact State where the psychologist
11 is physically present when the telepsychological services are delivered. If the
12 psychologist is licensed in more than one Compact State and is practicing
13 under the Temporary Authorization to Practice, the Home State is any
14 Compact State where the psychologist is licensed.
15 (15) Identity History Summary. – A summary of information retained by the FBI,
16 or other designee with similar authority, in connection with arrests and, in
17 some instances, federal employment, naturalization, or military service.
18 (16) In-person, face-to-face. – Interactions in which the psychologist and the
19 client/patient are in the same physical space and which does not include
20 interactions that may occur through the use of telecommunication
21 technologies.
22 (17) Interjurisdictional Practice Certificate (IPC). – A certificate issued by the
23 Association of State and Provincial Psychology Boards (ASPPB) that grants
24 temporary authority to practice based on notification to the State Psychology
25 Regulatory Authority of intention to practice temporarily and verification of
26 one's qualifications for such practice.
27 (18) License. – Authorization by a State Psychology Regulatory Authority to
28 engage in the independent practice of psychology, which would be unlawful
29 without the authorization.
30 (19) Non-Compact State. – Any State which is not at the time a Compact State.
31 (20) Psychologist. – An individual licensed for the independent practice of
32 psychology.
33 (21) Psychology Interjurisdictional Compact Commission (Commission). – The
34 national administration of which all Compact States are members.
35 (22) Receiving State. – A Compact State where the client/patient is physically
36 located when the telepsychological services are delivered.
37 (23) Rule. – A written statement by the Psychology Interjurisdictional Compact
38 Commission promulgated pursuant to G.S. 90-270.170 of the Compact that is
39 of general applicability, implements, interprets, or prescribes a policy or
40 provision of the Compact, or an organizational, procedural, or practice
41 requirement of the Commission and has the force and effect of statutory law
42 in a Compact State, and includes the amendment, repeal, or suspension of an
43 existing rule.
44 (24) Significant investigatory information. –
45 a. Investigative information that a State Psychology Regulatory
46 Authority, after a preliminary inquiry that includes notification and an
47 opportunity to respond if required by state law, has reason to believe,
48 if proven true, would indicate more than a violation of state statute or
49 ethics code that would be considered more substantial than minor
50 infraction; or

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

5 (25) State. – A state, commonwealth, territory, or possession of the United States
6 or the District of Columbia.

7 (26) State Psychology Regulatory Authority. – The Board, office, or other agency
8 with the legislative mandate to license and regulate the practice of psychology.

9 (27) Telepsychology. – The provision of psychological services using
10 telecommunication technologies.

11 (28) Temporary Authorization to Practice. – A licensed psychologist's authority to
12 conduct temporary in-person, face-to-face practice, within the limits
13 authorized under this Compact, in another Compact State.

14 (29) Temporary in-person, face-to-face practice. – Where a psychologist is
15 physically present (not through the use of telecommunications technologies)
16 in the Distant State to provide for the practice of psychology for 30 days within
17 a calendar year and based on notification to the Distant State.

18 **§ 90-270.162. Home State licensure.**

19 (a) The Home State shall be a Compact State where a psychologist is licensed to practice
20 psychology.

21 (b) A psychologist may hold one or more Compact State licenses at a time. If the
22 psychologist is licensed in more than one Compact State, the Home State is the Compact State
23 where the psychologist is physically present when the services are delivered as authorized by the
24 Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.

25 (c) Any Compact State may require a psychologist not previously licensed in a Compact
26 State to obtain and retain a license to be authorized to practice in the Compact State under
27 circumstances not authorized by the Authority to Practice Interjurisdictional Telepsychology
28 under the terms of this Compact.

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

32 (e) A Home State's license authorizes a psychologist to practice in a Receiving State
33 under the Authority to Practice Interjurisdictional Telepsychology only if the Compact State:

34 (1) Currently requires the psychologist to hold an active E.Passport;

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

37 (3) Notifies the Commission, in compliance with the terms herein, of any adverse
38 action or significant investigatory information regarding a licensed individual;

39 (4) Requires an Identity History Summary of all applicants at initial licensure,
40 including the use of the results of fingerprints or other biometric data checks
41 compliant with the requirements of the Federal Bureau of Investigation (FBI),
42 or other designee with similar authority, no later than 10 years after activation
43 of the Compact; and

44 (5) Complies with the Bylaws and Rules of the Commission.

45 (f) A Home State's license grants Temporary Authorization to Practice to a psychologist
46 in a Distant State only if the Compact State:

47 (1) Currently requires the psychologist to hold an active IPC;

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

50 (3) Notifies the Commission, in compliance with the terms herein, of any adverse
51 action or significant investigatory information regarding a licensed individual;

1 (4) Requires an Identity History Summary of all applicants at initial licensure,
2 including the use of the results of fingerprints or other biometric data checks
3 compliant with the requirements of the Federal Bureau of Investigation (FBI),
4 or other designee with similar authority, no later than 10 years after activation
5 of the Compact; and

6 (5) Complies with the Bylaws and Rules of the Commission.

7 **"§ 90-270.163. Compact privilege to practice telepsychology.**

8 (a) Compact States shall recognize the right of a psychologist, licensed in a Compact
9 State in conformance with G.S. 90-270.162, to practice telepsychology in other Compact States
10 (Receiving States) in which the psychologist is not licensed, under the Authority to Practice
11 Interjurisdictional Telepsychology as provided in the Compact.

12 (b) To exercise the Authority to Practice Interjurisdictional Telepsychology under the
13 terms and provisions of this Compact, a psychologist licensed to practice in a Compact State
14 must:

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

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

20 b. A foreign college or university deemed to be equivalent to
21 sub-subdivision a. of this subdivision by a foreign credential
22 evaluation service that is a member of the National Association of
23 Credential Evaluation Services (NACES) or by a recognized foreign
24 credential evaluation service; and

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

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

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

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

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

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

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

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

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

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

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

50 (3) Possess a current, full, and unrestricted license to practice psychology in a
51 Home State that is a Compact State;

- 1 (4) Have no history of adverse action that violate the Rules of the Commission;
- 2 (5) Have no criminal record history reported on an Identity History Summary that
- 3 violates the Rules of the Commission;
- 4 (6) Possess a current, active E.Passport;
- 5 (7) Provide attestations in regard to areas of intended practice, conformity with
- 6 standards of practice, competence in telepsychology technology, criminal
- 7 background, and knowledge and adherence to legal requirements in the home
- 8 and receiving states, and provide a release of information to allow for primary
- 9 source verification in a manner specified by the Commission; and
- 10 (8) Meet other criteria as defined by the Rules of the Commission.

