SENATE BILL No. 36

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-33.5; IC 34-30-2-101.7.

Synopsis: Psychology interjurisdictional compact. Establishes the psychology interjurisdictional compact concerning interjurisdictional telepsychology and the temporary authorization to practice psychology in another compact state. Sets forth requirements of a compact state. Sets forth the duties of the psychology interjurisdictional compact commission.

Effective: July 1, 2021.

Becker

January 4, 2021, read first time and referred to Committee on Health and Provider Services.

Introduced

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

SENATE BILL No. 36

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 25-33.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

ARTICLE 33.5. PSYCHOLOGY INTERJURISDICTIONAL COMPACT

Chapter 1. Purpose and Applicability

Sec. 1. The party states make the following findings:

(1) States license psychologists in order to protect the public through verification of education, training, and experience, and to ensure accountability for professional practice.

(2) The compact under this article is intended to regulate the following:

(A) The day to day practice of telepsychology by psychologists across state boundaries in the performance of the practice of psychology, as assigned by an appropriate authority.

(B) The temporary in-person, face-to-face practice of

psychology by psychologists across state boundaries for not more than thirty (30) days within a calendar year in the performance of the practice of psychology, as assigned by an appropriate authority.

(3) The compact under this article is intended to authorize the state psychology regulatory authorities to afford legal recognition, in a manner consistent with the terms of the compact under this article, to psychologists licensed in another state.

(4) States have a vested interest in protecting the public's health and safety through licensing and regulating psychologists and that state regulation best protects public health and safety.

Sec. 2. The compact set forth in this article does not apply to the following:

(1) When a psychologist is licensed in both the home and receiving state.

(2) Permanent in-person, face-to-face practice.

However, the compact does allow for the authorization of a temporary psychologic practice.

Sec. 3. The compact set forth in this article is designed to achieve the following purposes and objectives:

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

(2) Enhance the states' ability to protect the public's health and safety, especially client and patient safety.

(3) Encourage the cooperation of compact states in the area of psychology licensure and regulation.

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

(5) Promote compliance with the laws governing psychological practice in each compact state.

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

Chapter 2. Definitions

Sec. 1. The definitions set forth in this chapter apply to this article.

Sec. 2. "Adverse action" means any action taken by a state psychology regulatory authority that finds a violation of a statute or regulation that is identified by the state psychology regulatory authority as discipline and is a matter of public record.

Sec. 3. "Association of State and Provincial Psychology Boards" or "ASPPB" means the recognized membership organization composed of state and provincial psychology regulatory authorities responsible for the licensure and registration of psychologists throughout the United States and Canada.

Sec. 4. "Authority to practice interjurisdictional telepsychology" means a licensed psychologist's authority to practice telepsychology, within the limits authorized under the compact set forth in this article, in another compact state.

Sec. 5. "Bylaws" refers to the bylaws established by the psychology interjurisdictional compact commission under IC 25-33.5-10 for the governance of the compact or for directing and controlling actions and conduct under the compact.

Sec. 6. "Client" or "patient" refers to the recipient of psychological services, whether psychological services are delivered in the context of health care, corporate, supervision, or consulting services.

Sec. 7. "Commissioner" means the voting representative appointed by each state psychology regulatory authority under IC 25-33.5-10.

Sec. 8. "Compact state" means a state, the District of Columbia, or a United States territory that has enacted the compact set forth in this article and has not withdrawn under IC 25-33.5-13 or been terminated under IC 25-33.5-12.

Sec. 9. "Confidentiality" means the principle that data or information is not made available or disclosed to unauthorized persons or processes.

Sec. 10. "Coordinated licensure information system" or "coordinated data base" refers to the integrated process for collecting, storing, and sharing information on psychologist licensure and enforcement activities related to psychology licensure laws and that is administered by the recognized membership organization composed of state and provincial psychology regulatory authorities.

Sec. 11. "Day" means any part of a day in which psychological work is performed.

Sec. 12. "Distant state" means the compact state where a psychologist is physically present (not through the use of

telecommunications technology) to provide temporary in-person, face-to-face psychological services.

