

**NOTICE OF TELEPSYCHOLOGY COMMITTEE TELECONFERENCE MEETING**

The Board of Psychology will hold a Telepsychology Committee via teleconference

NOTE: Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-29-20, dated March 17, 2020, neither Committee member locations nor a public meeting location is provided. Public participation may be through teleconferencing as provided below. If you have trouble getting on the call to listen or participate, please call 916-574-7720.

**Action may be taken on any item on the agenda. Items may be taken out of order, tabled or held over to a subsequent meeting, for convenience, to accommodate speakers, or to maintain a quorum.**

Important Notice to the Public: The Board of Psychology will hold a public meeting via WebEx Events. To participate in the WebEx meeting, please log on to this website the day of the meeting:

<https://dca-meetings.webex.com/dca-meetings/onstage/g.php?MTID=e918c86992714b739e49c077d57c28012>

Instructions to connect to the meeting can be found at the end of this agenda. Due to potential technical difficulties, please consider submitting written comments by May 1, 2021, to [bopmail@dca.ca.gov](mailto:bopmail@dca.ca.gov) for consideration.

**Friday, May 7, 2021**

**Committee Members**

Stephen Phillips, JD, PsyD  
Julie Nystrom  
Lea Tate, PsyD

**Legal Counsel**

William Maguire

**Board Staff**

Antonette Sorrick, Executive Officer  
Jonathan Burke, Assistant Executive Officer  
Stephanie Cheung, Licensing Manager  
Jason Glasspiegel, Central Services Manager  
Sandra Monterrubio, Enforcement Program Manager  
Cristina Rivera, Legislative and

Friday, May 7, 2021

Regulatory Analyst

## **AGENDA**

**10:00 a.m. – 4:00 p.m., or until completion of business**

**Unless noticed for a specific time, items may be heard at any time during the period of the Committee meeting.**

The Committee welcomes and encourages public participation at its meetings. The public may take appropriate opportunities to comment on any issue before the Committee at the time the item is heard.

1. Call to Order/Roll Call/Establishment of a Quorum
2. Chairperson's Welcome and Opening Remarks
3. Establish Goals and Mission of the Telepsychology Committee
4. Public Comment for Items Not on the Agenda. Note: The Committee May Not Discuss or Take Action on Any Matter Raised During this Public Comment Section, Except to Decide Whether to Place the Matter on the Agenda of a Future Meeting [Government Code sections 11125 and 11125.7(a)].
5. Presentation on the Psychology Interjurisdictional Compact (PSYPACT) by Representatives of the Association of State and Provincial Psychology Boards (ASPPB)
6. Historical Overview of the Psychology Interjurisdictional Compact (PSYPACT)
  - a) Timeline of the Board's prior consideration of PSYPACT
  - b) Correspondence between the Board of Psychology and the Association of State and Provincial Psychology Boards (ASPPB)
  - c) Identify Outstanding Issues
7. Review of and Possible Action on PSYPACT Model Legislation for a Report to the Full Board on November 18-19, 2021
8. Recommendations for Agenda Items for Future Committee Meetings. Note: The Committee May Not Discuss or Take Action on Any Matter Raised During This Public Comment Section, Except to Decide Whether to Place the Matter on the Agenda of a Future Meeting [Government Code Sections 11125 and 11125.7(a)].

## **ADJOURNMENT**

*All times are approximate and subject to change. The meeting may be canceled or changed without notice. For verification, please check the Board's Web site at [www.psychology.ca.gov](http://www.psychology.ca.gov), or call (916) 574-7720.*

*In the event a quorum of the committee is unable to attend the meeting, or the committee is unable to maintain a quorum once the meeting is called to order, the President or Chair of*

*the meeting may, at his or her discretion, continue to discuss items from the agenda and to vote to make recommendations to the full committee at a future meeting.*

*Meetings of the Board of Psychology are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. The public may take appropriate opportunities to comment on any issue before the Board or its committees, at the time the item is heard, but the President or Committee Chair may, at his or her discretion, apportion available time among those who wish to speak. Board members who are present who are not members of the Committee may observe but may not participate or vote.*

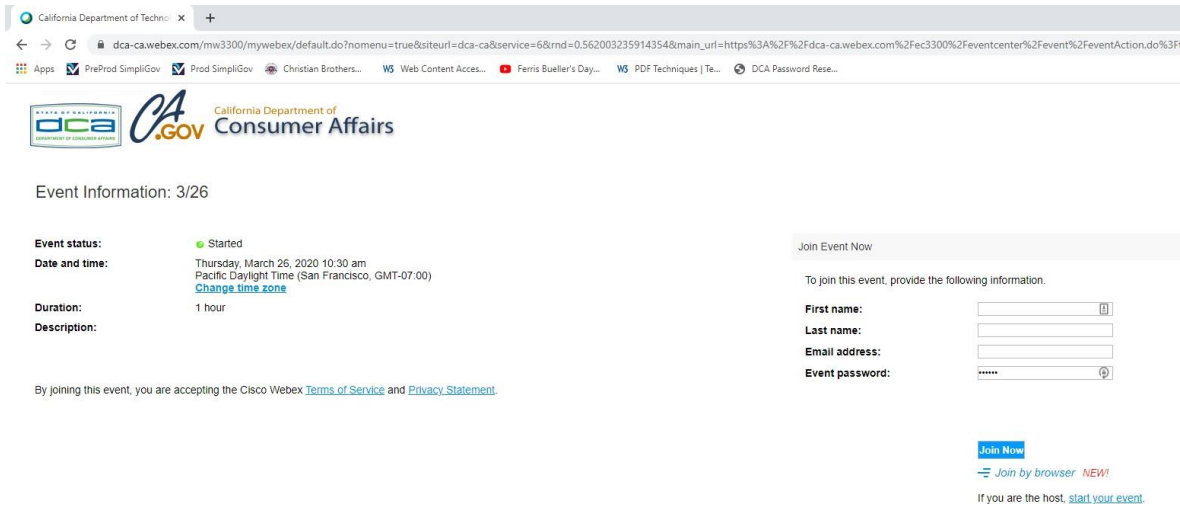
*This meeting is being held via WebEx Events. The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Antonette Sorrick, Executive Officer, at (916) 574-7720 or email [bopmail@dca.ca.gov](mailto:bopmail@dca.ca.gov) or send a written request addressed to **1625 N. Market Boulevard, Suite N-215, Sacramento, CA 95834**. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation. Links to agenda items, with exhibits are available at [www.psychology.ca.gov](http://www.psychology.ca.gov), prior to the meeting date.*

# Participating in a DCA WebEx Event

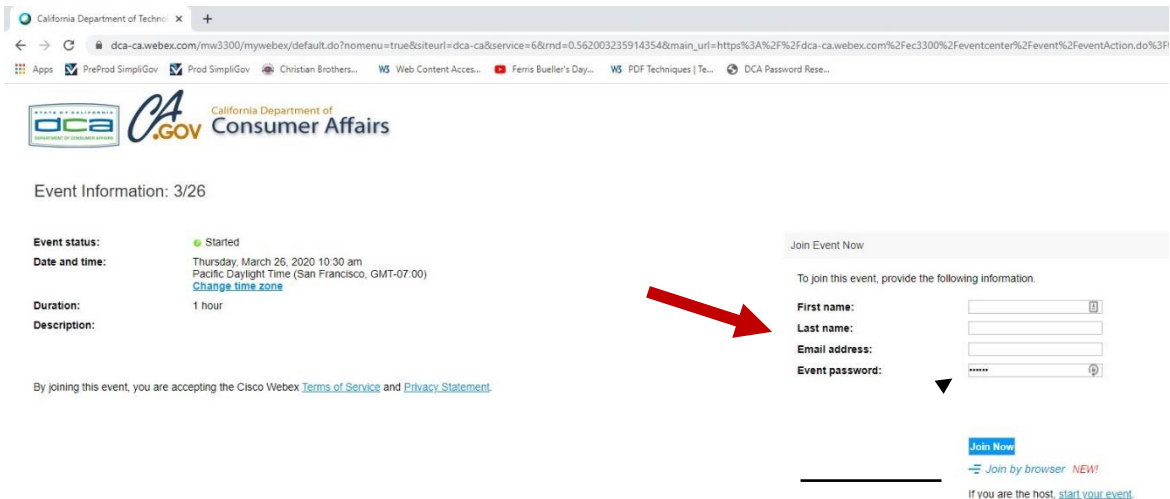
The following contains instructions on how to join a WebEx event hosted by the Department of Consumer Affairs (DCA).

1. Navigate to the WebEx event using the link provided by the DCA entity via an internet browser. An example of a link and screenshot of the webpage is provided below for reference.

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>



2. The details of the event are presented on the left of the screen and the required information for you to complete is on the right.

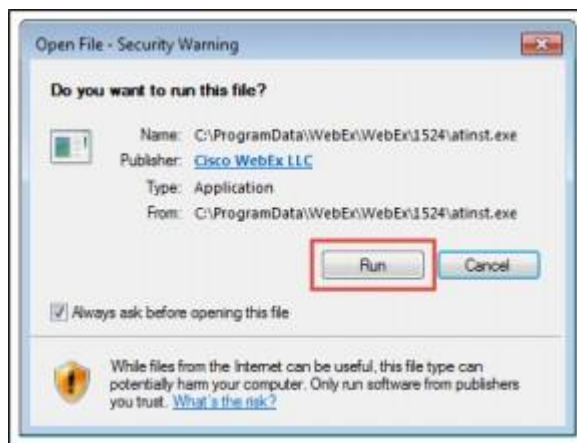


# Participating in a DCA WebEx Event

3. Click the 'Join Now' button.

*NOTE: The event password will be entered automatically. If you change the password by accident, close the browser and click the event link provided again.*

4. If you do not have the WebEx application installed for your browser, a new window may open, so make sure your pop-up blocker is disabled. You may see a window asking you to open or run new software. Click 'Run'.



Depending on your computer's settings, you may be blocked from using the necessary software. If this is the case, click 'Cancel' and return to the browser tab that looks like the window below. You can bypass the above process.

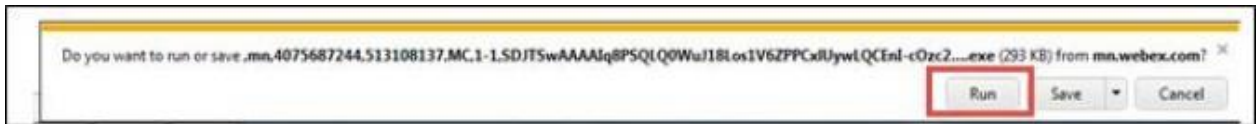
## Starting Webex...



Still having trouble? [Run a temporary application](#) to join this meeting immediately.

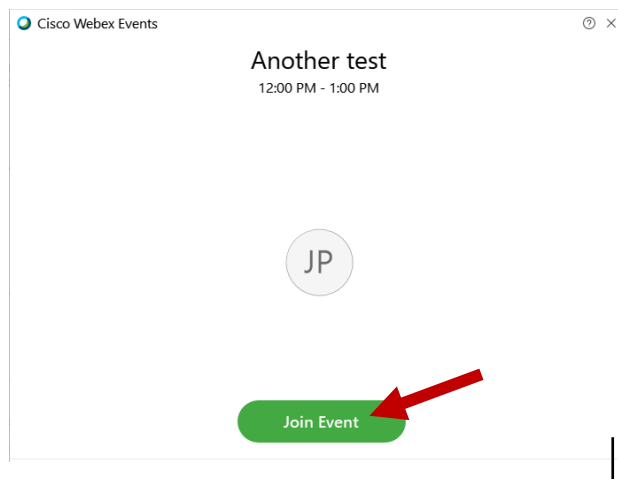
# Participating in a DCA WebEx Event

5. To bypass step 4, click 'Run a temporary application'.
6. A dialog box will appear at the bottom of the page, click 'Run'.