11 (c) The Home State maintains authority over the license of any psychologist practicing
12 into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology.

13 (d) A psychologist practicing in a Receiving State under the Authority to Practice
14 Interjurisdictional Telepsychology will be subject to the Receiving State's scope of practice. A
15 Receiving State may, in accordance with that state's due process law, limit or revoke a
16 psychologist's Authority to Practice Interjurisdictional Telepsychology in the Receiving State
17 and may take any other necessary actions under the Receiving State's applicable law to protect
18 the health and safety of the Receiving State's citizens. If a Receiving State takes action, the state
19 shall promptly notify the Home State and the Commission.

20 (e) If a psychologist's license in any Home State, another Compact State, or any Authority
21 to Practice Interjurisdictional Telepsychology in any Receiving State is restricted, suspended, or
22 otherwise limited, the E.Passport shall be revoked and, therefore, the psychologist shall not be
23 eligible to practice telepsychology in a Compact State under the Authority to Practice
24 Interjurisdictional Telepsychology.

25 **"§ 90-270.164. Compact Temporary Authorization to Practice.**

26 (a) Compact States shall also recognize the right of a psychologist, licensed in a Compact
27 State in conformance with G.S. 90-270.162, to practice temporarily in other Compact States
28 (Distant States) in which the psychologist is not licensed, as provided in the Compact.

29 (b) To exercise the Temporary Authorization to Practice under the terms and provisions
30 of this Compact, a psychologist licensed to practice in a Compact State must:

- 31 (1) Hold a graduate degree in psychology from an institute of higher education
32 that was, at the time the degree was awarded:
 - 33 a. Regionally accredited by an accrediting body recognized by the U.S.
34 Department of Education to grant graduate degrees, or authorized by
35 Provincial Statute or Royal Charter to grant doctoral degrees; or
 - 36 b. A foreign college or university deemed to be equivalent to
37 sub-subdivision a. of this subdivision by a foreign credential
38 evaluation service that is a member of the National Association of
39 Credential Evaluation Services (NACES) or by a recognized foreign
40 credential evaluation service; and
- 41 (2) Hold a graduate degree in psychology that meets the following criteria:
 - 42 a. The program, wherever it may be administratively housed, must be
43 clearly identified and labeled as a psychology program. Such a
44 program must specify in pertinent institutional catalogues and
45 brochures its intent to educate and train professional psychologists;
 - 46 b. The psychology program must stand as a recognizable, coherent,
47 organizational entity within the institution;
 - 48 c. There must be a clear authority and primary responsibility for the core
49 and specialty areas whether or not the program cuts across
50 administrative lines;

- 1 d. The program must consist of an integrated, organized sequence of
2 study;
3 e. There must be an identifiable psychology faculty sufficient in size and
4 breadth to carry out its responsibilities;
5 f. The designated director of the program must be a psychologist and a
6 member of the core faculty;
7 g. The program must have an identifiable body of students who are
8 matriculated in that program for a degree;
9 h. The program must include supervised practicum, internship, or field
10 training appropriate to the practice of psychology;
11 i. The curriculum shall encompass a minimum of three academic years
12 of full-time graduate study for doctoral degrees and a minimum of one
13 academic year of full-time graduate study for master's degrees;
14 j. The program includes an acceptable residency as defined by the Rules
15 of the Commission.

16 (3) Possess a current, full, and unrestricted license to practice psychology in a
17 Home State that is a Compact State;

18 (4) No history of adverse action that violates the Rules of the Commission;

19 (5) No criminal record history that violates the Rules of the Commission;

20 (6) Possess a current, active IPC;

21 (7) Provide attestations in regard to areas of intended practice and work
22 experience and provide a release of information to allow for primary source
23 verification in a manner specified by the Commission; and

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

25 (c) A psychologist practicing into a Distant State under the Temporary Authorization to
26 Practice shall practice within the scope of practice authorized by the Distant State.

27 (d) A psychologist practicing into a Distant State under the Temporary Authorization to
28 Practice will be subject to the Distant State's authority and law. A Distant State may, in
29 accordance with that state's due process law, limit or revoke a psychologist's Temporary
30 Authorization to Practice in the Distant State and may take any other necessary actions under the
31 Distant State's applicable law to protect the health and safety of the Distant State's citizens. If a
32 Distant State takes action, the state shall promptly notify the Home State and the Commission.

33 (e) If a psychologist's license in any Home State, another Compact State, or any
34 Temporary Authorization to Practice in any Distant State is restricted, suspended, or otherwise
35 limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice
36 in a Compact State under the Temporary Authorization to Practice.

37 **"§ 90-270.165. Conditions of telepsychology practice in a Receiving State.**

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

42 (1) The psychologist initiates a client/patient contact in a Home State via
43 telecommunications technologies with a client/patient in a Receiving State.

44 (2) Other conditions regarding telepsychology as determined by Rules
45 promulgated by the Commission.

46 **"§ 90-270.166. Adverse actions.**

47 (a) A Home State shall have the power to impose adverse action against a psychologist's
48 license issued by the Home State. A Distant State shall have the power to take adverse action on
49 a psychologist's Temporary Authorization to Practice within that Distant State.

50 (b) A Receiving State may take adverse action on a psychologist's Authority to Practice
51 Interjurisdictional Telepsychology within that Receiving State. A Home State may take adverse

1 action against a psychologist based on an adverse action taken by a Distant State regarding
2 temporary in-person, face-to-face practice.

3 (c) If a Home State takes adverse action against a psychologist's license, that
4 psychologist's Authority to Practice Interjurisdictional Telepsychology is terminated and the
5 E.Passport is revoked. Furthermore, that psychologist's Temporary Authorization to Practice is
6 terminated and the IPC is revoked.

7 (1) All Home State disciplinary orders which impose adverse action shall be
8 reported to the Commission in accordance with the Rules promulgated by the
9 Commission. A Compact State shall report adverse actions in accordance with
10 the Rules of the Commission.

11 (2) In the event discipline is reported on a psychologist, the psychologist will not
12 be eligible for telepsychology or temporary in-person, face-to-face practice in
13 accordance with the Rules of the Commission.

14 (3) Other actions may be imposed as determined by the Rules promulgated by the
15 Commission.