Sec. 13. "E.Passport" means a certificate issued by the Association of State and Provincial Psychology Boards that promotes the standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines.

Sec. 14. "Executive board" means a group of directors elected or appointed to act on behalf of and within the powers granted to the group by the commission.

Sec. 15. "Home state" means one (1) of the following:

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

(2) If the psychologist is licensed in more than one (1) compact state as a psychologist and is practicing under the authorization to practice interjurisdictional telepsychology, the compact state where the psychologist is physically present when the telepsychological services are delivered.

(3) If the psychologist is licensed in more than one (1) compact state and is practicing under the temporary authorization to practice, the compact state where the psychologist is licensed.

Sec. 16. "Identity history summary" means a summary of information retained by the Federal Bureau of Investigation or other designee with similar authority in connection with arrests and, in some instances, federal employment, naturalization, or military service.

Sec. 17. "In-person, face-to-face" means interactions in which the psychologist and the client or patient are in the same physical space and that does not include interactions that may occur through the use of telecommunication technology.

Sec. 18. "Interjurisdictional Practice Certificate" or "IPC" refers to a certificate issued by the Association of State and Provincial Psychology Boards that grants temporary authority to practice based on notification to the state psychology regulatory authority of intention to practice temporarily and the verification of the individual's qualifications to practice psychology.

Sec. 19. "License" means the authorization by a state regulatory authority to engage in the independent practice of psychology that would otherwise be unlawful to practice without authorization.

Sec. 20. "Noncompact state" refers to any state that is not a compact state.

Sec. 21. "Psychologist" means an individual who is licensed for the independent practice of psychology.

Sec. 22. "Psychology interjurisdictional compact commission" or "commission" refers to that national administration of which all compact states are members.

Sec. 23. "Receiving state" refers to a compact state where the client or patient is physically located when the telepsychological services are delivered.

Sec. 24. "Rule" means a written statement by the psychology interjurisdictional compact commission promulgated under IC 25-33.5-11 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, including the amendment, repeal, or suspension of an existing rule.

Sec. 25. "Significant investigatory information" means:

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

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

Sec. 26. "State" refers to a state, commonwealth, territory, or possession of the United States, including the District of Columbia.

Sec. 27. "State psychology regulatory authority" means a board, office, or other agency with the legislative mandate to license or regulate the practice of psychology. For purposes of investigatory activities, the term includes any other state agency lawfully responsible for conducting investigations.

Sec. 28. "Telepsychology" means the provision of psychological services using telecommunication technology.

Sec. 29. "Temporary authorization to practice" means a licensed psychologist's authority to conduct temporary in-person, face-to-face practice, within the limits authorized under the compact set forth in this article, in a compact state.

Sec. 30. "Temporary in-person, face-to-face practice" means that a psychologist is physically present (not through the use of

telecommunication technology) in the distant state to provide for the practice of psychology for not more than thirty (30) days within a calendar year and based on notification to the distant state.

Chapter 3. Home State Licensure

Sec. 1. The home state is a compact state where the psychologist is licensed to practice psychology.

Sec. 2. (a) A psychologist may hold more than one (1) compact state license at a time.

(b) If the psychologist is licensed in more than one (1) 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 the compact.

Sec. 3. A compact state may require a psychologist not previously licensed in the 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 the compact.

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

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

(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 compact terms, of any adverse action or significant investigatory information concerning 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, or other designee with similar authority, not later than ten (10) years after activation of the compact; and

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

Sec. 6. 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 interjurisdictional practice certificate;

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

(3) notifies the commission, in compliance with the compact terms, of any adverse action or significant investigatory information concerning 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, or other designee with similar authority, not later than ten (10) years after activation of the compact; and

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

Chapter 4. Compact Privilege to Practice Telepsychology

Sec. 1. A compact state shall recognize the right of a psychologist, licensed in a compact state in compliance with IC 25-33.5-3, to practice telepsychology in another compact state in which the psychologist is not licensed, under the authority to practice interjurisdictional telepsychology, as provided by the compact.