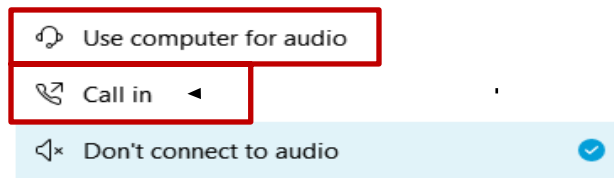


The temporary software will run, and the meeting window will open.

7. Click the audio menu below the green 'Join Event' button.



8. You can select to use either your computer speaker/microphone for audio or your phone. When the audio menu appears, click 'Call in'.

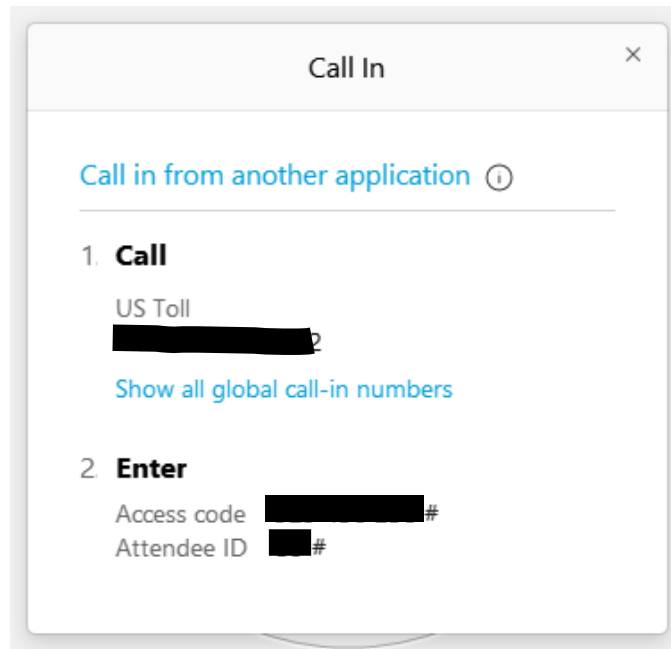


If you choose to use your phone for audio and select the "call in" option above, the audio conference call in information will be available after you join the Event.

# Participating in a DCA WebEx Event

9. If you choose to log into the meeting using your phone instead of a computer/tablet, call in with the details provided.

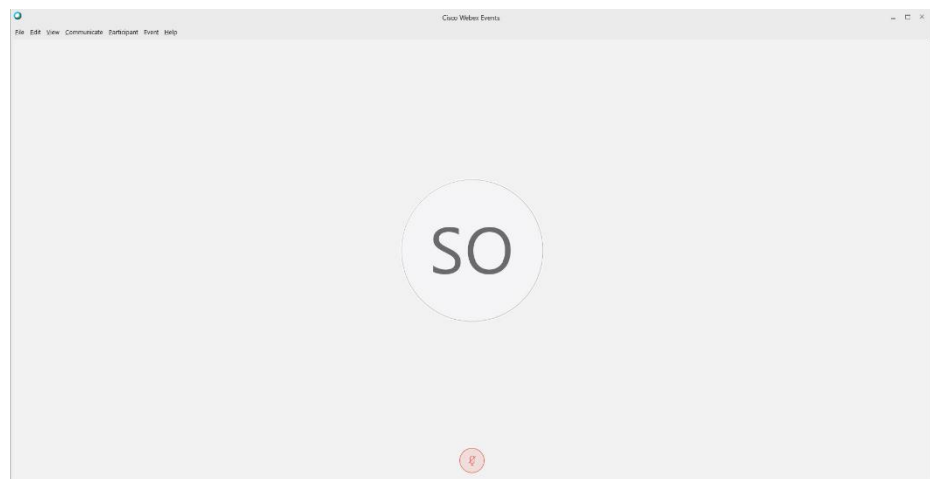
*Note: If calling internationally, please click on "Show all global call-in numbers".*



*NOTE: The audio conference is the preferred method. Using your computer's microphone and speakers is not recommended.*

Once you successfully call into the audio conference with the information provided, your screen will look like the screen below and you have joined the event.

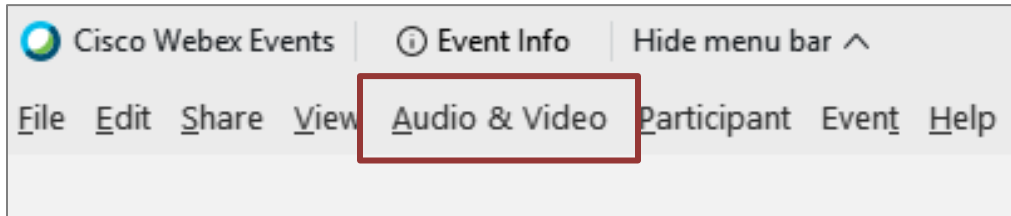
*NOTE: Your audio line is muted and can only be unmuted by the event host.*



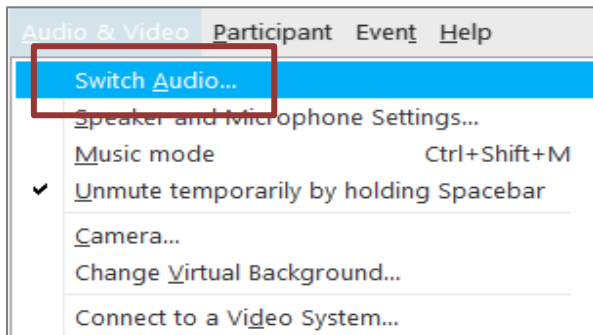
# Participating in a DCA WebEx Event

If you join the meeting using your computer's microphone and audio, or you didn't connect audio at all, you can still set that up while you are in the meeting.

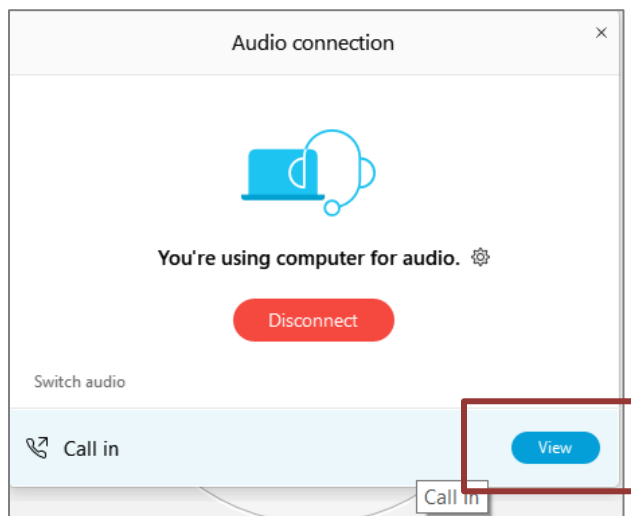
1. Select 'Audio & Video' from the menu bar at the top of your Webex screen.



2. Select 'Switch Audio' from the drop-down menu.



3. The 'Call In' information can be displayed by selecting 'View'



You will then be presented the dial in information for you to call in from any phone.

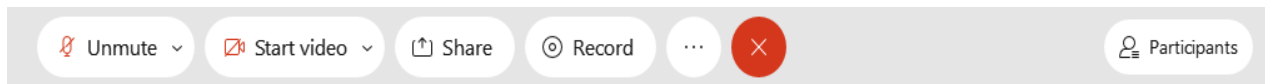


# Participating in a DCA WebEx Event

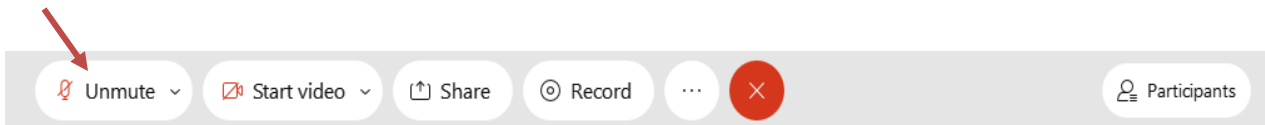
The following contains instructions on how to utilize Webex features.

## Microphone

If you are logged in using the link, you should see the command row at the bottom middle of your Webex screen. Some devices may display this command row in other areas of your screen.



Click on the microphone icon to mute and unmute yourself. You can also mute and unmute yourself using microphone icon next to your name from the participant panel.



*Note: If you connected your audio through your phone, your mute and unmute button should be controlled from your computer or tablet. If you are having trouble unmuting yourself, you may be muted through your phone.*

The green microphone indicates your microphone is open and meeting participants can hear you. If your microphone is red, you are muted.



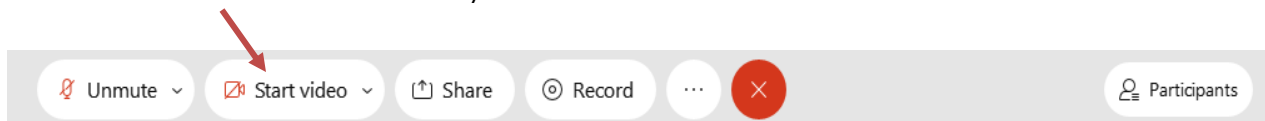
Green microphone  
=  
Unmuted  
People can hear you speak



Red microphone  
=  
Muted  
No one can hear you speak

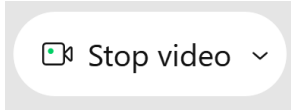
## Video/Camera

Click on the video icon to turn your camera on and off.

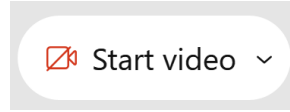


# Participating in a DCA WebEx Event

The green camera button indicates your video is on and meeting participants can see you. If your camera button is red, it is off and you cannot be seen.



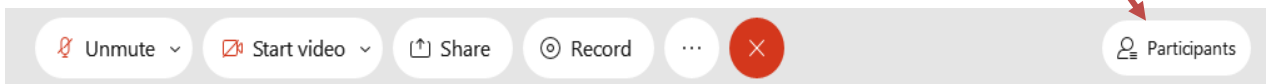
Green dot inside camera  
=  
Video is on  
People can see you



Red outlined camera  
=  
Video is off  
No one can see you

## Meeting Participants

To see who is in the meeting, you can access the participant list by clicking on the participant icon on the command row.

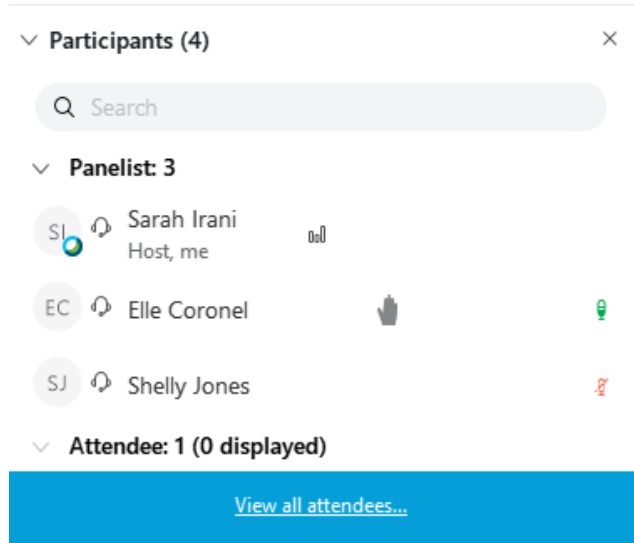


By clicking on this icon, it should display the participant list on the right side of your screen.