16 (d) A Home State's Psychology Regulatory Authority shall investigate and take
17 appropriate action with respect to reported inappropriate conduct engaged in by a licensee which
18 occurred in a Receiving State as it would if such conduct had occurred by a licensee within the
19 Home State. In such cases, the Home State's law shall control in determining any adverse action
20 against a psychologist's license.

21 (e) A Distant State's Psychology Regulatory Authority shall investigate and take
22 appropriate action with respect to reported inappropriate conduct engaged in by a psychologist
23 practicing under Temporary Authorization Practice which occurred in that Distant State as it
24 would if such conduct had occurred by a licensee within the Home State. In such cases, Distant
25 State's law shall control in determining any adverse action against a psychologist's Temporary
26 Authorization to Practice.

27 (f) Nothing in this Compact shall override a Compact State's decision that a
28 psychologist's participation in an alternative program may be used in lieu of adverse action and
29 that such participation shall remain nonpublic if required by the Compact State's law. Compact
30 States must require psychologists who enter any alternative programs to not provide
31 telepsychology services under the Authority to Practice Interjurisdictional Telepsychology or
32 provide temporary psychological services under the Temporary Authorization to Practice in any
33 other Compact State during the term of the alternative program.

34 (g) No other judicial or administrative remedies shall be available to a psychologist in the
35 event a Compact State imposes an adverse action pursuant to subsection (c) of this section.

36 **"§ 90-270.167. Additional authorities invested in a Compact State's Psychology Regulatory**
37 **Authority.**

38 In addition to any other powers granted under state law, a Compact State's Psychology
39 Regulatory Authority shall have the authority under this Compact to:

40 (1) Issue subpoenas, for both hearings and investigations, which require the
41 attendance and testimony of witnesses and the production of evidence.
42 Subpoenas issued by a Compact State's Psychology Regulatory Authority for
43 the attendance and testimony of witnesses and/or the production of evidence
44 from another Compact State shall be enforced in the latter state by any court
45 of competent jurisdiction, according to that court's practice and procedure in
46 considering subpoenas issued in its own proceedings. The issuing State
47 Psychology Regulatory Authority shall pay any witness fees, travel expenses,
48 mileage, and other fees required by the service statutes of the state where the
49 witnesses and/or evidence are located.

1 (2) Issue cease and desist and/or injunctive relief orders to revoke a psychologist's
2 Authority to Practice Interjurisdictional Telepsychology and/or Temporary
3 Authorization to Practice.

4 (3) During the course of any investigation, a psychologist may not change his/her
5 Home State licensure. A Home State Psychology Regulatory Authority is
6 authorized to complete any pending investigations of a psychologist and to
7 take any actions appropriate under its law. The Home State Psychology
8 Regulatory Authority shall promptly report the conclusions of such
9 investigations to the Commission. Once an investigation has been completed,
10 and pending the outcome of said investigation, the psychologist may change
11 his/her Home State licensure. The Commission shall promptly notify the new
12 Home State of any such decisions as provided in the Rules of the Commission.
13 All information provided to the Commission or distributed by Compact States
14 pursuant to the psychologist shall be confidential, filed under seal, and used
15 for investigatory or disciplinary matters. The Commission may create
16 additional rules for mandated or discretionary sharing of information by
17 Compact States.

18 **"§ 90-270.168. Coordinated Licensure Information System.**

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

23 (b) Notwithstanding any other provision of state law to the contrary, a Compact State
24 shall submit a uniform data set to the Coordinated Database on all licensees as required by the
25 Rules of the Commission, including:

26 (1) Identifying information;

27 (2) Licensure data;

28 (3) Significant investigatory information;

29 (4) Adverse actions against a psychologist's license;

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

32 (6) Nonconfidential information related to alternative program participation
33 information;

34 (7) Any denial of application for licensure and the reasons for such denial; and

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

37 (c) The Coordinated Database administrator shall promptly notify all Compact States of
38 any adverse action taken against, or significant investigative information on, any licensee in a
39 Compact State.

40 (d) Compact States reporting information to the Coordinated Database may designate
41 information that may not be shared with the public without the express permission of the
42 Compact State reporting the information.

43 (e) Any information submitted to the Coordinated Database that is subsequently required
44 to be expunged by the law of the Compact State reporting the information shall be removed from
45 the Coordinated Database.

46 **"§ 90-270.169. Establishment of the Psychology Interjurisdictional Compact Commission.**

47 (a) The Compact States hereby create and establish a joint public agency known as the
48 Psychology Interjurisdictional Compact Commission.

49 (1) The Commission is a body politic and an instrumentality of the Compact
50 States.

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

6 (3) Nothing in this Compact shall be construed to be a waiver of sovereign
7 immunity.

8 (b) Membership, Voting, and Meetings. –

9 (1) The Commission shall consist of one voting representative appointed by each
10 Compact State who shall serve as that state's Commissioner. The State
11 Psychology Regulatory Authority shall appoint its delegate. This delegate
12 shall be empowered to act on behalf of the Compact State. This delegate shall
13 be limited to:

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

15 b. Current member of the State Psychology Regulatory Authority of a
16 Compact State; or

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

19 (2) Any Commissioner may be removed or suspended from office as provided by
20 the law of the state from which the Commissioner is appointed. Any vacancy
21 occurring in the Commission shall be filled in accordance with the laws of the
22 Compact State in which the vacancy exists.

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

29 (4) The Commission shall meet at least once during each calendar year.
30 Additional meetings shall be held as set forth in the Bylaws.

31 (5) All meetings shall be open to the public, and public notice of meetings shall
32 be given in the same manner as required under the rule-making provisions in
33 G.S. 90-270.170.

34 (6) The Commission may convene in a closed, nonpublic meeting if the
35 Commission must discuss:

36 a. Noncompliance of a Compact State with its obligations under the
37 Compact;

38 b. The employment, compensation, discipline, or other personnel
39 matters, practices, or procedures related to specific employees or other
40 matters related to the Commission's internal personnel practices and
41 procedures;

42 c. Current, threatened, or reasonably anticipated litigation against the
43 Commission;

44 d. Negotiation of contracts for the purchase or sale of goods, services, or
45 real estate;

46 e. Accusation against any person of a crime or formally censuring any
47 person;

48 f. Disclosure of trade secrets or commercial or financial information
49 which is privileged or confidential;

50 g. Disclosure of information of a personal nature where disclosure would
51 constitute a clearly unwarranted invasion of personal privacy;

- 1 h. Disclosure of investigatory records compiled for law enforcement
2 purposes;
3 i. Disclosure of information related to any investigatory reports prepared
4 by or on behalf of or for use of the Commission or other committee
5 charged with responsibility for investigation or determination of
6 compliance issues pursuant to the Compact; or
7 j. Matters specifically exempted from disclosure by federal and state
8 statute.