Sec. 2. To exercise the authority to practice interjurisdictional telepsychology under the terms and provisions of the compact, a psychologist licensed to practice in a compact state must meet the following:

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

(A) either:

(i) regionally accredited by an accrediting body recognized by the United States Department of Education to grant graduate degrees; or

(ii) authorized by provincial statute or royal charter to grant doctoral degrees; or

(B) a foreign college or university deemed to be equivalent to an institute described under clause (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.

(2) Hold a graduate degree in psychology from a program that meets the following:

(A) The program, wherever it may be administratively housed, must:

(i) be clearly identified and labeled as a psychology program; and

(ii) specify in institutional catalogs and brochures the intent to educate and train professional psychologists.

(B) Stands as a recognizable, coherent, organizational entity within the institution.

(C) Has a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines.

(D) Consists of an integrated, organized sequence of study.

(E) Includes identifiable psychology faculty that are sufficient in size and breadth to carry out faculty responsibilities.

(F) Employs a director of the program that is a psychologist and a member of the core faculty.

(G) Has an identifiable body of students who are matriculated in the program for a degree.

(H) Includes supervised practicum, internship, or field training appropriate to the practice of psychology.

(I) Encompasses curriculum of a minimum of three (3) academic years of full-time graduate study for a doctoral degree and a minimum of one (1) academic year of full-time graduate study for a master's degree.

(J) 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 that is a compact state.

(4) Have no history of an adverse action that violates the rules of the commission.

(5) Have no criminal record history reported on an identity history summary that violates the rules of the commission.

(6) Possess a current, active E.Passport.

(7) Provide attestations concerning the following:

(A) Areas of intended practice.

(B) Conformity with standards of practice.

(C) Competence in telepsychology technology.

(D) Criminal background.

(E) Knowledge and adherence to legal requirements in the home state and receiving state.

(F) The provision and release of information to allow for

primary source verification in a manner specified by the commission.

(8) Meet other criteria, as determined by the rules of the commission.

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

Sec. 4. (a) A psychologist practicing in a receiving state under the authority to practice interjurisdictional telepsychology is subject to the receiving state's scope of practice.

(b) A receiving state may, in accordance with the 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.

(c) If the receiving state takes any action described in this section, the receiving state shall promptly notify the home state and the commission.

Sec. 5. If a psychologist's:

(1) license in any home state or another compact state; or

(2) authority to practice interjurisdictional telepsychology in any receiving state;

is restricted, suspended, or otherwise limited, the E.Passport shall be revoked and the psychologist shall not be eligible to practice telepsychology in a compact state under the authority to practice interjurisdictional telepsychology.

Chapter 5. Compact Temporary Authorization to Practice

Sec. 1. A compact state shall recognize the right of a psychologist who is licensed in a compact state, in conformance with IC 25-33.5-3, to practice temporarily in another compact state in which the psychologist is not licensed, as provided in the compact.

Sec. 2. To exercise the temporary authorization to practice under the terms and provisions of the compact, a psychologist licensed to practice in a compact state must meet the following:

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

(A) either:

(i) regionally accredited by an accrediting body recognized by the United States Department of

Education to grant graduate degrees; or

(ii) authorized by provincial statute or royal charter to grant doctoral degrees; or

(B) a foreign college or university deemed to be equivalent to an institute described under clause (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.

(2) Hold a graduate degree in psychology from a program that meets the following:

(A) The program, wherever it may be administratively housed, must:

(i) be clearly identified and labeled as a psychology program; and

(ii) specify in institutional catalogs and brochures the intent to educate and train professional psychologists.

(B) Stands as a recognizable, coherent, organizational entity within the institution.

(C) Has a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines.

(D) Consists of an integrated, organized sequence of study.

(E) Includes identifiable psychology faculty that are sufficient in size and breadth to carry out faculty responsibilities.

(F) Employs a director of the program that is a psychologist and a member of the core faculty.

(G) Has an identifiable body of students who are matriculated in the program for a degree.

(H) Includes supervised practicum, internship, or field training appropriate to the practice of psychology.

(I) Encompasses curriculum of a minimum of three (3) academic years of full-time graduate study for a doctoral degree and a minimum of one (1) academic year of full-time graduate study for a master's degree.

(J) 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 that is a compact state.

(4) Have no history of an adverse action that violates the rules of the commission.