*This is an example of a participant list that will display on the right side of your screen.*

*Icons will appear next to individual names to indicate if they are muted, speaking or background noise, or have their hand raised.*

*This is helpful to distinguish who is speaking or who is trying to contribute to the conversation. In addition, it is helpful if you state your name before speaking.*



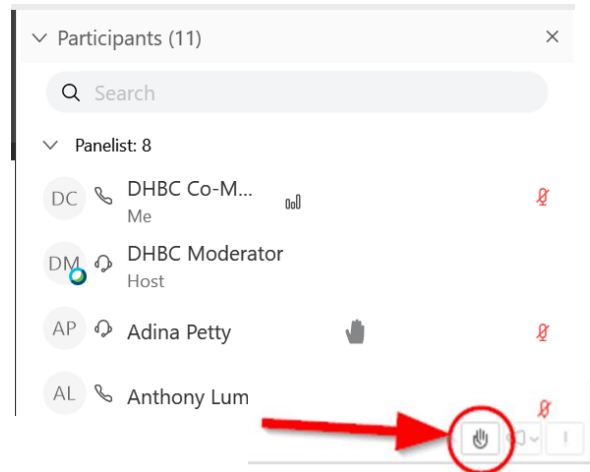
## Hand-Raise

In order to use the hand-raise feature you need to have the participant panel open. At the bottom right corner of the participant panel there will be a small icon that looks like a hand outline. You can click on this icon to raise and lower your hand.

# Participating in a DCA WebEx Event

When a hand is raised, you will see a hand icon next to the individuals name in the participant panel.

*Note: Please be mindful to lower your hand after you've been called on*



## Webex Etiquette

### Microphones

- Please mute your microphone when not speaking. Panelists will have the ability to un-mute themselves when they need to speak. We ask that you mute yourself again when you are not speaking to avoid background noises.
- It is helpful if you state your name before speaking as it can be helpful in identifying who is speaking.
- Allow for a bit of a lag time when unmuting your microphone then speaking, and when asking a question or making a comment and waiting for a response.

### Web Cameras: Do ...

- Be well groomed (dress professionally, top and bottom)
- Be aware of your background (try using the virtual backgrounds)
- Engage with the camera (shows you are participating in the meeting)
- Stop your video before momentarily disengaging or walking away from your seat
- Be aware of your facial expressions (especially when there are discussions or comments you do not agree with)
- Ensure your camera is on a stable surface (if using tablets/phones, do not hold the device in hand while camera is on)
- Remember that when you are muted and not speaking, you, your demeanor, and your activities can still be seen

# Participating in a DCA WebEx Event

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## *Web Cameras: Don't ...*

- Drive a vehicle, practice your profession, or do other activities that can communicate that you are disengaged (this includes texting, emailing, and engaging in extraneous conversations)
- Have artistic or decorative statements in your visual background that do not represent the department's view or neutrality stance (political views for example)
- Eat when your video camera is on (beverages are acceptable)
- Talk on your phone when camera is on even if your microphone is muted (consider stopping your video)
- Allow your pets to wander into the view of the camera (consider placing them in another room)

## MEMORANDUM

<b>DATE</b>	April 14, 2021
<b>TO</b>	Telepsychology Committee
<b>FROM</b>	Jonathan Burke Assistant Executive Officer
<b>SUBJECT</b>	<b>Agenda Item 6 a &amp; b. Historical Overview of the Psychology Interjurisdictional Compact (PSYPACT)</b>

### **Background:**

The Board formed a Telepsychology Committee (Committee) at its meeting on November 21, 2014 to discuss and analyze the content and requirements of the proposed PSYPACT. The Committee met on December 16, 2014 and reported its findings to the full Board at its January 9, 2015 meeting. Numerous concerns were raised by the Committee, and these concerns were reported to ASPPB in a letter dated January 22, 2015. In addition to raising the concerns of the Board, the letter informed ASPPB that the Board would not be seeking to join the PSYPACT at that time.

### **Telemedicine History in California**

In California, the Telemedicine Development Act of 1996 (TDA) was established by SB 1665 (Thompson, Chapter 864, Statutes of 1996), making California one of the first states to utilize telemedicine (now referred to as “telehealth”).

AB 415 (Logue, Chapter 547, Statutes of 2011) updated the TDA by removing the term “telemedicine,” and its corresponding outdated definition. In its place, the term “telehealth” was used, and telehealth was defined to include a broader, more current range of services.

AB 809 (Logue, Chapter 404, Statutes of 2014), which became effective on September 18, 2014, amended the TDA to delete the requirement that the health care provider obtain informed consent at the originating site, and permitted consent to be made verbally or in writing. In addition, this statute corrected the problem of requiring consent prior to every instance of telehealth by making an amendment stating that the initial consent applies to subsequent instances of telehealth. Instead, it requires the documented written or oral permission to have been received prior to beginning telehealth.

### **Existing California Law:**

1) Requires valid licensure to provide telehealth services to California residents; telehealth includes live interactive and store and forward technologies; patient’s verbal consent must be obtained prior to delivery of telehealth services and documented in the patient’s medical record. Failure to obtain patient consent in advance constitutes unprofessional conduct (BPC §§ 2904.5, 2290.5)

2) Allows any person who is licensed as a psychologist at the doctoral level in another state or territory of the United States or in Canada can provide psychological services in this state for a period not to exceed 30 days in any calendar year (BPC §2912)

3) Defines "telehealth" as the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site.

4) Requires a health care provider to verbally inform the patient that telehealth may be used, obtain verbal or written consent from the patient for this use and requires the consent to be documented.

5) Establishes that failure to inform the patient that telehealth may be used and to obtain their informed consent constitutes unprofessional conduct.

6) States that all laws regarding the confidentiality of health care information and a patient's rights to his/her medical information apply to telehealth interactions.

### **Proposed Addition to Board of Psychology Regulations**

In 2011, as part of the Board's Sunset Review, the Legislature asked the Board if legislative or regulatory changes needed to be made to address telehealth or online practice. In its report back to the Legislature, the Board stated it was researching and analyzing the use of telehealth as a mode for the practice of psychology and what impact this newer mode of psychotherapy delivery would have on the consumer of psychological services.

In 2016, as part of its next Sunset Review, the Board committed to developing telepsychology regulations that would instruct licensees how to provide telehealth to Californians and give additional opportunities to provide care to underserved populations. In its efforts to meet its commitment, the Board established the ad hoc Telepsychology Committee (Committee).

The Committee considered the American Psychological Association Guidelines (APA Guidelines) for the Practice of Telepsychology and the Association of State and Provincial Psychology Board (ASPPB) Telepsychology Task Force Principles and Standards when developing draft regulatory language.

This package was noticed for the initial 45-day comment period on August 14, 2020. This comment period ended on September 29, 2020. Staff conducted a hearing on September 30, 2020.

While this package was in review by the Department of Consumer Affairs (DCA), the Telepsychology Committee met and developed potential amendments to the package in review by DCA, with the intention of introducing these amendments after the initial comment period.

After reviewing the public comments received during the noticed comment period, staff made additional modifications to the Telepsychology Committee amendments to address these comments.

The Board considered the comments at the December 2020, Board meeting, and issued a notice of modified text was filed on December 4, 2020. The 15-day comment period ended on

December 22, 2020. The Board considered these comments at its February 2021 meeting and adopted the modified text.

Consequently, the Board is seeking to add Section 1396.8 of Article 8 of Division 13.1 of Title 16 of the California Code of Regulations to read:

§1396.8. Standards of Practice for Telehealth Services

- (a) A licensee is permitted to provide psychological health care services via telehealth subject to the laws and regulations of the other jurisdiction where either the licensee and/or the client is located, including, but not limited to, the following circumstances:
- (1) To a client at an originating site in this State, as defined in section 2290.5 of the Code, when a licensee is located at a distant site within this state
  - (2) To a client who has received services in California, and who is temporarily located outside of this State
  - (3) To a client who is located in this State when a licensee is temporarily located outside of this State.
- (b) As used in this section, a licensee shall include a licensee, registrant, psychology trainee, or other supervised individual permitted to provide psychological services under the Psychology Licensing Law, beginning with section 2900 of the Code.
- (c) The provision of psychological health care services under subdivision (a) are subject to the following conditions:
- (1) The licensee holds a valid and current license issued by the Board or is otherwise allowed to practice under this section.
  - (2) The licensee obtains and documents informed consent for the provision of psychological health care services via telehealth from the client. Such consent shall cover concerns unique to the receipt of psychological health care services via telehealth, including risks to confidentiality and security, data storage policies and procedures specific to telehealth, the possibility of disruption and/or interruption of service due to technological failure, insurance coverage considerations, and other issues that the licensee can reasonably anticipate regarding the non-comparability between psychological health care services delivered in person and those delivered via telehealth.
  - (3) The licensee determines that delivery of psychological health care services via telehealth is appropriate after considering at least the following factors:
    - (A) The client's diagnosis, symptoms, and medical/psychological history;
    - (B) The client's preference for receiving psychological health care services via telehealth;
    - (C) The nature of the psychological health care services to be provided, including anticipated benefits, risks, and constraints resulting from their delivery via telehealth;
    - (D) The benefits, risks, or constraints posed by the client's physical location. These include the availability of appropriate physical space for the receipt of psychological health care services via telehealth, accessibility of local emergency psychological health care services, and other considerations related to the client's diagnosis, symptoms, or condition.
    - (E) The provision of telehealth services is within the scope of competency of a psychology trainee, or other supervised individuals as specified in (b) above, who provides psychological health care services under the supervision of the licensee.

- (4) The licensee is competent to deliver such services based upon whether the licensee possesses the appropriate knowledge, skills, and abilities relating to delivery of psychological health care services via telehealth, the information technology chosen for the delivery of telehealth services, and how such services might differ from those delivered in person.
- (5) The licensee takes reasonable steps to ensure that electronic data is transmitted securely and informs the client immediately of any known data breach or unauthorized dissemination of data.
- (6) The licensee complies with all other provisions of the Psychology Licensing Law and its attendant regulations, and all other applicable provisions of law and standards of care in this state and the other jurisdiction, if any, where either the licensee or the client is located.

Authority: 2930 Business and Professions Code

Reference: Business and Profession Code sections 686, 2290.5, 2904.5, 2960, 2960.6

**Action Requested:**

This item is informational purposes only. No action is required.

**Attachments:**

- January 22, 2015 Letter to ASPPB
- SB 1665 (Thompson, Chapter 864, Statutes of 1996) Bill text
- AB 415 (Logue, Chapter 547, Statutes of 2011) Bill text
- AB 809 (Logue, Chapter 404, Statutes of 2014) Bill text





January 22, 2015

Janet P. Orwig, MBA,  
Association Executive Officer for Member Services  
Association of State and Provincial Psychology Boards (ASPPB)  
P. O. Box 3079  
Peachtree City, GA 30269

RE: INTERJURISDICTIONAL TELEPSYCHOLOGY COMPACT

Dear Ms. Orwig:

The California Board of Psychology (Board) formed a Telepsychology Committee (Committee) to discuss and analyze the Interjurisdictional Telepsychology Compact (Compact) put forward by the Association of State and Provincial Psychology Boards (ASPPB). The Committee presented its opinions on the Compact at the January 9<sup>th</sup> Board Meeting.