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

20 (c) The Commission shall, by a majority vote of the Commissioners, prescribe Bylaws
21 and/or Rules to govern its conduct as may be necessary or appropriate to carry out the purposes
22 and exercise the powers of the Compact, including, but not limited to:

- 23 (1) Establishing the fiscal year of the Commission;
24 (2) Providing reasonable standards and procedures:
25 a. For the establishment and meetings of other committees; and
26 b. Governing any general or specific delegation of any authority or
27 function of the Commission;
28 (3) Providing reasonable procedures for calling and conducting meetings of the
29 Commission, ensuring reasonable advance notice of all meetings and
30 providing an opportunity for attendance of such meetings by interested parties,
31 with enumerated exceptions designed to protect the public's interest, the
32 privacy of individuals of such proceedings, and proprietary information,
33 including trade secrets. The Commission may meet in closed session only
34 after a majority of the Commissioners vote to close a meeting to the public in
35 whole or in part. As soon as practicable, the Commission must make public a
36 copy of the vote to close the meeting revealing the vote of each Commissioner
37 with no proxy votes allowed;
38 (4) Establishing the titles, duties, and authority and reasonable procedures for the
39 election of the officers of the Commission;
40 (5) Providing reasonable standards and procedures for the establishment of the
41 personnel policies and programs of the Commission. Notwithstanding any
42 civil service or other similar law of any Compact State, the Bylaws shall
43 exclusively govern the personnel policies and programs of the Commission;
44 (6) Promulgating a Code of Ethics to address permissible and prohibited activities
45 of Commission members and employees;
46 (7) Providing a mechanism for concluding the operations of the Commission and
47 the equitable disposition of any surplus funds that may exist after the
48 termination of the Compact after the payment and/or reserving of all of its
49 debts and obligations;

- 1 (8) The Commission shall publish its Bylaws in a convenient form and file a copy
2 thereof and a copy of any amendment thereto with the appropriate agency or
3 officer in each of the Compact States;
- 4 (9) The Commission shall maintain its financial records in accordance with the
5 Bylaws; and
- 6 (10) The Commission shall meet and take such actions as are consistent with the
7 provisions of this Compact and the Bylaws.
- 8 (d) The Commission shall have the following powers:
- 9 (1) The authority to promulgate uniform rules to facilitate and coordinate
10 implementation and administration of this Compact. The rules shall have the
11 force and effect of law and shall be binding in all Compact States;
- 12 (2) To bring and prosecute legal proceedings or actions in the name of the
13 Commission, provided that the standing of any State Psychology Regulatory
14 Authority or other regulatory body responsible for psychology licensure to sue
15 or be sued under applicable law shall not be affected;
- 16 (3) To purchase and maintain insurance and bonds;
- 17 (4) To borrow, accept, or contract for services of personnel, including, but not
18 limited to, employees of a Compact State;
- 19 (5) To hire employees, elect or appoint officers, fix compensation, define duties,
20 grant such individuals appropriate authority to carry out the purposes of the
21 Compact, and establish the Commission's personnel policies and programs
22 relating to conflicts of interest, qualifications of personnel, and other related
23 personnel matters;
- 24 (6) To accept any and all appropriate donations and grants of money, equipment,
25 supplies, materials, and services and to receive, utilize, and dispose of the
26 same, provided that at all times the Commission shall strive to avoid any
27 appearance of impropriety and/or conflict of interest;
- 28 (7) To lease, purchase, accept appropriate gifts or donations of, or otherwise to
29 own, hold, improve, or use any property, real, personal, or mixed, provided
30 that at all times the Commission shall strive to avoid any appearance of
31 impropriety;
- 32 (8) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
33 dispose of any property, real, personal, or mixed;
- 34 (9) To establish a budget and make expenditures;
- 35 (10) To borrow money;
- 36 (11) To appoint committees, including advisory committees comprised of
37 members, state regulators, state legislators or their representatives, and
38 consumer representatives, and such other interested persons as may be
39 designated in this Compact and the Bylaws;
- 40 (12) To provide and receive information from, and to cooperate with, law
41 enforcement agencies;
- 42 (13) To adopt and use an official seal; and
- 43 (14) To perform such other functions as may be necessary or appropriate to achieve
44 the purposes of this Compact consistent with the state regulation of
45 psychology licensure, temporary in-person, face-to-face practice, and
46 telepsychology practice.
- 47 (e) The Executive Board. – The elected officers shall serve as the Executive Board, which
48 shall have the power to act on behalf of the Commission according to the terms of this Compact.
- 49 (1) The Executive Board shall be comprised of six members:
- 50 a. Five voting members who are elected from the current membership of
51 the Commission by the Commission.

- 1 b. One ex officio, nonvoting member from the recognized membership
2 organization composed of State and Provincial Psychology Regulatory
3 Authorities.
- 4 (2) The ex officio member must have served as staff or member on a State
5 Psychology Regulatory Authority and will be selected by its respective
6 organization.
- 7 (3) The Commission may remove any member of the Executive Board as
8 provided in Bylaws.
- 9 (4) The Executive Board shall meet at least annually.
- 10 (5) The Executive Board shall have the following duties and responsibilities:
- 11 a. Recommend to the entire Commission changes to the Rules or Bylaws,
12 changes to this Compact legislation, or fees paid by Compact States
13 such as annual dues and any other applicable fees;
- 14 b. Ensure Compact administration services are appropriately provided,
15 contractual or otherwise;
- 16 c. Prepare and recommend the budget;
- 17 d. Maintain financial records on behalf of the Commission;
- 18 e. Monitor Compact compliance of member states and provide
19 compliance reports to the Commission;
- 20 f. Establish additional committees as necessary; and
- 21 g. Other duties as provided in Rules or Bylaws.
- 22 (f) Financing of the Commission. –
- 23 (1) The Commission shall pay or provide for the payment of the reasonable
24 expenses of its establishment, organization, and ongoing activities.
- 25 (2) The Commission may accept any and all appropriate revenue sources,
26 donations, and grants of money, equipment, supplies, materials, and services.
- 27 (3) The Commission may levy on and collect an annual assessment from each
28 Compact State or impose fees on other parties to cover the cost of the
29 operations and activities of the Commission and its staff which must be in a
30 total amount sufficient to cover its annual budget as approved each year for
31 which revenue is not provided by other sources. The aggregate annual
32 assessment amount shall be allocated based upon a formula to be determined
33 by the Commission which shall promulgate a rule binding upon all Compact
34 States.
- 35 (4) The Commission shall not incur obligations of any kind prior to securing the
36 funds adequate to meet the same, nor shall the Commission pledge the credit
37 of any of the Compact States, except by and with the authority of the Compact
38 State.
- 39 (5) The Commission shall keep accurate accounts of all receipts and
40 disbursements. The receipts and disbursements of the Commission shall be
41 subject to the audit and accounting procedures established under its Bylaws.
42 However, all receipts and disbursements of funds handled by the Commission
43 shall be audited yearly by a certified or licensed public accountant and the
44 report of the audit shall be included in and become part of the annual report
45 of the Commission.
- 46 (g) Qualified Immunity, Defense, and Indemnification. –
- 47 (1) The members, officers, Executive Director, employees, and representatives of
48 the Commission shall be immune from suit and liability, either personally or
49 in their official capacity, for any claim for damage to or loss of property or
50 personal injury or other civil liability caused by or arising out of any actual or
51 alleged act, error, or omission that occurred, or that the person against whom