(5) Have no criminal record history reported on an identity history summary that violates the rules of the commission.

(6) Possess a current, active interjurisdictional practice certificate.

(7) Provide attestations concerning the following:

(A) Areas of intended practice.

(B) Work experience.

(C) The provision and release of information to all for primary source verification in a manner specified by the commission.

(8) Meet other criteria, as determined by the rules of the commission.

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

Sec. 4. (a) A psychologist practicing into a distant state under the temporary authorization to practice is subject to the distant state's authority and law.

(b) A distant state may, in accordance with the state's due process law, limit or revoke a psychologist's temporary authorization to practice in the distant state and may take any other necessary actions under the distant state's applicable law to protect the health and safety of the distant state's citizens.

(c) If the distant state takes any action under this section, the distant state shall promptly notify the home state and the commission.

Sec. 5. If a psychologist's:

(1) license in any home state or another compact state; or

(2) temporary authorization to practice in any distant state;

is restricted, suspended, or otherwise limited, the interjurisdictional practice certificate shall be revoked and the psychologist shall not be eligible to practice in a compact state under the temporary authorization to practice.

Chapter 6. Conditions of Telepsychology Practice in a Receiving State

Sec. 1. A psychologist may practice in a receiving state under the authority to practice interjurisdictional telepsychology only in the performance of the scope of practice for psychology, as assigned by an appropriate state psychology regulatory authority, as defined in the rules of the commission, and under the following circumstances:

(1) The psychologist initiates a client or patient contact in a

home state via telecommunications technologies with a client or patient in a receiving state.

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

Chapter 7. Adverse Actions

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

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

Sec. 3. (a) If a home state takes adverse action against a psychologist's license, the psychologist's:

(1) authority to practice interjurisdictional telepsychology is terminated;

(2) E.Passport is revoked;

(3) temporary authorization to practice is terminated; and

(4) IPC is revoked.

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

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

(d) Other actions may be imposed on the psychologist, as determined by the rules promulgated by the commission.

Sec. 4. A home state's psychology regulatory authority shall investigate and take appropriate action concerning reported inappropriate conduct engaged in by a licensee that occurred in a receiving state as it would if the conduct had occurred by a licensee within the home state. The home state's law shall control in determining any adverse action against a psychologist's license.

Sec. 5. A distant state's psychology regulatory authority shall investigate and take appropriate action concerning reported inappropriate conduct engaged in by a psychologist practicing

under temporary authorization practice that occurred in the distant state as the distant state would if the conduct had occurred by a licensee within the home state. The distant state's law shall control in determining any adverse action against the psychologist's temporary authorization to practice.

Sec. 6. (a) Nothing in this compact shall override a compact state's decision that a psychologist's participation in an alternative program may be used instead of adverse action and the participation must remain nonpublic if required by the compact state's law.

(b) 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.

Sec. 7. No other judicial or administrative remedies shall be available to a psychologist in the event a compact state imposes an adverse action under section 3 of this chapter.

Chapter 8. Additional Authorities in a Compact State's Psychology Regulatory Authority

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

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

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

Sec. 2. (a) During the course of any investigation, a psychologist may not change the psychologist's home state licensure. A home

state psychology regulatory authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under the home state's laws.

(b) The home state psychology regulatory authority shall promptly report the conclusions of the investigations to the commission.

(c) Once an investigation has been completed, and pending the outcome of the investigation, the psychologist may change the psychologist's home licensure. The commission shall promptly notify the new home state of any decision, as provided in the rules of the commission.

(d) All information provided to the commission or distributed by compact states concerning the psychologist shall be confidential, filed under seal, and used for investigatory or disciplinary matters. The commission may create additional rules for mandated or discretionary sharing of information by compact states.

Chapter 9. Coordinated Licensure Information System

Sec. 1. The commission shall provide for the development and maintenance of a coordinated licensure information system and reporting system (coordinated data base) containing licensure and disciplinary action information on all individuals to whom this compact is applicable in all compact states, as defined by the rules of the commission.

Sec. 2. Notwithstanding any other provision of state law, a compact state shall submit a uniform data set to the coordinated data base on all licenses as required by the rules of the commission, including the following:

(1) Identifying information.