The Board would like to commend ASPPB for the time and effort that went into the generation of the proposed Compact. The Board agrees with ASPPB that it is important to increase license portability and consumer access to psychological services. However, the Board's review raised a number of fundamental concerns which are outlined below;

- Article IX addresses the creation of the "Interjurisdictional Telepsychology Compact Commission" (Commission). The Compact States would pay for the operations of the Commission via (as yet unspecified) fees through a currently unspecified "formula". There will be costs associated with reporting to a database and additional administrative costs to the Board while all fees paid by licensees and state contributions to the administration of the Commission, under the proposed scheme, will go to ASPPB and the Commission. In other words, the Board takes up additional burdens and costs while all of the fees go elsewhere.
- The Commission would also have the ability to promulgate regulations which would have the force of law in Compact States.
- Article X of the Compact grants the Commission to grant "emergency rules". The definition and implementation of the clause is vague and is another example of the extraordinary regulatory authority ceded to the Commission by the Compact States.
- Article XIII of the Compact addresses the "Coordinated Licensure Information Exchange." States would be forced to rely on a complex national database for

licensing, complaint, and discipline information exchange. The system, which is not yet developed and would be owned and operated by a nongovernmental agency. It is unclear at this time who will be the "administrator" of the database.

- The current Compact language does not require any Continuing Education (CE) of Home State licensees. The E.Passport has a 6 (six) hour requirement once a renewal cycle (two years). Licensees from jurisdictions that do not require CE (e.g., New York) would be able to practice on California consumers with only three hours of CE per year in the area of technology and psychological practice.
- That the Compact would also place responsibilities on the Board to report information regarding our licensees and possibly even complainants which may currently be classified as confidential under our existing statutory and regulatory scheme. This would alter some protections afforded to licensees and complainants, with little knowledge on our part as to the safeguards for confidential information undertaken by other Compact States. This would need to be addressed in advance of a recommendation to the legislature regarding joining the Compact. Since reporting can be required in advance of resolution of a complaint in some instances, the Committee believes this requires further clarification.

The Board recognizes the need for statutes and regulations that address the issue of Telepsychology; however, it is the Board's opinion that the Compact unnecessarily cedes too much regulatory control and licensee information to non-governmental out-of-state entities.

The Board looks forward to exploring other Interjurisdictional Telepsychology possibilities, but will not seek to join the Compact at this time.

Sincerely,



MICHAEL ERICKSON, PHD  
President, Board of Psychology

cc: Ms. Nicole J. Jones (Vice President)  
Ms. Lucille Aquaye-Baddoo  
Ms. Johanna Arias-Bhatia  
Miguel Gallardo, PsyD  
Andrew Harlem, PhD  
Jacqueline Horn, PhD  
Stephen Phillips, PhD, JD  
Ms. Linda Starr

# Assembly Bill No. 415

## CHAPTER 547

An act to repeal and add Section 2290.5 of the Business and Professions Code, to repeal and add Section 1374.13 of the Health and Safety Code, to repeal and add Section 10123.85 of the Insurance Code, and to amend Sections 14132.72 and 14132.725 of the Welfare and Institutions Code, relating to telehealth.

[ Approved by Governor October 07, 2011. Filed with Secretary of State October 07, 2011.]

### LEGISLATIVE COUNSEL'S DIGEST

AB 415, Logue. Healing arts: telehealth.

(1) Existing law provides for the licensure and regulation of various healing arts professions by various boards within the Department of Consumer Affairs. A violation of specified provisions is a crime. Existing law defines telemedicine, for the purpose of its regulation, to mean the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications. Existing law requires a health care practitioner, as defined, to obtain verbal and written informed consent from the patient or the patient's legal representative before telemedicine is delivered. Existing law also imposes various requirements with regard to the provision of telemedicine by health care service plans, health insurers, or under the Medi-Cal program, including a prohibition on requiring face-to-face contact between a health care provider and a patient for services appropriately provided through telemedicine, subject to certain contracts or policies. Existing federal regulations, for the purposes of participation in the Medicare and Medicaid programs, authorize the governing body of a hospital whose patients are receiving telemedicine services to grant privileges based on its medical staff recommendations that rely on information provided by the distant-site hospital. Existing state regulations require medical staff, appointed by the governing body of a hospital, to adopt procedures for the evaluation of staff applications for credentials and privileges. Existing law provides that health care service plans and health insurers shall not be required to pay for consultations provided by telephone or facsimile machines. Existing law provides that a willful violation of the provisions governing health care service plans is a crime.

This bill would delete the provisions of state law regarding telemedicine as described above, and would instead set forth provisions relating to telehealth, as defined. This bill would require a health care provider, as defined, prior to the delivery of health care via telehealth, to verbally inform the patient that telehealth may be used and obtain verbal consent from the patient. This bill would provide that failure to comply with this provision constitutes unprofessional conduct. This bill would, subject to contract terms and conditions, also preclude health care service plans and health insurers from imposing prior to payment, certain requirements regarding the manner of service delivery. This bill would establish procedures for granting privileges to, and verifying and approving credentials for, providers of telehealth services. By changing the definition of a crime applicable to health care service plans, the bill would impose a state-mandated local program.

(2) Existing law prohibits a requirement of face-to-face contact between a health care provider and a patient under the Medi-Cal program for services appropriately provided through telemedicine, subject to reimbursement policies developed by the Medi-Cal program to compensate licensed health care providers who provide health care services, that are otherwise covered by the Medi-Cal program, through telemedicine.

This bill would, instead, prohibit a requirement of in-person contact between a health care provider and patient under the Medi-Cal program for any service otherwise covered by the Medi-Cal program when the service is appropriately provided by telehealth, as defined, and would make related changes.

(3) Existing law, until January 1, 2013, and to the extent that federal financial participation is available, authorizes, under the Medi-Cal program, teleophthalmology and teledermatology by store and forward, as defined.

This bill would delete the repeal of the above-described authorization.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

## DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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## BILL TEXT

### THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

#### **SECTION 1.**

This act shall be known, and may be cited, as the Telehealth Advancement Act of 2011.

#### **SEC. 2.**

The Legislature finds and declares all of the following:

(a) Lack of primary care providers, specialty providers, and transportation continue to be significant barriers to access to health services in medically underserved rural and urban areas.

(b) Parts of California have difficulty attracting and retaining health professionals, as well as supporting local health facilities to provide a continuum of health care.

(c) Many health care providers in medically underserved areas are isolated from mentors, colleagues, and the information resources necessary to support them personally and professionally.

(d) It is the intent of the Legislature to create a parity of telehealth with other health care delivery modes, to actively promote telehealth as a tool to advance stakeholders' goals regarding health status and health system improvement, and to create opportunities and flexibility for telehealth to be used in new models of care and system improvements.

(e) Telehealth is a mode of delivering health care services and public health utilizing information and communication technologies to enable the diagnosis, consultation, treatment, education, care management, and self-management of patients at a distance from health care providers.

(f) Telehealth is part of a multifaceted approach to address the problem of inadequate provider distribution and the development of health systems in medically underserved areas by improving communication capabilities and providing convenient access to up-to-date information, consultations, and other forms of support.

(g) The use of information and telecommunication technologies to deliver health services has the potential to reduce costs, improve quality, change the conditions of practice, and improve access to health care, particularly in rural and other medically underserved areas.

(h) Telehealth will assist in maintaining or improving the physical and economic health of medically underserved communities by keeping the source of medical care in the local area, strengthening the health infrastructure, and preserving health care-related jobs.

(i) Consumers of health care will benefit from telehealth in many ways, including expanded access to providers, faster and more convenient treatment, better continuity of care, reduction of lost work time and travel costs, and the ability to remain with support networks.

(j) It is the intent of the Legislature that the fundamental health care provider-patient relationship cannot only be preserved, but can also be augmented and enhanced, through the use of telehealth as a tool to be integrated into practices.

(k) Without the assurance of payment and the resolution of legal and policy barriers, the full potential of telehealth will not be realized.

### **SEC. 3.**

Section 2290.5 of the Business and Professions Code is repealed.

### **SEC. 4.**

Section 2290.5 is added to the Business and Professions Code, to read:

#### **2290.5.**

(a) For purposes of this division, the following definitions shall apply:

(1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site without the presence of the patient.

(2) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

(3) "Health care provider" means a person who is licensed under this division.

(4) "Originating site" means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.

(5) "Synchronous interaction" means a real-time interaction between a patient and a health care provider located at a distant site.

(6) "Telehealth" means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is

at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

(b) Prior to the delivery of health care via telehealth, the health care provider at the originating site shall verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use. The verbal consent shall be documented in the patient's medical record.

(c) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(d) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

(e) All laws regarding the confidentiality of health care information and a patient's rights to his or her medical information shall apply to telehealth interactions.

(f) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

(g) (1) Notwithstanding any other provision of law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

(3) For the purposes of this subdivision, "telehealth" shall include "telemedicine" as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

## **SEC. 5.**

Section 1374.13 of the Health and Safety Code is repealed.

## **SEC. 6.**

Section 1374.13 is added to the Health and Safety Code, to read:

### **1374.13.**

(a) For the purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code shall apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.

(c) No health care service plan shall require that in-person contact occur between a health care provider and a patient before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the health care service plan, and between the health care service plan and its participating providers or provider groups.

(d) No health care service plan shall limit the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the health care service plan, and between the health care service plan and its participating providers or provider groups.

(e) The requirements of this subdivision shall also be operative for health care service plan contracts with the department pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.8 (commencing with Section 14087.5), Article 2.81 (commencing with Section 14087.96), or Article 2.91 (commencing with Section 14089) of Chapter 7, or Chapter 8 (commencing with Section 14200) of, Part 3 of Division 9 of the Welfare and Institutions Code.

(f) Notwithstanding any other provision, this section shall not be interpreted to authorize a health care service plan to require the use of telehealth when the health care provider has determined that it is not appropriate.

## **SEC. 7.**

Section 10123.85 of the Insurance Code is repealed.

## **SEC. 8.**

Section 10123.85 is added to the Insurance Code, to read:

### **10123.85.**

(a) For purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code shall apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.

(c) No health insurer shall require that in-person contact occur between a health care provider and a patient before payment is made for the services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the policyholder or contractholder and the insurer, and between the insurer and its participating providers or provider groups.

(d) No health insurer shall limit the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided by telehealth, subject to the terms and conditions of the contract between the policyholder or contract holder and the insurer, and between the insurer and its participating providers or provider groups.

(e) Notwithstanding any other provision, this section shall not be interpreted to authorize a health insurer to require the use of telehealth when the health care provider has determined that it is not appropriate.

## **SEC. 9.**

Section 14132.72 of the Welfare and Institutions Code is amended to read:

### **14132.72.**

(a) For purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code shall apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the provider.

(c) In-person contact between a health care provider and a patient shall not be required under the Medi-Cal program for services appropriately provided through telehealth, subject to reimbursement policies adopted by the department to compensate a licensed health care provider who provides health care services through telehealth that are otherwise reimbursed pursuant to the Medi-Cal program. Nothing in this section or the Telehealth Advancement Act of 2011 shall be construed to conflict with or supersede the provisions of Section 14091.3 of this code or any other existing state laws or regulations related to reimbursement for services provided by a noncontracted provider.

(d) The department shall not require a health care provider to document a barrier to an in-person visit for Medi-Cal coverage of services provided via telehealth.

(e) For the purposes of payment for covered treatment or services provided through telehealth, the department shall not limit the type of setting where services are provided for the patient or by the health care provider.

(f) Nothing in this section shall be interpreted to authorize the department to require the use of telehealth when the health care provider has determined that it is not appropriate.

(g) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, and make specific this section by means of all-county letters, provider bulletins, and similar instructions.

## **SEC. 10.**

Section 14132.725 of the Welfare and Institutions Code is amended to read:

### **14132.725.**

(a) Commencing July 1, 2006, to the extent that federal financial participation is available, face-to-face contact between a health care provider and a patient shall not be required under the Medi-Cal program for teleophthalmology and teledermatology by store and forward. Services appropriately provided through the store and forward process are subject to billing and reimbursement policies developed by the department.