1 the claim is made had a reasonable basis for believing occurred within the
2 scope of Commission employment, duties, or responsibilities, provided that
3 nothing in this subdivision shall be construed to protect any such person from
4 suit and/or liability for any damage, loss, injury, or liability caused by the
5 intentional or willful or wanton misconduct of that person.

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

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

25 **§ 90-270.170. Rule making.**

26 (a) The Commission shall exercise its rule-making powers pursuant to the criteria set
27 forth in this section and the Rules adopted thereunder. Rules and amendments shall become
28 binding as of the date specified in each rule or amendment.

29 (b) If a majority of the legislatures of the Compact States rejects a rule, by enactment of
30 a statute or resolution in the same manner used to adopt the Compact, then such rule shall have
31 no further force and effect in any Compact State.

32 (c) Rules or amendments to the rules shall be adopted at a regular or special meeting of
33 the Commission.

34 (d) Prior to promulgation and adoption of a final rule or Rules by the Commission, and
35 at least 60 days in advance of the meeting at which the rule will be considered and voted upon,
36 the Commission shall file a Notice of Proposed Rule Making:

37 (1) On the Web site of the Commission; and

38 (2) On the Web site of each Compact States' Psychology Regulatory Authority or
39 the publication in which each state would otherwise publish proposed rules.

40 (e) The Notice of Proposed Rule Making shall include:

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

43 (2) The text of the proposed rule or amendment and the reason for the proposed
44 rule;

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

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

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

50 (g) The Commission shall grant an opportunity for a public hearing before it adopts a rule
51 or amendment if a hearing is requested by:

- 1 (1) At least 25 persons who submit comments independently of each other;
2 (2) A governmental subdivision or agency; or
3 (3) A duly appointed person in an association that has at least 25 members.
4 (h) If a hearing is held on the proposed rule or amendment, the Commission shall publish
5 the place, time, and date of the scheduled public hearing.
6 (1) All persons wishing to be heard at the hearing shall notify the Executive
7 Director of the Commission or other designated member in writing of their
8 desire to appear and testify at the hearing not less than five business days
9 before the scheduled date of the hearing.
10 (2) Hearings shall be conducted in a manner providing each person who wishes
11 to comment a fair and reasonable opportunity to comment orally or in writing.
12 (3) No transcript of the hearing is required, unless a written request for a transcript
13 is made, in which case the person requesting the transcript shall bear the cost
14 of producing the transcript. A recording may be made in lieu of a transcript
15 under the same terms and conditions as a transcript. This subsection shall not
16 preclude the Commission from making a transcript or recording of the hearing
17 if it so chooses.
18 (4) Nothing in this section shall be construed as requiring a separate hearing on
19 each rule. Rules may be grouped for the convenience of the Commission at
20 hearings required by this section.
21 (i) Following the scheduled hearing date, or by the close of business on the scheduled
22 hearing date if the hearing was not held, the Commission shall consider all written and oral
23 comments received.
24 (j) The Commission shall, by majority vote of all members, take final action on the
25 proposed rule and shall determine the effective date of the rule, if any, based on the rule-making
26 record and the full text of the rule.
27 (k) If no written notice of intent to attend the public hearing by interested parties is
28 received, the Commission may proceed with promulgation of the proposed rule without a public
29 hearing.
30 (l) Upon determination that an emergency exists, the Commission may consider and
31 adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that
32 the usual rule-making procedures provided in the Compact and in this section shall be
33 retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days
34 after the effective date of the rule. For the purposes of this provision, an emergency rule is one
35 that must be adopted immediately in order to:
36 (1) Meet an imminent threat to public health, safety, or welfare;
37 (2) Prevent a loss of Commission or Compact State funds;
38 (3) Meet a deadline for the promulgation of an administrative rule that is
39 established by federal law or rule; or
40 (4) Protect public health and safety.
41 (m) The Commission or an authorized committee of the Commission may direct revisions
42 to a previously adopted rule or amendment for purposes of correcting typographical errors, errors
43 in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be
44 posted on the Web site of the Commission. The revision shall be subject to challenge by any
45 person for a period of 30 days after posting. The revision may be challenged only on grounds
46 that the revision results in a material change to a rule. A challenge shall be made in writing and
47 delivered to the Chair of the Commission prior to the end of the notice period. If no challenge is
48 made, the revision will take effect without further action. If the revision is challenged, the
49 revision may not take effect without the approval of the Commission.
50 **"§ 90-270.171. Oversight, dispute resolution, and enforcement.**
51 (a) Oversight. –