(2) Licensure data.

(3) Significant investigatory information.

(4) Adverse actions against a psychologist's license.

(5) An indicator that a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice is revoked.

(6) Nonconfidential information concerning alternative program participation information.

(7) Any denial of application for licensure and the reason for the denial.

(8) Other information to facilitate the administration of the compact, as determined by the rules of the commission.

Sec. 3. The coordinated data base administrator shall promptly notify all compact states of any:

(1) adverse action taken against; or

(2) significant investigative information on;

any licensee in a compact state.

Sec. 4. A compact state reporting information to the coordinated data base may designate information that may not be shared with the public without the express permission of the compact state reporting the information.

Sec. 5. Any information submitted to the coordinated data base that is subsequently required to be expunged by the law of the compact state reporting the information shall be removed from the coordinated data base.

Chapter 10. Establishment of the Psychology Interjurisdictional Compact Commission

Sec. 1. (a) The compact states hereby create and establish a joint public agency known as the psychology interjurisdictional compact commission.

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

(c) 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 the commission adopts or consents to participate in alternative dispute resolution proceedings.

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

Sec. 2. (a) The commission shall consist of one (1) voting delegate appointed by each compact state who shall serve as the state's commissioner. The state psychology regulatory authority shall appoint the state's delegate.

(b) The delegate shall be empowered to act on behalf of the compact state. The delegate shall be limited to:

(1) an executive director, executive secretary, or a similar executive position;

(2) a current member of the state psychology regulatory authority of a compact state; or

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

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

vacancy exists.

Sec. 3. Each commissioner shall be entitled to one (1) vote concerning the promulgation of rules and the creation of bylaws, and otherwise have an opportunity to participate in the business and affairs of the commission. A commissioner shall vote in person or by any other means provided by the bylaws. The bylaws may provide for commissioners to participate in meetings by telephone or other means of communication.

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

Sec. 5. All meetings shall be open to the public, and public notice of the meetings shall be given in the same manner as required under the rulemaking provisions set forth in IC 25-33.5-11.

Sec. 6. (a) The commission may convene in a closed, nonpublic meeting if the commission must discuss any of the following:

(1) Noncompliance of a compact state with the compact state's obligations under the compact.

(2) The employment, compensation, discipline, other personnel matters, practices or procedures concerning specific employees, or other matters related to the commission's internal personnel practices and procedures.

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

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

(5) Accusations against any person of a crime or formal censure of a person.

(6) Disclosure of trade secrets, commercial, or financial information that is privileged or confidential.

(7) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(8) Disclosure of investigatory records compiled for law enforcement purposes.

(9) Disclosure of information concerning any investigatory reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility for investigation or determination of compliance issues under the compact.

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

(b) If a meeting, or portion of a meeting, is closed under subsection (a), the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

Sec. 7. (a) The commission shall keep minutes which fully and clearly describe all matters discussed in a meeting, and the reasons therefore, including a description of the views expressed.

(b) All documents considered in connection with an action shall be identified in the minutes.

(c) All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

Sec. 8. (a) The commission shall, by a majority vote of the commissioners, prescribe bylaws or rules to govern the commission's conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including the following:

(1) Establishing the fiscal year of the commission.

(2) Providing reasonable standards and procedures:

(A) for the establishment and meetings of other committees; and

(B) for the governing of 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 the meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals of any proceeding, and proprietary information, including trade secrets.

(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 other state law, 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 or reserving of all of the commission's debts and obligations.

(b) 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.

(c) The commission shall publish the bylaws in a convenient form and file a copy of the bylaws and any amendments to the bylaws with the appropriate agency or officer in each compact state.

(d) The commission shall maintain the commission's financial records in accordance with the bylaws.

(e) The commission shall meet and take any action that is consistent with the provisions of the compact and the bylaws.

Sec. 9. The commission shall have the following powers:

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

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

(3) Purchase and maintain insurance and bonds.

(4) Borrow, accept, or contract for services of personnel, including employees of a compact state.