(b) For purposes of this section, "teleophthalmology and teledermatology by store and forward" means an asynchronous transmission of medical information to be reviewed at a later time by a physician at a distant site who is trained in ophthalmology or dermatology or, for teleophthalmology, by an optometrist who is licensed pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, where the physician or optometrist at the distant site reviews the medical information without the patient being present in real time. A patient receiving teleophthalmology or teledermatology by store and forward shall be notified of the right to receive interactive communication with the distant specialist physician or optometrist, and shall receive an interactive communication with the distant specialist physician or optometrist, upon request. If requested, communication with the distant specialist physician or optometrist may occur either at the time of the consultation, or within 30 days of the patient's notification of the results of the consultation. If the reviewing optometrist identifies a disease or condition requiring consultation or referral pursuant to Section 3041 of the Business and Professions Code, that consultation or referral shall be with an ophthalmologist or other appropriate physician and surgeon, as required.



(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, and make specific this section by means of all-county letters, provider bulletins, and similar instructions.

(d) On or before January 1, 2008, the department shall report to the Legislature the number and type of services provided, and the payments made related to the application of store and forward telemedicine as provided, under this section as a Medi-Cal benefit.

**SEC. 11.**

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

# Assembly Bill No. 809

## CHAPTER 404

An act to amend Section 2290.5 of the Business and Professions Code, relating to telehealth, and declaring the urgency thereof, to take effect immediately.

[ Approved by Governor September 18, 2014. Filed with Secretary of State September 18, 2014.]

### LEGISLATIVE COUNSEL'S DIGEST

AB 809, Logue. Healing arts: telehealth.

Existing law requires a health care provider, as defined, prior to the delivery of health care services via telehealth, as defined, to verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use. Existing law also provides that failure to comply with this requirement constitutes unprofessional conduct.

This bill would require the health care provider initiating the use of telehealth to obtain verbal or written consent from the patient for the use of telehealth, as specified. The bill would require that health care provider to document the consent.

This bill would declare that it is to take effect immediately as an urgency statute.

### DIGEST KEY

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

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### BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

#### **SECTION 1.**

Section 2290.5 of the Business and Professions Code is amended to read:

#### **2290.5.**

(a) For purposes of this division, the following definitions shall apply:

- (1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site without the presence of the patient.
- (2) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.
- (3) "Health care provider" means a person who is licensed under this division.

(4) "Originating site" means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.

(5) "Synchronous interaction" means a real-time interaction between a patient and a health care provider located at a distant site.

(6) "Telehealth" means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

(b) Prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

(c) Nothing in this section shall preclude a patient from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth.

(d) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(e) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

(f) All laws regarding the confidentiality of health care information and a patient's rights to his or her medical information shall apply to telehealth interactions.

(g) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

(h) (1) Notwithstanding any other provision of law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

(3) For the purposes of this subdivision, "telehealth" shall include "telemedicine" as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

## **SEC. 2.**

This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the health and safety of the public due to a lack of access to health care providers in rural and urban medically underserved areas of California, the increasing strain on existing providers that occurred with the implementation of the federal Patient Protection and Affordable Care Act, and the assistance that further implementation of telehealth can provide to help relieve these burdens, it is necessary for this act to take effect immediately.

## Senate Bill No. 1665

### CHAPTER 864

An act to amend Section 2060 of, and to add Section 2290.5 to, the Business and Professions Code, to amend Sections 1367 and 1375.1 of, and to add Sections 1374.13 and 123149.5 to, the Health and Safety Code, to amend Section 10123.13 of, and to add Section 10123.85 to, the Insurance Code, and to add and repeal Section 14132.72 of the Welfare and Institutions Code, relating to telemedicine.

[Approved by Governor September 24, 1996. Filed  
with Secretary of State September 25, 1996.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1665, M. Thompson. Medicine: telemedicine.

Existing law provides that the Medical Practice Act does not apply to any practitioner when in actual consultation with a licensed practitioner of this state, and would prohibit the practitioner from opening an office, a place to meet patients, and from receiving calls from patients within the limits of this state.

This bill would instead provide that the act does not apply to any practitioner located outside the state when in actual consultation either within this state or across state lines with a licensed practitioner of this state, and would also prohibit the out-of-state practitioner from having ultimate authority over the care or primary diagnosis of a patient who is located within this state.

Existing law provides for the licensure and regulation of physicians and surgeons and other health care professionals and provides that various actions constitute unprofessional conduct. Existing law also regulates health care service plans, disability insurers, and nonprofit hospital service plans and requires each of them to provide certain prescribed benefits. Existing law provides that a violation of the provisions governing health care service plans is subject to criminal sanction. Existing law establishes the Medi-Cal program which provides for health care services for individuals who meet certain financial eligibility criteria.

This bill would enact the "Telemedicine Development Act of 1996" by imposing several requirements governing the delivery of health care services through telemedicine, as defined. It would require a health care practitioner, as defined, prior to providing health care services through telemedicine, as defined, to obtain the verbal and written consent of the patient, and would provide that the failure to do so would constitute unprofessional conduct. This requirement would not apply when the patient is not directly involved in the telemedicine interaction, with a specified exception. The bill would

impose various requirements in regard to the provision of, or payment for, telemedicine services by health care service plans, disability insurers, and, until January 1, 2001, the Medi-Cal program.

Existing law establishes procedures regarding the maintenance of a patient's medical records and for the patient's access to medical records.

This bill would state that it is the intent of the Legislature that all medical information transmitted through telemedicine be maintained as a part of the patient's medical record. The bill would also provide that it should not be construed to alter the scope of practice of any health care provider or to authorize the delivery of health care services in a setting or in a manner not otherwise authorized by law.

By changing the definition of a crime applicable to health care service plans, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would incorporate additional changes in Section 10123.13 of the Insurance Code, proposed by SB 1478, to be operative only if SB 1478 and this bill are both chaptered and become effective on January 1, 1997, and this bill is chaptered last.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Lack of primary care, specialty providers, and transportation continue to be significant barriers to access to health services in medically underserved rural and urban areas.

(b) Parts of California have difficulty attracting and retaining health professionals, as well as supporting local health facilities to provide a continuum of health care. As of June, 1995, 49 counties received federal designation as having medically underserved areas or populations.

(c) Many health care providers in medically underserved areas are isolated from mentors, colleagues, and the information resources necessary to support them personally and professionally.

(d) Telemedicine is broadly defined as the use of information technology to deliver medical services and information from one location to another.

(e) Telemedicine is part of a multifaceted approach to address the problem of provider distribution and the development of health systems in medically underserved areas by improving



communication capabilities and providing convenient access to up-to-date information, consultations, and other forms of support.

(f) The use of telecommunications to deliver health services has the potential to reduce costs, improve quality, change the conditions of practice, and improve access to health care in rural and other medically underserved areas.

(g) Telemedicine has been utilized in one form or another for 30 years, and telemedicine projects currently exist in at least 40 states.

(h) Telemedicine will assist in maintaining or improving the physical and economic health of medically underserved communities by keeping the source of medical care in the local area, strengthening the health infrastructure, and preserving health care-related jobs.

(i) Consumers of health care will benefit from telemedicine in many ways, including expanded access to providers, faster and more convenient treatment, better continuity of care, reduction of lost work time and travel costs, and the ability to remain with support networks.

(j) Telemedicine does not change the existing scope of practice of any licensed health professional.

(k) It is the intent of the Legislature that telemedicine not replace health care providers or relegate them to a less important role in the delivery of health care. The fundamental health care provider-patient relationship can not only be preserved, but also augmented and enhanced, through the use of telemedicine.

(l) Without the assurance of payment and the resolution of legal and policy barriers, the full potential of telemedicine will not be realized.

(m) This act shall be known as the “Telemedicine Development Act of 1996.”

SEC. 2. This act shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

SEC. 3. Section 2060 of the Business and Professions Code is amended to read:

2060. Nothing in this chapter applies to any practitioner located outside this state, when in actual consultation, whether within this state or across state lines, with a licensed practitioner of this state, or when an invited guest of the California Medical Association or the California Podiatric Medical Association, or one of their component county societies, or of an approved medical or podiatric medical school or college for the sole purpose of engaging in professional education through lectures, clinics, or demonstrations, if he or she is, at the time of the consultation, lecture, or demonstration a licensed physician and surgeon in the state or country in which he or she resides. This practitioner shall not open an office, appoint a place to



meet patients, receive calls from patients within the limits of this state, give orders, or have ultimate authority over the care or primary diagnosis of a patient who is located within this state.

SEC. 4. Section 2290.5 is added to the Business and Professions Code, to read:

2290.5. (a) For the purposes of this section, “telemedicine” means the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications.

(b) For the purposes of this section, “health care practitioner” has the same meaning as “licentiate” as defined in paragraph (2) of subdivision (a) of Section 805.

(c) Prior to the delivery of health care via telemedicine, the health care practitioner who has ultimate authority over the care or primary diagnosis of the patient shall obtain verbal and written informed consent from the patient. The informed consent procedure shall ensure that at least all of the following information is given to the patient verbally and in writing:

(1) The individual retains the option to withhold or withdraw consent at any time without affecting the right to future care or treatment nor risking the loss or withdrawal of any program benefits to which the individual would otherwise be entitled.

(2) A description of the potential risks, consequences, and benefits of telemedicine.

(3) All existing confidentiality protections apply.

(4) Patient access to all medical information transmitted during a telemedicine consultation is guaranteed, and copies of this information are available for a reasonable fee.

(5) Dissemination of any patient identifiable images or information from the telemedicine interaction to researchers or other entities shall not occur without the consent of the patient.

(d) A patient shall sign a written statement prior to the delivery of health care via telemedicine, indicating that the patient understands the written information provided pursuant to subdivision (a), and that this information has been discussed with the health care practitioner, or his or her designee.

(e) The written consent statement signed by the patient shall become part of the patient’s medical record.

(f) The failure of a health care practitioner to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(g) Where the patient is a minor, or is incapacitated or mentally incompetent such that he or she is unable to give informed consent, this section shall apply to the patient’s representative.

(h) Except as provided in paragraph (3) of subdivision (c), this section shall not apply when the patient is not directly involved in the





telemedicine interaction, for example when one health care practitioner consults with another health care practitioner.

(i) This section shall not apply in an emergency situation in which a patient is unable to give informed consent and the representative of that patient is not available.

(j) This section shall not apply to a patient under the jurisdiction of the Department of Corrections.

SEC. 5. Section 1367 of the Health and Safety Code is amended to read:

1367. Each health care service plan, and where applicable, each specialized health care service plan, shall meet the following requirements:

(a) All facilities located in this state including, but not limited to, clinics, hospitals, and skilled nursing facilities to be utilized by the plan shall be licensed by the State Department of Health Services, where licensure is required by law. Facilities not located in this state shall conform to all licensing and other requirements of the jurisdiction in which they are located.

(b) All personnel employed by or under contract to the plan shall be licensed or certified by their respective board or agency, where licensure or certification is required by law.

(c) All equipment required to be licensed or registered by law shall be so licensed or registered and the operating personnel for that equipment shall be licensed or certified as required by law.

(d) The plan shall furnish services in a manner providing continuity of care and ready referral of patients to other providers at times as may be appropriate consistent with good professional practice.

(e) (1) All services shall be readily available at reasonable times to all enrollees. To the extent feasible, the plan shall make all services readily accessible to all enrollees.

(2) To the extent that telemedicine services are appropriately provided through telemedicine, as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, these services shall be considered in determining compliance with Section 1300.67.2 of Title 10 of the California Code of Regulations.

(f) The plan shall employ and utilize allied health manpower for the furnishing of services to the extent permitted by law and consistent with good medical practice.