- 1 (1) The executive, legislative, and judicial branches of state government in each
2 Compact State shall enforce this Compact and take all actions necessary and
3 appropriate to effectuate the Compact's purposes and intent. The provisions of
4 this Compact and the rules promulgated hereunder shall have standing as
5 statutory law.
- 6 (2) All courts shall take judicial notice of the Compact and the rules in any judicial
7 or administrative proceeding in a Compact State pertaining to the subject
8 matter of this Compact which may affect the powers, responsibilities, or
9 actions of the Commission.
- 10 (3) The Commission shall be entitled to receive service of process in any such
11 proceeding and shall have standing to intervene in such a proceeding for all
12 purposes. Failure to provide service of process to the Commission shall render
13 a judgment or order void as to the Commission, this Compact, or promulgated
14 rules.
- 15 (b) Default, Technical Assistance, and Termination. –
- 16 (1) If the Commission determines that a Compact State has defaulted in the
17 performance of its obligations or responsibilities under this Compact or the
18 promulgated rules, the Commission shall:
- 19 a. Provide written notice to the defaulting state and other Compact States
20 of the nature of the default, the proposed means of remedying the
21 default, and/or any other action to be taken by the Commission; and
22 b. Provide remedial training and specific technical assistance regarding
23 the default.
- 24 (2) If a state in default fails to remedy the default, the defaulting state may be
25 terminated from the Compact upon an affirmative vote of a majority of the
26 Compact States and all rights, privileges, and benefits conferred by this
27 Compact shall be terminated on the effective date of termination. A remedy
28 of the default does not relieve the offending state of obligations or liabilities
29 incurred during the period of default.
- 30 (3) Termination of membership in the Compact shall be imposed only after all
31 other means of securing compliance have been exhausted. Notice of intent to
32 suspend or terminate shall be submitted by the Commission to the Governor,
33 the majority and minority leaders of the defaulting state's legislature, and each
34 of the Compact States.
- 35 (4) A Compact State which has been terminated is responsible for all assessments,
36 obligations, and liabilities incurred through the effective date of termination,
37 including obligations which extend beyond the effective date of termination.
- 38 (5) The Commission shall not bear any costs incurred by the state which is found
39 to be in default or which has been terminated from the Compact, unless agreed
40 upon in writing between the Commission and the defaulting state.
- 41 (6) The defaulting state may appeal the action of the Commission by petitioning
42 the U.S. District Court for the State of Georgia or the federal district where
43 the Compact has its principal offices. The prevailing member shall be awarded
44 all costs of such litigation, including reasonable attorneys' fees.
- 45 (c) Dispute Resolution. –
- 46 (1) Upon request by a Compact State, the Commission shall attempt to resolve
47 disputes related to the Compact which arise among Compact States and
48 between Compact and Non-Compact States.
- 49 (2) The Commission shall promulgate a rule providing for both mediation and
50 binding dispute resolution for disputes that arise before the Commission.
- 51 (d) Enforcement. –

- 1 (1) The Commission, in the reasonable exercise of its discretion, shall enforce the
2 provisions and Rules of this Compact.
- 3 (2) By majority vote, the Commission may initiate legal action in the United
4 States District Court for the State of Georgia or the federal district where the
5 Compact has its principal offices against a Compact State in default to enforce
6 compliance with the provisions of the Compact and its promulgated Rules and
7 Bylaws. The relief sought may include both injunctive relief and damages. In
8 the event judicial enforcement is necessary, the prevailing member shall be
9 awarded all costs of such litigation, including reasonable attorneys' fees.
- 10 (3) The remedies herein shall not be the exclusive remedies of the Commission.
11 The Commission may pursue any other remedies available under federal or
12 state law.

13 **"§ 90-270.172. Date of implementation of the Psychology Interjurisdictional Compact**
14 **Commission and associated rules, withdrawal, and amendments.**

15 (a) The Compact shall come into effect on the date on which the Compact is enacted into
16 law in the seventh Compact State. The provisions which become effective at that time shall be
17 limited to the powers granted to the Commission relating to assembly and the promulgation of
18 rules. Thereafter, the Commission shall meet and exercise rule-making powers necessary to the
19 implementation and administration of the Compact.

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

24 (c) Any Compact State may withdraw from this Compact by enacting a statute repealing
25 the same.

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

28 (2) Withdrawal shall not affect the continuing requirement of the withdrawing
29 State's Psychology Regulatory Authority to comply with the investigative and
30 adverse action reporting requirements of this act prior to the effective date of
31 withdrawal.

32 (d) Nothing contained in this Compact shall be construed to invalidate or prevent any
33 psychology licensure agreement or other cooperative arrangement between a Compact State and
34 a Non-Compact State which does not conflict with the provisions of this Compact.

35 (e) This Compact may be amended by the Compact States. No amendment to this
36 Compact shall become effective and binding upon any Compact State until it is enacted into the
37 law of all Compact States.

38 **"§ 90-270.173. Construction and severability.**

39 This Compact shall be liberally construed so as to effectuate the purposes thereof. If this
40 Compact shall be held contrary to the constitution of any state member thereto, the Compact shall
41 remain in full force and effect as to the remaining Compact States."

42 **SECTION 3.(c)** Subsections (a) and (b) of this section become effective when at
43 least seven states have enacted the Psychology Interjurisdictional Compact (PSYPACT) set forth
44 in subsection (b) of this section. The North Carolina Psychology Board shall report to the Revisor
45 of Statutes when the PSYPACT set forth in subsection (b) of this section has been enacted by
46 seven member states.

48 **PART IV. ALLOW LICENSED MARRIAGE AND FAMILY THERAPISTS TO**
49 **CONDUCT FIRST-LEVEL EXAMINATIONS FOR INVOLUNTARY COMMITMENT**

50 **SECTION 4.(a)** G.S. 122C-263.1(a) reads as rewritten:

1 **"§ 122C-263.1. Secretary's authority to certify commitment examiners; training of certified**
 2 **commitment examiners performing first examinations; LME/MCO**
 3 **responsibilities.**

4 (a) Physicians and eligible psychologists are qualified to perform the commitment
 5 examinations required under G.S. 122C-263(c) and G.S. 122C-283(c). The Secretary of Health
 6 and Human Services may individually certify to perform the first commitment examinations
 7 required by G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283
 8 other health, mental health, and substance abuse professionals whose scope of practice includes
 9 diagnosing and documenting psychiatric or substance use disorders and conducting mental status
 10 examinations to determine capacity to give informed consent to treatment as follows:

- 11 (1) The Secretary has received a request:
 12 a. To certify a licensed clinical social worker, a master's or higher level
 13 degree nurse practitioner, a licensed professional counsellor, a
 14 licensed marriage and family therapist, or a physician's assistant to
 15 conduct the first examinations described in G.S. 122C-263(c) and
 16 G.S. 122C-283(c).
 17 b. To certify a master's level licensed clinical addictions specialist to
 18 conduct the first examination described in G.S. 122C-283(c).

19 ...
 20 (5) In no event shall the certification of a licensed clinical social worker, master's
 21 or higher level degree nurse practitioner, licensed professional counsellor, a
 22 licensed marriage and family therapist, physician assistant, or master's level
 23 certified clinical addictions specialist under this section be construed as
 24 authorization to expand the scope of practice of the licensed clinical social
 25 worker, the master's level nurse practitioner, licensed professional counsellor,
 26 a licensed marriage and family therapist, physician assistant, or the master's
 27 level certified clinical addictions specialist.