(5) Hire employees, elect or appoint officers, fix compensation, define duties, grant appropriate authority to individuals to carry out the purposes of the compact, and establish the commission's personnel policies and programs concerning conflicts of interest, qualifications of personnel, and other related personnel matters.

(6) Accept, receive, utilize, and dispose of any and all appropriate donations and grants of money, equipment, supplies, materials, and services.

(7) Lease, purchase, accept appropriate gifts or donations, or otherwise own, hold, improve, or use, any:

(A) real;

(B) personal; or

(C) mixed;

property, provided that at all times the commission shall strive to avoid any appearance of impropriety.

(8) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any:

(A) real;

(B) personal; or

(C) mixed;

property.

(9) Establish a budget and make expenditures.

(10) Borrow money.

(11) Appoint committees, including advisory committees, comprised of members, state regulators, state legislators or a state legislator's designee, consumer representatives, and any other interested persons as may be designated in the compact and the bylaws.

(12) Provide and receive information from, and cooperate with, law enforcement agencies.

(13) Adopt and use an official seal.

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

Sec. 10. (a) The elected officers of the commission shall serve as the executive board and have the power to act on behalf of the commission in accordance with the compact.

(b) The executive board shall be comprised of the following six (6) members:

(1) Five (5) voting members who are elected from the current membership of the commission by the commission.

(2) One (1) ex officio, nonvoting member from the recognized membership organization composed of state and provincial psychology regulatory authorities.

(c) The ex officio member must have served as staff or a member of a state psychology regulatory authority and will be selected by the respective organization.

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

(e) The executive board shall meet at least once annually.

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

(1) Make recommendations to the entire commission for any:

(A) changes to the rules or bylaws;

(B) changes to compact legislation; and

(C) fees to be paid by compact states, including annual dues and other applicable fees.

(2) Ensure compact administration services are appropriately provided, whether by contract or otherwise.

(3) Prepare and recommend the budget.

(4) Maintain financial records on behalf of the commission.

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

(6) Establish additional committees, as necessary.

(7) Perform any other duties provided in the rules or bylaws.

Sec. 11. (a) The commission shall pay, or provide for the payment of, the reasonable expenses of the commission's establishment, organization, and any ongoing activities.

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

(c) The commission may:

(1) levy on, and collect an annual assessment from, each compact state; or

(2) impose fees on other parties;

to cover the cost of the operations and activities of the commission and the commission's staff in an amount that is sufficient to cover the commission's annual budget as approved each year for revenue that is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula determined by the commission and promulgated through a rule binding all the compact states.

(d) The commission shall not incur any obligations of any kind before securing adequate funds to meet the obligation. The commission may not pledge the credit of any of the compact states except by and with the authority of the compact state.

(e) The commission shall keep accurate accounts of all receipts and disbursements. The commission's receipts and disbursements shall be subject to the audit and accounting procedures established under the commission's 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 commission's annual report.

Sec. 12. (a) The:

(1) members;

(2) officers;

(3) executive director;

(4) employees; and

(5) representatives;

of the commission shall be immune from each suit and liability, either personally or in the individual's official capacity, for any claim for damage to or loss of property, personal injury, or other civil liability caused by or arising out of an actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities as long as nothing may be construed to protect any individual from a suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of the individual.

(b) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the individual against whom the claim is made had a reasonable basis for believing occurred within the scope of the commission employment, duties, or responsibilities, provided that:

(1) nothing shall be construed to prohibit the individual from retaining the individual's own counsel; and

(2) the actual or alleged act, error, or omission did not result from the individual's intentional or willful or wanton misconduct.

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

Chapter 11. Rulemaking

Sec. 1. The commission shall exercise the commission's rulemaking powers pursuant to the criteria set forth in this chapter and the rules adopted under this chapter. Rules and amendments shall become binding as of the date specified in each rule or amendment.

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

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

Sec. 4. (a) Before promulgation and adoption of a final rule 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 as follows:

(1) On the commission's Internet web site.

(2) On:

(A) the Internet web site of each compact state's psychology regulatory authority; or

(B) the publication in which each state would otherwise publish proposed rules.

(b) The notice of proposed rulemaking shall include the following:

(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.

(4) The manner in which an interested person may submit notice to the commission of the person's intention to attend the public hearing and any written comments.