(g) The plan shall have the organizational and administrative capacity to provide services to subscribers and enrollees. The plan shall be able to demonstrate to the department that medical decisions are rendered by qualified medical providers, unhindered by fiscal and administrative management.

(h) All contracts with subscribers and enrollees, including group contracts, and all contracts with providers, and other persons furnishing services, equipment, or facilities to or in connection with



the plan, shall be fair, reasonable, and consistent with the objectives of this chapter. All contracts with providers shall contain provisions requiring a dispute resolution mechanism under which providers may submit disputes to the plan, and requiring the plan to inform its providers upon contracting with the plan, or upon change to these provisions, of the procedures for processing and resolving disputes, including the location and telephone number where information regarding disputes may be submitted.

(i) Each health care service plan contract shall provide to subscribers and enrollees all of the basic health care services included in subdivision (b) of Section 1345, except that the commissioner may, for good cause, by rule or order exempt a plan contract or any class of plan contracts from that requirement. The commissioner shall by rule define the scope of each basic health care service which health care service plans shall be required to provide as a minimum for licensure under this chapter. Nothing in this chapter shall prohibit a health care service plan from charging subscribers or enrollees a copayment or a deductible for a basic health care service or from setting forth, by contract, limitations on maximum coverage of basic health care services, provided that the copayments, deductibles, or limitations are reported to, and held unobjectionable by, the commissioner and set forth to the subscriber or enrollee pursuant to the disclosure provisions of Section 1363.

Nothing in this section shall be construed to permit the commissioner to establish the rates charged subscribers and enrollees for contractual health care services.

The commissioner's enforcement of Article 3.1 (commencing with Section 1357) shall not be deemed to establish the rates charged subscribers and enrollees for contractual health care services.

SEC. 6. Section 1374.13 is added to the Health and Safety Code, to read:

1374.13. (a) It is the intent of the Legislature to recognize the practice of telemedicine as a legitimate means by which an individual may receive medical services from a health care provider without person-to-person contact with the provider.

(b) For the purposes of this section, the meaning of "telemedicine" is as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code.

(c) On and after January 1, 1997, no health care service plan contract that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient for services appropriately provided through telemedicine, subject to all terms and conditions of the contract agreed upon between the enrollee or subscriber and the plan. The requirement of this subdivision shall be operative for health care service plan contracts with the Medi-Cal managed care program only to the extent that both of the following apply:



(1) Telemedicine services are covered by, and reimbursed under, the Medi-Cal fee-for-service program, as provided in subdivision (c) of Section 14132.72.

(2) Medi-Cal contracts with health care service plans are amended to add coverage of telemedicine services and make any appropriate capitation rate adjustments.

(d) Health care service plans shall not be required to pay for consultation provided by the health care provider by telephone or facsimile machines.

SEC. 7. Section 1375.1 of the Health and Safety Code is amended to read:

1375.1. (a) Every plan shall have and shall demonstrate to the commissioner that it has all of the following:

(1) A fiscally sound operation and adequate provision against the risk of insolvency.

(2) Assumed full financial risk on a prospective basis for the provision of covered health care services, except that a plan may obtain insurance or make other arrangements for the cost of providing to any subscriber or enrollee covered health care services, the aggregate value of which exceeds five thousand dollars (\$5,000) in any year, for the cost of covered health care services provided to its members other than through the plan because medical necessity required their provision before they could be secured through the plan, and for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for that fiscal year.

(3) A procedure for prompt payment or denial of provider and subscriber or enrollee claims, including those telemedicine services, as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, covered by the plan. Except as provided in Section 1371, a procedure meeting the requirements of Subchapter G of the regulations (29 C.F.R. Part 2560) under Public Law 93-406 (88 Stats. 829-1035, 29 U.S.C. Secs. 1001 et seq.) shall satisfy this requirement.

(b) In determining whether the conditions of this section have been met, the commissioner shall consider, but not be limited to, the following:

(1) The financial soundness of the plan's arrangements for health care services and the schedule of rates and charges used by the plan.

(2) The adequacy of working capital.

(3) Agreements with providers for the provision of health care services.

(c) For the purposes of this section, "covered health care services" means health care services provided under all plan contracts.

SEC. 8. Section 123149.5 is added to the Health and Safety Code, to read:

123149.5. (a) It is the intent of the Legislature that all medical information transmitted during the delivery of health care via



telemedicine, as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, become part of the patient's medical record maintained by the licensed health care provider.

(b) This section shall not be construed to limit or waive any of the requirements of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

SEC. 9. Section 10123.13 of the Insurance Code is amended to read:

10123.13. Every insurer issuing group or individual policies of disability insurance that covers hospital, medical, or surgical expenses, including those telemedicine services covered by the insurer as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, shall reimburse claims or any portion of any claim, whether in state or out of state, for those expenses, as soon as practical, but no later than 30 working days after receipt of the claim by the insurer unless the claim or portion thereof is contested by the insurer in which case the claimant shall be notified, in writing, that the claim is contested or denied, within 30 working days after receipt of the claim by the insurer. The notice that a claim is being contested shall identify the portion of the claim that is contested and the specific reasons for contesting the claim.

If an uncontested claim is not reimbursed by delivery to the claimants' address of record within 30 working days after receipt, interest shall accrue at the rate of 10 percent per annum beginning with the first calendar day after the 30 working day period.

For purposes of this section, a claim, or portion thereof, is reasonably contested where the insurer has not received a completed claim and all information necessary to determine payer liability for the claim, or has not been granted reasonable access to information concerning provider services. Information necessary to determine liability for the claims includes, but is not limited to, reports of investigations concerning fraud and misrepresentation, and necessary consents, releases, and assignments, a claim on appeal, or other information necessary for the insurer to determine the medical necessity for the health care services provided to the claimant.

SEC. 9.5. Section 10123.13 of the Insurance Code is amended to read:

10123.13. Every insurer issuing group or individual policies of disability insurance that covers hospital, medical, or surgical expenses, including those telemedicine services covered by the insurer as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, shall reimburse claims or any portion of any claim, whether in state or out of state, for those expenses, as soon as practical, but no later than 30 working days after receipt of the claim by the insurer unless the claim or portion thereof is contested by the insurer in which case the claimant shall be notified, in writing, that the claim is contested or denied, within 30 working days after receipt



of the claim by the insurer. The notice that a claim is being contested shall identify the portion of the claim that is contested and the specific reasons for contesting the claim.

If an uncontested claim is not reimbursed by delivery to the claimants' address of record within 30 working days after receipt, interest shall accrue at the rate of 10 percent per annum beginning with the first calendar day after the 30-working-day period.

For purposes of this section, a claim, or portion thereof, is reasonably contested where the insurer has not received a completed claim and all information necessary to determine payer liability for the claim, or has not been granted reasonable access to information concerning provider services. Information necessary to determine liability for the claims includes, but is not limited to, reports of investigations concerning fraud and misrepresentation, and necessary consents, releases, and assignments, a claim on appeal, or other information necessary for the insurer to determine the medical necessity for the health care services provided to the claimant.

The obligation of the insurer to comply with this section shall not be deemed to be waived when the insurer requires its contracting entities to pay claims for covered services.

SEC. 10. Section 10123.85 is added to the Insurance Code, to read:

10123.85. (a) It is the intent of the Legislature to recognize the practice of telemedicine as a legitimate means by which an individual may receive medical services from a health care provider without person-to-person contact with the provider.

(b) For the purposes of this section, the meaning of "telemedicine" is as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code.

(c) On and after January 1, 1997, no disability insurance contract that is issued, amended, or renewed for hospital, medical, or surgical coverage shall require face-to-face contact between a health care provider and a patient for services appropriately provided through telemedicine, subject to all terms and conditions of the contract agreed upon between the policyholder or contractholder and the insurer.

(d) Disability insurers shall not be required to pay for consultation provided by the health care provider by telephone or facsimile machines.

SEC. 11. Section 14132.72 is added to the Welfare and Institutions Code, to read:

14132.72. (a) It is the intent of the Legislature to recognize the practice of telemedicine as a legitimate means by which an individual may receive medical services from a health care provider without person-to-person contact with the provider.

(b) For the purposes of this section, the meaning of "telemedicine" is as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code.



(c) Commencing July 1, 1997, face-to-face contact between a health care provider and a patient shall not be required under the Medi-Cal program for services appropriately provided through telemedicine, subject to reimbursement policies developed by the Medi-Cal program to compensate licensed health care providers who provide health care services, that are otherwise covered by the Medi-Cal program, through telemedicine.

(d) The Medi-Cal program shall not be required to pay for consultation provided by the health care provider by telephone or facsimile machines.

(e) The Medi-Cal program shall pursue private or federal funding to conduct an evaluation of the cost-effectiveness and quality of health care provided through telemedicine by those providers who are reimbursed for telemedicine services by the program.

(f) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 13. Section 9.5 of this bill incorporates amendments to Section 10123.13 of the Insurance Code proposed by both this bill and SB 1478. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1997, (2) each bill amends Section 10123.13 of the Insurance Code, and (3) this bill is enacted after SB 1478, in which case Section 9 of this bill shall not become operative.



## MEMORANDUM

<b>DATE</b>	April 14, 2021
<b>TO</b>	Telepsychology Committee
<b>FROM</b>	Jonathan Burke Assistant Executive Officer
<b>SUBJECT</b>	<b>Agenda Item 7. Review of and Possible Action on PSYPACT Model Legislation for a Report to the Full Board on November 18-19, 2021</b>

### **Background:**

The Board formed a Telepsychology Committee (Committee) at its meeting on November 21, 2014 to discuss and analyze the content and requirements of the proposed Interjurisdictional Compact (PSYPACT). Six areas of concerns were raised by the Committee, and these concerns were reported to ASPPB by the Board in a letter dated January 22, 2015. The areas of concern were;

- The make up and financing of the Commission;
- The ability of the Commission to promulgate regulations that would have the force of law in California;
- The extraordinary regulatory authority ceded to the Commission by the Compact States;
- The Coordinated Licensure Information Exchange which would be owned and operated by a nongovernmental agency.
- The lack of continuing education requirements for home state licensees. Licensees from certain jurisdictions could practice on California consumers with only three hours of CE per year in the area of technology and psychological practice.
- That the Compact would also place responsibilities on the Board to report information regarding our licensees and possibly even complainants which may currently be classified as confidential under our existing statutory and regulatory scheme.

These historical concerns are discussed in the analysis of the PSYPACT.

### **Action Requested:**

Board staff recommends the Telepsychology Committee recommend the Board not participate in PSYPACT.

### **Attachments:**

- PSYPACT Model Legislation Language
- PSYPACT Bylaws
- PSYPACT Analysis
- Letters in Support and Opposition from Stakeholders



# **California State Board of Psychology**

## **Association of State and Provincial Psychology Boards (ASPPB) Interjurisdictional Telepsychology Compact Analysis**

The mission of the Board of Psychology (Board) is to protect consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession. As such, the Board supports strategies that encourage innovation and access to care.

The COVID-19 Pandemic has changed the way healthcare professionals have had to adapt to using technological means to treat their patients. The inability to see a patient in person has led to the widespread use of computer-based methods of providing healthcare services.

Notwithstanding the COVID-19 Pandemic, the advent of telemedicine, or telehealth, has made it possible for doctors and medical professionals to provide medical services to their regular patients and to those who may have had difficulty in reaching a medical office.

### **Psychological Interjurisdictional Compact (PSYPACT)**

#### **Analysis**

The U.S. Constitution (Art. 1, Sec. 10, Clause 3) grants states the right to enter into multistate agreements for their common benefit. Congress must approve any compact that would increase the states' political power in a manner that would encroach upon the federal government's power. When entering compacts, states must adhere to state constitutional requirements, particularly regarding separation of powers, delegation of power, and debt limitations. In 1951, the Supreme Court affirmed in *West Virginia v. Sims* that states have the authority to enter compacts and to delegate authority to an interstate agency.