28"

29 **SECTION 4.(b)** This section is effective October 1, 2019.

30
 31 **PART V. PROGRAM FOR ALL-INCLUSIVE CARE FOR THE ELDERLY**
 32 **REGULATORY CHANGES**

33 **SECTION 5.(a)** G.S. 131E-138 reads as rewritten:

34 **"§ 131E-138. Licensure requirements.**

35 (a) ~~No~~ Except as provided in subsection (f1) of this section, no person or governmental
 36 unit shall operate a home care agency without a license obtained from the Department. Nothing
 37 in this Part shall be construed to extend or modify the licensing of individual health professionals
 38 by the licensing boards for their professions or to create any new professional license category.

39 ...
 40 (f1) Exceptions to Licensure. – If home care services are provided to a participant of the
 41 Program for All-Inclusive Care for the Elderly through an organization that has a valid Program
 42 for All-Inclusive Care for the Elderly agreement with the Centers for Medicare and Medicaid
 43 Services and the Division of Health Benefits of the Department of Health and Human Service,
 44 then the entity providing the home care services shall not be required to hold a license under this
 45 section.

46"

47 **SECTION 5.(b)** G.S. 131D-2.1 reads as rewritten:

48 **"§ 131D-2.1. Definitions.**

49 As used in this Article:

50 ...

- 1 (3) Adult care home. – An assisted living residence in which the housing
2 management provides 24-hour scheduled and unscheduled personal care
3 services to two or more residents, either directly or for scheduled needs,
4 through formal written agreement with licensed home care or hospice
5 ~~agencies.~~ agencies or with a Program for All-Inclusive Care for the Elderly
6 organization that has a valid program agreement with the Centers for Medicare
7 and Medicaid Services and the Division of Health Benefits of the Department
8 of Health and Human Services. Some licensed adult care homes provide
9 supervision to persons with cognitive impairments whose decisions, if made
10 independently, may jeopardize the safety or well-being of themselves or
11 others and therefore require supervision. Medication in an adult care home
12 may be administered by designated trained staff. Adult care homes that
13 provide care to two to six unrelated residents are commonly called family care
14 homes.
- 15 ...
- 16 (5) Assisted living residence. – Any group housing and services program for two
17 or more unrelated adults, by whatever name it is called, that makes available,
18 at a minimum, one meal a day and housekeeping services and provides
19 personal care services directly or through a formal written agreement with one
20 or more licensed home care or hospice ~~agencies.~~ agencies, or with a Program
21 for All-Inclusive Care for the Elderly organization that has a valid program
22 agreement with the Centers for Medicare and Medicaid Services and the
23 Division of Health Benefits of the Department of Health and Human Services.
24 The Department may allow nursing service exceptions on a case-by-case
25 basis. Settings in which services are delivered may include self-contained
26 apartment units or single or shared room units with private or area baths.
27 Assisted living residences are to be distinguished from nursing homes subject
28 to provisions of G.S. 131E-102. There are three types of assisted living
29 residences: adult care homes, adult care homes that serve only elderly persons,
30 and multiunit assisted housing with services. As used in this section, "elderly
31 person" means:
- 32 a. Any person who has attained the age of 55 years or older and requires
33 assistance with activities of daily living, housing, and services, or
- 34 b. Any adult who has a primary diagnosis of Alzheimer's disease or other
35 form of dementia who requires assistance with activities of daily
36 living, housing, and services provided by a licensed Alzheimer's and
37 dementia care unit.
- 38 ...
- 39 (10) Multiunit assisted housing with services. – An assisted living residence in
40 which hands-on personal care services and nursing services ~~which that are~~
41 arranged by housing management are provided through an individualized
42 written care plan by a licensed home care or hospice agency through an
43 individualized written care plan. ~~or by a Program for All-Inclusive Care for~~
44 the Elderly organization that has a valid program agreement with the Centers
45 for Medicare and Medicaid Services and the Division of Health Benefits of
46 the Department of Health and Human Services. The housing management has
47 a financial interest or financial affiliation or formal written agreement ~~which~~
48 that makes personal care services accessible and available through at least one
49 licensed home care or hospice ~~agency.~~ agency or through a Program for
50 All-Inclusive Care for the Elderly organization that has a valid program
51 agreement with the Centers for Medicare and Medicaid Services and the

1 Division of Health Benefits of the Department of Health and Human Services.
 2 The resident has a choice of any provider, and the housing management may
 3 not combine charges for housing and personal care services. All residents, or
 4 their compensatory agents, must be capable, through informed consent, of
 5 entering into a contract and must not be in need of 24-hour supervision.
 6 Assistance with self-administration of medications may be provided by
 7 appropriately trained staff when delegated by a licensed nurse according to
 8 the home care agency's or the Program for All-Inclusive Care for the Elderly
 9 organization's established plan of care. Multiunit assisted housing with
 10 services programs are required to register annually with the Division of Health
 11 Service Regulation. Multiunit assisted housing with services programs are
 12 required to provide a disclosure statement to the Division of Health Service
 13 Regulation. The disclosure statement is required to be a part of the annual
 14 rental contract that includes a description of all of the following requirements:
 15 a. Emergency response ~~system;~~system.
 16 b. Charges for services ~~offered;~~offered.
 17 c. Limitations of ~~tenancy;~~tenancy.
 18 d. Limitations of ~~services;~~services.
 19 e. Resident ~~responsibilities;~~responsibilities.
 20 f. Financial/legal relationship between housing management and home
 21 care or hospice ~~agencies;~~agencies or Program for All-Inclusive Care
 22 for the Elderly organizations.
 23 g. A listing of all home care or hospice agencies and other community
 24 services in the ~~area;~~area.
 25 h. An appeals ~~process;~~ and process.
 26 i. Procedures for required initial and annual resident screening and
 27 referrals for services.

28 Continuing care retirement communities, subject to regulation by the
 29 Department of Insurance under Chapter 58 of the General Statutes, and
 30 temporary family health care structures, as defined in G.S. 160A-383.5, are
 31 exempt from the regulatory requirements for multiunit assisted housing with
 32 services programs.