Sec. 5. Before the adoption of a proposed rule, the commission shall allow a person to submit written data, facts, opinions, and arguments to the commission and the submission shall be made available to the public.

Sec. 6. (a) The commission shall grant an opportunity for a public hearing before the commission 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.

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

(c) Any person wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of the person's desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

(d) The hearing shall be conducted in a manner that provides each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(e) No transcript of the hearing is required, unless a written request for the transcription is made. If a written request for a transcript is made, 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 the commission chooses to do so.

(f) 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.

(g) 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.

(h) The commission shall, by a 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.

(i) 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.

Sec. 7. (a) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without:

(1) prior notice;

(2) opportunity for comment; or

(3) hearing;

provided that the usual rulemaking procedures provided in the compact and in this chapter shall be retroactively applied to the

rule as soon as reasonably possible, and not later than ninety (90) days after the effective date of the rule.

(b) For the purposes of this section, an emergency rule is a rule 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.

Sec. 8. (a) 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 commission's Internet web site. The revision must be subject to challenge by any person for a period of thirty (30) days after posting.

(b) The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing and delivered to the chair of the commission before the end of the notice period.

(c) 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.

Chapter 12. Oversight, Dispute Resolution, and Enforcement

Sec. 1. (a) The executive, legislative, and judicial branches of state government in each compact state shall enforce the compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent.

(b) The provisions of this compact and the rules promulgated under the compact shall have standing as statutory law.

(c) 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 the compact that may affect the powers, responsibilities, or actions of the commission.

(d) The commission shall be entitled to receive service of process in any proceeding, and shall have standing to intervene in the 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.

Sec. 2. (a) If the commission determines that a compact state has defaulted in the performance of the compact state's obligations or

responsibilities under this compact or the promulgated rules, the commission shall provide the following:

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

(2) Remedial training and specific technical assistance concerning the default.

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

Sec. 3. (a) Termination of membership in the compact shall be imposed only after all 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.

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

Sec. 4. The commission shall not bear any costs incurred by the state that is found to be in default or that has been terminated from the compact unless agreed upon in writing by the commission and defaulting state.

Sec. 5. The defaulting state may appeal the action of the commission by petitioning the United States District Court for the state of Georgia or the federal district where the compact has the compact's principal offices. The prevailing member shall be awarded all costs of the litigation, including reasonable attorney's fees.

Sec. 6. (a) Upon request by a compact state, the commission shall attempt to resolve disputes that arise concerning the compact among compact states and between compact and noncompact states.

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

Sec. 7. The commission, in the reasonable exercise of the commission's discretion, shall enforce the provisions and rules of the compact.

Sec. 8. (a) By a majority vote, the commission may initiate legal action in the United States District Court for the state of Georgia or the federal district where the compact has the compact's principal offices against a compact state in default to enforce compliance with the provisions of the compact and the commission's promulgated rules and bylaws.

(b) The relief sought may include both injunctive relief and damages.

(c) If judicial enforcement is necessary, the prevailing member shall be awarded all costs of the litigation, including reasonable attorney's fees.

Sec. 9. The remedies in this chapter shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

Chapter 13. Date of Implementation of the Compact, Commission, and Rules; Withdrawal and Amendments

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

Sec. 2. (a) Any state that joins the compact after the commission's initial adoption of the rules shall be subject to the rules as the rules exist on the date in which the compact becomes law in the state.

(b) Any rules that have been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in the state.

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

(b) A compact state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

(c) Withdrawal from the compact 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 article before the effective date of withdrawal.

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

Sec. 5. The compact may be amended by the compact states. No amendment to this compact shall become effective and binding upon any compact state until the amendment is enacted into the law of all compact states.

Chapter 14. Construction and Severability

Sec. 1. This compact shall be liberally construed so as to effectuate the purposes of the compact. If the compact shall be held to be contrary to the constitution of any state member of the compact, the compact shall remain in full force and effect as to the remaining compact states.

SECTION 2. IC 34-30-2-101.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 101.7. IC 25-33.5-10-12 (Concerning acts, errors, and omissions under the psychology interjurisdictional compact).**