There are more than 200 active interstate compacts. Twenty-two of them are national in scope, including several with 35 or more member states and an independent commission to administer the agreement. More than 30 compacts are regional, with eight or more member states. For information about existing compacts, visit [www.csg.org](http://www.csg.org) (keyword: interstate compacts).

Currently, there are several professions utilizing interstate compacts to address regulatory matters and each profession has taken a different approach when writing its compact language. Two examples involve the professions of medicine and nursing. Medicine chose to construct its compact to address expedited licensure; while nursing's compact creates a multistate license.

Like most healthcare professions in the U.S., licensure in psychology is based on state licensing laws and systems for identifying and credentialing competent psychologists and regulating their professional conduct once licensed. Because licensure requirements for psychologists vary significantly across the various states and territories, and change within a state over time, obtaining a license to practice in multiple states or in subsequent states years after graduate training has ended, can be a complicated, tedious, and cumbersome process for a psychologist.

The Association of State and Provincial Psychology Boards (ASPPB) realized early on the need for a mechanism for expedited licensure. ASPPB is the consortium or alliance of the statutorily created state psychology licensing boards of all 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam, as well as all 10 Canadian provinces.

At this time, one must be licensed in each state in order to offer psychological services in that state. This requirement makes the possibility of offering psychological services via telepsychology across state lines impractical. Requiring psychologists to obtain licensure in every state where a client and psychologist may make contact, represents a significant barrier to the feasibility of telepsychology and temporary in-person, face-to-face practice and increases the complications and redundancies of the licensure process for qualified psychologists.

### **ASPPB's Arguments for PSYPACT**

The Psychology Interjurisdictional Compact (PSYPACT) seeks to address the following issues:

- **State Licensure Eligibility Inconsistencies:** Different states use different criteria for licensure eligibility particularly in the areas of academic education and supervised work experience. These inconsistencies in criteria restrict licensure by endorsement between the states, in that states often do not accept each other's licensees when psychologists seek licensure in a state with differing requirements from where they first became licensed.
- **Differences in State Licensure Evaluation Procedures:** Each state psychology licensing board, as part of its duty to protect the public, has traditionally found it necessary to review and accept candidates for licensure based only on its own evaluation of credentials. These evaluations may result in different outcomes of similar applications based on different legislative or regulatory requirements or different understandings of acceptable criteria.
- **Differences in State Licensure Application Processes:** Each psychology licensing board has its own unique licensure application and procedures. Each time a psychologist applies for licensure to a state they must complete a different application. This inefficient licensure application method can result in the unnecessary drain of scarce resources and duplicative efforts in the licensure process.
- **Issues in Disciplining Psychologists:** Disciplinary procedures and rules vary from state to state. The current solution is to require psychologists to be licensed in all states where they and the client are located no matter the delivery method. This is untenable to both psychologists and the public.
- **Differences in State Disciplinary Processes:** To protect the public from harm, state psychology licensing boards are empowered to utilize disciplinary processes and procedures to investigate public complaints against psychologists. Since licensing laws are state specific, the laws enabling those powers vary from state to state. Due to these differences, a mechanism is needed to give the state psychology licensing boards power to discipline, where none currently exists, in order to ensure public protection.

- Differences in State Statutes and Regulations: As seen with both licensure requirements and disciplinary procedures, state psychology licensing boards' statutes and regulations pertaining to the practice of psychology also vary from state to state. These differences make it very difficult for psychologist to know what standard to apply when practicing telepsychology and make the practice of telepsychology across jurisdiction boundaries complicated to negotiate.

PSYPACT will also address compact administration and enforcement, data sharing, and finances. PSYPACT establishes an independent operating authority, the Psychology Interjurisdictional Compact Commission, to administer and enforce the compact and to address future issues surrounding telepsychology and temporary in-person, face-to-face practice as needed.

Creating consistencies among temporary in-person, face-to-face practice requirements and practice time allowances are needed to relieve the confusion around all variations among the states. PSYPACT not only addresses telepsychology, it addresses the inconsistencies regarding temporary in-person, face-to-face practice by further developing the Interjurisdictional Practice Certificate.

PSYPACT seeks to reduce existing licensure barriers to psychologists using advanced telecommunication technologies to deliver psychological services across state lines and to create consistency around the requirements regarding temporary in-person, face-to-face practice while maintaining state sovereignty over licensure matters.

### **Status of PSYPACT:**

PSYPACT became fully operational in July 2020. Psychologists can now apply for the Authorization to Practice Telepsychology (APIT) and Temporary Authorization to Practice (TAP), which are required to practice telepsychology and/or temporary in-person, face-to-face practice in PSYPACT states.

States that have enacted PSYPACT Legislation include: Arizona, Colorado, Delaware, District of Columbia, Georgia, Illinois, Missouri, Nebraska, Nevada, New Hampshire, North Carolina, Oklahoma, Pennsylvania, Texas, Utah and Virginia. Alabama and Kentucky will become effective in June 2021.

States that have pending PSYPACT legislation: Connecticut, Indiana, Iowa, Kansas, Maryland, Minnesota, New Jersey, New Mexico, Ohio, Rhode Island, South Carolina, Tennessee, Washington.

States that currently have Telehealth/ Telepsychology statues and/or regulations include: Arizona, California, Delaware, Georgia, Idaho, Kentucky, New Hampshire, Ohio, Oklahoma, Texas, and Vermont.

States that currently specifically include telepsychology in the definition of the "Practice of Psychology" include: California, Florida, Georgia, Kansas, Kentucky, Mississippi, Montana, New Hampshire, North Dakota, Ohio, South Carolina, Utah, Vermont, and Wisconsin.

States that currently have Telehealth Coverage Mandate include: Arizona, California, Colorado, Georgia, Hawaii, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota (only for Medicaid), Mississippi, Missouri, Montana, Nebraska (only for Medicaid), New Hampshire, New Mexico, Oklahoma, Oregon, Texas, Vermont, and Virginia.

States that currently provide a Temporary/Guest Practice Provision include all states EXCEPT Arkansas and Connecticut.

### **Model Legislation:**

#### **Article I: Purpose and Objectives of the Compact.**

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

#### **Article II: Definitions of terms used in the Compact.** Items of note include:

**Association of State and Provincial Psychology Boards (ASPPB):** 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

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

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

**Distant State:** The Compact State where a psychologist is physically present (not through the use of telecommunications technologies), to provide temporary in-person, face-to-face psychological services

**Home State:** A Compact State where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one Compact State and is practicing under the Authorization to Practice Interjurisdictional Telepsychology, the Home State is the Compact State where the psychologist is physically present when the tele-psychological services are delivered. If the psychologist is licensed in more than one Compact State and is practicing under the Temporary Authorization to Practice, the Home State is any Compact State where the psychologist is licensed

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

**Executive Board:** a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission

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

**Receiving State:** A Compact State where the client/patient is physically located when the tele-psychological services are delivered

**Rule:** a written statement by the Psychology Interjurisdictional Compact Commission promulgated pursuant to Section XI of the Compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a Compact State, and includes the amendment, repeal or suspension of an existing rule

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

**Temporary Authorization to Practice:** a licensed psychologist's authority to conduct temporary in-person, face-to-face practice, within the limits authorized under this Compact, in another Compact State

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

#### Article III: Home State Licensure.

The Home State is the state in which the Psychologist is physically located and where the services are delivered as authorized by the Authority to Practice Interjurisdictional Psychology.

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

1. Currently requires the psychologist to hold an active E.Passport;
2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;
3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;
4. Requires an Identity History Summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation FBI, or other designee with similar authority, no later than ten years after activation of the Compact; and
5. Complies with the Bylaws and Rules of the Commission.

A Home State's license grants Temporary Authorization to Practice to a psychologist in a Distant State only if the Compact State abides by the aforementioned criteria.

#### Article IV: Compact Privilege to Practice Telepsychology.

This section lists the requirements necessary for a psychologist to practice in a Compact State. These requirements include a graduate degree in psychology from an accredited institution, possession of a current, full, unrestricted license to practice psychology in a Home State that is a Compact State, have no history of adverse action, have no criminal record, possess a current, active E.Passport, and provide attestations certifying area of intended practice, and knowledge and adherence to legal requirements in the home and receiving states.

#### Article V: Compact Temporary Authorization to Practice requirements.

These are the same as those listed in Article IV.

#### Article VI: Conditions of Telepsychology Practice in a Receiving State.

A psychologist may practice in a Receiving State only in the performance of the scope of practice for psychology as assigned by an appropriate State Psychology Regulatory Authority. The psychologist must initiate a client/patient contact in a Home State via telecommunications technologies with a client/patient in a Receiving State.

#### Article VII: Adverse Actions

In the event an adverse action must be taken against a psychologist, a Home State has the discretion to impose an action against a psychologist from that Home State. As it pertains to a Distant State, it can take adverse action on a psychologist's Temporary Authorization to Practice within that Distant State. Additionally, a Receiving State has the authority to take an adverse action on a psychologist's Authority to Practice Interjurisdictional Telepsychology within that Receiving State. A Home State's Psychology Regulatory Authority, such as the Board of Psychology, will be responsible for investigating and taking appropriate action with respect to reported inappropriate conduct engaged in by a licensee which occurred in a Receiving State as

it would if such conduct had occurred by a licensee within the Home State. In such cases, the Home State's law will determine any adverse action against a psychologist's license.

#### Article VIII: Additional Authorities Invested in a Compact State's Psychology Regulatory Authority.

Under the PSYPACT, a Compact State's Psychology Regulatory Authority will be able to issue subpoenas for hearings and investigations which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a Compact State's Psychology Regulatory Authority for attendance and testimony of witnesses, and/or the production of evidence from another Compact State shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing State Psychology Regulatory Authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses and/or evidence are located. This is an expense we do not currently have listed in our budget and would be difficult to quantify. The Compact State's Psychology Regulatory Authority can also issue cease and desist and/or injunctive relief orders to revoke a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice. While an investigation is underway, a psychologist may not change their Home State Licensure. A Home State Psychology Regulatory Authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. Once the investigation is complete, the Home State Psychology Regulatory Authority shall promptly report the conclusions of the investigations to the Commission. The psychologist may change his/her Home State licensure once an investigation has been completed. The Commission shall promptly notify the new Home State of any such decisions as provided in the Rules of the Commission. All information provided to the Commission or distributed by Compact States pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters.

#### Article IX: Coordinated Licensure Information System.

The Coordinated Database, or PSYPACT Directory, has been created and is live. PSYPACT language notes that the states will provide a uniform data set. Currently, in order to meet this requirement, the Commission will need access to state's licensure data (which is already available on the California Board of Psychology website) and for disciplinary data to be entered into the ASPPB Disciplinary Data System, which is currently being done by Board staff. The goal of this section is to ensure that any information needed regarding the application processes associated with the issuance of authorizations under PSYPACT is shared among the compact states. The data in the system includes the following: identifying information; licensure data; significant investigatory information; adverse actions against a psychologist's license; an indicator that a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice is revoked; non-confidential information related to alternative program participation information; any denial of application for licensure, and the reasons for such denial; and other information which may facilitate the administration of this Compact, as determined by the Rules of the Commission. Compact States reporting information

to the Coordinated Database may designate information that may not be shared with the public without the express permission of the Compact State reporting the information. Any information submitted to the Coordinated Database that is subsequently required to be expunged by the law of the Compact State reporting the information shall be removed from the Coordinated Database.