33"

34 **SECTION 5.(c)** G.S. 131D-2.2(b) reads as rewritten:

35 "(b) Multiunit Assisted Housing With Services. – Except when a physician certifies that
 36 appropriate care can be provided on a temporary basis to meet the resident's needs and prevent
 37 unnecessary relocation, multiunit assisted housing with services shall not care for individuals
 38 with any of the following conditions or care needs:

- 39 (1) Ventilator ~~dependeney;~~dependency.
- 40 (2) Dermal ulcers III and IV, except those stage III ulcers which are determined
 41 by an independent physician to be ~~healing;~~healing.
- 42 (3) Intravenous therapy or injections directly into the vein, except for intermittent
 43 intravenous therapy managed by a home care or hospice agency licensed in
 44 this ~~State;~~State.
- 45 (4) Airborne infectious disease in a communicable state that requires isolation of
 46 the individual or requires special precautions by the caretaker to prevent
 47 transmission of the disease, including diseases such as tuberculosis and
 48 excluding infections such as the common ~~cold;~~cold.
- 49 (5) Psychotropic medications without appropriate diagnosis and treatment
 50 ~~plans;~~plans.
- 51 (6) Nasogastric ~~tubes;~~tubes.

- 1 (7) Gastric tubes, except when the individual is capable of independently feeding
 2 himself or herself and caring for the tube, or as managed by a home care or
 3 hospice agency licensed in this ~~State;~~State.
 4 (8) Individuals requiring continuous licensed nursing ~~care;~~care.
 5 (9) Individuals whose physician certifies that placement is no longer
 6 ~~appropriate;~~appropriate.
 7 (10) Unless the individual's independent physician determines ~~otherwise,~~
 8 otherwise or the individual is enrolled in the Program of All-Inclusive Care
 9 for the Elderly, individuals who require maximum physical assistance as
 10 documented by a uniform assessment instrument and who meet Medicaid
 11 nursing facility level-of-care criteria as defined in the State Plan for Medical
 12 Assistance. Maximum physical assistance means that an individual has a
 13 rating of total dependence in four or more of the seven activities of daily living
 14 as documented on a uniform assessment ~~instrument;~~instrument.
 15 (11) Individuals whose health needs cannot be met in the specific multiunit assisted
 16 housing with services as determined by the ~~residence; and~~residence.
 17 (12) Such other medical and functional care needs as the Medical Care
 18 Commission determines cannot be properly met in multiunit assisted housing
 19 with services."

20 **SECTION 5.(d)** G.S. 131D-2.2(d) reads as rewritten:

21 "(d) Obtaining Services. – The resident of an assisted living facility has the right to obtain
 22 services at the resident's own expense from providers other than the housing management. This
 23 subsection shall not be construed to relieve the resident of the resident's contractual obligation to
 24 pay the housing management for any services covered by the contract between the resident and
 25 housing management. The resident of an assisted living facility has the right to select as the
 26 resident's health care provider the Program for All-Inclusive Care for the Elderly without
 27 jeopardizing residency in the assisted living facility."

28 **SECTION 5.(e)** G.S. 131D-2.16 reads as rewritten:

29 **"§ 131D-2.16. Rules.**

30 Except as otherwise provided in this Article, the Medical Care Commission shall adopt rules
 31 necessary to carry out this Article. The Commission has the authority, in adopting rules, to
 32 specify the limitation of nursing services provided by assisted living residences. In developing
 33 rules, the Commission shall consider the need to ensure comparable quality of services provided
 34 to residents, whether these services are provided directly by a licensed assisted living provider,
 35 licensed home care agency, a Program for All-Inclusive Care for the Elderly organization that
 36 has a valid program agreement with the Centers for Medicare and Medicaid Services and the
 37 Division of Health Benefits of the Department of Health and Human Services, or hospice. In
 38 adult care homes, living arrangements where residents require supervision due to cognitive
 39 impairments, rules shall be adopted to ensure that supervision is appropriate and adequate to meet
 40 the special needs of these residents. Rule-making authority under this section is in addition to
 41 that conferred under G.S. 131D-4.3 and G.S. 131D-4.5."

42 **SECTION 5.(f)** G.S. 131D-6 reads as rewritten:

43 **"§ 131D-6. Certification of adult day care programs; purpose; definition; penalty.**

44 ...

- 45 (d) ~~The~~ All of the following programs are exempted from the provisions of this section:
 46 (1) Those that care for three people or ~~less;~~less.
 47 (2) Those that care for two or more persons, all of whom are related by blood or
 48 marriage to the operator of the ~~facility;~~facility.
 49 (3) Those that are required by other statutes to be licensed by the Department of
 50 Health and Human Services.

1 (4) Program for All-Inclusive Care for the Elderly organizations that have a valid
2 program agreement with the Centers for Medicare and Medicaid Services and
3 the Division of Health Benefits of the Department of Health and Human
4 Services when providing services to participants in the program."

5 **SECTION 5.(g)** This act is effective October 1, 2019.

6
7 **PART VI. ELIMINATE REDUNDANCY IN ADULT CARE HOME INSPECTIONS**

8 **SECTION 6.** G.S. 131D-2.11(a) reads as rewritten:

9 "(a) State Inspection and Monitoring. – The Department shall ensure that adult care homes
10 required to be licensed by this Article are monitored for licensure compliance on a regular basis.
11 All facilities licensed under this Article and adult care units in nursing homes are subject to
12 inspections at all times by the Secretary. Except as provided in subsection (a1) of this section,
13 the Division of Health Service Regulation shall inspect all adult care homes and adult care units
14 in nursing homes on an annual basis. Beginning July 1, 2012, the Division of Health Service
15 Regulation shall include as part of its inspection of all adult care homes a review of the facility's
16 compliance with G.S. 131D-4.4A(b) and safe practices for injections and any other procedures
17 during which bleeding typically occurs. In addition, the Department shall ensure that adult care
18 homes are inspected every two years to determine compliance with physical plant and life-safety
19 requirements.

20 If the annual inspection of an adult care home is conducted separately from the inspection
21 required every two years to determine compliance with physical plant and life-safety
22 requirements, the Division of Health Service Regulation shall not cite, as part of the annual
23 inspection, any violation of law that overlaps with an area addressed by the physical plant and
24 life-safety inspection, unless failure to address the violation during the annual inspection would
25 pose a risk to resident health or safety. Nothing in this section prevents a licensing inspector from
26 referring a concern about physical plant and life-safety requirements to the section within the
27 Division of Health Service Regulation that conducts physical plant and life-safety inspections."

28
29 **PART VII. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

30 **SECTION 7.(a)** If any section or provision of this act is declared unconstitutional or
31 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
32 the part declared to be unconstitutional or invalid.

33 **SECTION 7.(b)** Except as otherwise provided, this act is effective when it becomes
34 law.