#### Article X: Establishment of the Psychology Interjurisdictional Compact Commission

In order to administer the PSYPACT, the Compact States created and established a joint public agency known as the Psychology Interjurisdictional Compact Commission. The Commission serves to provide a mechanism for solving interstate matters and meets once a year. Each Compact State has one vote. The voting member serves as the state's Commissioner. The State Psychology Regulatory Authority appoints its delegate, who can act on behalf of its Compact State. The delegate must be the Executive Director or Executive Secretary; a current member of the State Psychology Regulatory Authority of a Compact State; or a designee empowered with the appropriate delegate authority to act on behalf of the Compact State. Each Commissioner is entitled to one (1) vote.

All meetings are open to the public and should be noticed accordingly. Rules and bylaws are created and voted upon by the Commission. The bylaws must be published and provided to each Compact State. The Commission has a number of powers; they include: to purchase and maintain insurance and bonds; to borrow, accept or contract for services of personnel, including, but not limited to, employees of a Compact State; to establish a budget and make expenditures; to borrow money; to provide and receive information from, and to cooperate with, law enforcement agencies.

The Executive Board is comprised of six (6) members. Five voting members are elected from the current membership of the Commission; and one member who is an ex-officio, nonvoting member from the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities. The Executive Board meets annually and has a number of duties. They recommend changes to the Rules or Bylaws, changes to Compact legislation, fees paid by Compact States such as annual dues, and any other applicable fees. They also prepare and recommend the budget and maintain financial records for the Commission.

The Commission is financed through an annual assessment paid by each Compact State. Based upon the Revenue Assumptions in the PSYPACT 2021 Annual Budget and Narrative Report, if California were to join PSYPACT, the Board would be expected to pay an annual assessment of approximately \$3,765.92. This is based on the following formula: total number of licensees (23,537) multiplied by 1%; this number (235.37) is then multiplied by \$40.00; this figure (\$9,414.80) is then multiplied by 40%. The result is the aforementioned \$3,765.92.

Additionally, The Commission and ASPPB have entered into a Memorandum of Understanding (MOU). This MOU covers the costs associated with staffing, professional fees such as the contract with the Council of State Governments (CSG), Directors & Officers (D & O) Insurance, travel costs for the Commission, office space and utilities, use of computers, telephone, internet, and other office equipment and services.



### Article XI: Rulemaking

Commission rules are limited to Compact administration and do not constitute new rules for the State Regulatory Authority as to its state responsibilities. The rules of PSYPACT would only supersede any state law pertaining to the interjurisdictional practice of telepsychology and temporary in-person, face-to-face practice pursuant to the compact.

### Article XII: Oversight, Dispute Resolution and Enforcement

Oversight of the Compact is provided by the Executive, Legislative and Judicial branches of each Compact State as the rules and provisions of the Compact are in statute. Disputes between Compact and non-Compact states are handled by the Commission.

### Article XIII: Date of Implementation and Associated Rules, Withdrawal and Amendments

The Compact became fully operational in July 2020. States that join after the adoption of the rules shall be subject to the rules as they exist on the date which the compact becomes law in that state.

### Article XIV: Construction and Severability

This compact shall be liberally construed to effectuate the purposes thereof. If this Compact is found to be contrary to the constitution of any state member, the compact will remain in full force and effect for the remaining compact states.

### Items for Consideration:

1. Since Board staff last reviewed the PSYPACT (2015), much has changed. When staff first reviewed the PSYPACT, much of it was conceptual and many of the details had not been determined. Since then, the Compact has been finalized and became effective in July of 2020. The Board previously expressed concerns regarding the following issues: (a) payment of fees for operations of the PSYPACT; (b) the promulgation of regulations by the Commission which would have the force of law in Compact States; (c) the coordinated national licensure database; (d) the lack of continuing education requirements; and (e) confidentiality issues. Most of the concerns listed in the initial analysis of the Compact have been addressed in some fashion, however, concerns remain.
  - a. The formula for fees to be paid has been determined, as outlined previously, and assessments will be calculated in December of 2021 and invoiced in January 2022. This year, 2021, will be the first full year of PSYPACT program implementation. Per the MOU between ASPPB and the commission, ASPPB will continue to assume most of the operating expenses and will thus receive 40% of the fees collected for providing services per the agreement. Payment of assessment fees will commence in early 2022. The formula to determine the assessment for each member state is based on the number of licensees within a state. For California the assessment fee would be approximately \$3,765.92.

- b. The promulgation of regulations by the Commission would occur based on a vote made by the Commission and its member states. If California were to join PSYPACT, it would get one vote regardless of the number of licensees.
  - c. The coordinated national licensure database is live. PSYPACT staff currently pulls data from the state Board of Psychology websites however Board staff would be expected to enter any disciplinary data into the ASPPB Disciplinary Data System. PSYPACT Commission staff functions as the administrator of the coordinated licensure database.
  - d. The lack of continuing education requirements remains a concern. In order to obtain an E.Passport to practice telepsychology under the authority of PSYPACT, a licensee only needs three (3) hours of continuing education training in technology. Per PSYPACT Staff, all continuing education must be directly relevant to the practice of telepsychology and would include, but not be restricted to any one or more of the following areas as defined in the APA/ASPPB/APAIT Telepsychology Guidelines: i. Competence of the Psychologist ii. Standards of Care in the Delivery of Telepsychology Services iii. Informed Consent v. Confidentiality of Data and Information v. Security and Transmission of Data and Information vi. Disposal of Data and Information and Technologies vii. Testing and Assessment when Providing Telepsychology Services viii. Interjurisdictional Practice. When staff and the Board first reviewed the PSYPACT in 2015, the E.Passport had a 6-hour continuing education requirement (technology and psychological practice) once a renewal cycle (2 years).
  - e. Per Article VIII, Section 3 of the Model Legislation, a Home State Psychology Regulatory Authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The Home State Psychology Regulatory Authority shall promptly report the conclusions of such investigations to the Commission. Once an investigation has been completed, and pending the outcome of said investigation, the psychologist may change his/her Home State licensure. The Commission shall promptly notify the new Home State of any such decisions as provided in the Rules of the Commission. All information provided to the Commission or distributed by Compact States pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters.
2. Per Article IV, a graduate degree in psychology is required in order to practice under PSYPACT. In order to be licensed in California, a psychologist must hold a doctoral degree.
  3. Per ASPPB, PSYPACT does not impact a state's right or ability to issue a license. It is applicable to the interjurisdictional practice of telepsychology and temporary in-person, face-to-face practice and only takes precedence over state laws regarding this type of interjurisdictional practice. For example, any licensed psychologist must obtain an E.Passport to practice telepsychology under the authority of PSYPACT and must have three (3) hours of continuing education training in technology as required by the

E.Passport. Should a PSYPACT state not require continuing education, this requirement of PSYPACT would supersede the State's authority.

4. Article V, P. 20-21 of the Compact would potentially deprive some California psychologists of the ability to perform interjurisdictional telepsychology if they graduated from a California "approved school". Article V of the Compact reads in part;

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

A. Regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, OR authorized by Provincial statute or Royal Charter to grant doctoral degrees (Article V, p. 20);

Section 2914 of the Business and Professions Code requires each applicant for licensure to possess an earned doctorate degree in psychology, in educational psychology, or in education with the field of specialization in counseling psychology or educational psychology from a college or institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education.

5. The model presumes and requires the Board to recognize the E. Passport (see below).
6. Joining PSYPACT requires legislative involvement and concurrence by each state whenever a change in compact language is necessary. (Article IX, P. 26)
7. Similar compacts have been initiated in other practice areas such as nursing (BRN). California is not part of the 33 participating states in the compact for boards of registered nursing. In 2020, Senator Moorlach introduced legislation (SB 1053) to enact the Nursing Licensure Compact under the BRN. The Board of Nursing along with the CA Nurses Association opposed that bill. This year, Assemblymember Fong introduced AB 410 and it is currently going through the legislative committee process. The language of this bill is the same as SB 1053. Board staff has spoken with BRN staff to gather information regarding the Nursing Compact and their concerns. CNA cited the following reasons for opposing SB 1053: joining the NLC would inhibit the State's ability to protect consumers from harm, it would decrease pathways to licensure, and it would diminish the State's ability to set high standards for safety and care.
8. The Psychology Interjurisdictional Compact Commission – the governing body for PSYPACT is composed of one representative from each Compact state. The Commission provides oversight of PSYPACT as well as creates and enforces rules governing the operation of PSYPACT. Each Compact State has one vote. The Commission will serve to provide a mechanism to solve interstate matters.

9. Currently, our Board's Enforcement Division receives, processes and investigates all disciplinary complaints. Joining the PSYPACT could potentially increase Enforcement's workload as out of state licensees who hold an E.Passport could potentially provide psychological services to California consumers, thus increasing the number of licensees the Enforcement Division would have to monitor. As it pertains to fiscal considerations, the Board would be expected to pay an annual assessment to the PSYPACT Commission. Given the Board's current fiscal condition, paying an annual assessment could prove unwise.

### **E.Passport**

The Compact will only be possible between states that recognize the E.Passport. The E.Passport will allow licensees who are eligible to qualify to practice telepsychology on patients in other states that recognize the E.Passport.

"E.Passport" means: a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) 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.

"E.Passport" is the credential vetted and issued by ASPPB granting authorization to practice interjurisdictional telepsychology in a "Receiving State" where the psychologist with this credential is not currently licensed.

A psychologist must be licensed at the doctoral level to qualify for the E.Passport.

### **Staff Recommendation:**

Given the considerations listed above, Board Staff recommends the Board not join PSYPACT at this time.

## Model Legislation

### ARTICLE I PURPOSE

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

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

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

Whereas, this Compact is intended to authorize State Psychology Regulatory Authorities to afford legal recognition, in a manner consistent with the terms of the Compact, to psychologists licensed in another state;

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

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

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

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

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 which the psychologist is not licensed to practice psychology;
2. Enhance the states' ability to protect the public's health and safety, especially client/patient safety;
3. Encourage the cooperation of Compact States in the areas of psychology licensure and regulation;
4. Facilitate the exchange of information between Compact States regarding psychologist licensure, adverse actions and disciplinary history;
5. Promote compliance with the laws governing psychological practice in each Compact State; and
6. Invest all Compact States with the authority to hold licensed psychologists accountable through the mutual recognition of Compact State licenses.

# MODEL LEGISLATION

## ARTICLE II DEFINITIONS

- A. “Adverse Action” means: Any action taken by a State Psychology Regulatory Authority which 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.
- B. “Association of State and Provincial Psychology Boards (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.
- C. “Authority to Practice Interjurisdictional Telepsychology” means: a licensed psychologist’s authority to practice telepsychology, within the limits authorized under this Compact, in another Compact State.
- D. “Bylaws” means: those Bylaws established by the Psychology Interjurisdictional Compact Commission pursuant to Section X for its governance, or for directing and controlling its actions and conduct.
- E. “Client/Patient” means: the recipient of psychological services, whether psychological services are delivered in the context of healthcare, corporate, supervision, and/or consulting services.
- F. “Commissioner” means: the voting representative appointed by each State Psychology Regulatory Authority pursuant to Section X.
- G. “Compact State” means: a state, the District of Columbia, or United States territory that has enacted this Compact legislation and which has not withdrawn pursuant to Article XIII, Section C or been terminated pursuant to Article XII, Section B.
- H. “Coordinated Licensure Information System” also referred to as “Coordinated Database” means: an integrated process for collecting, storing, and sharing information on psychologists’ licensure and enforcement activities related to psychology licensure laws, which is administered by the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities.
- I. “Confidentiality” means: the principle that data or information is not made available or disclosed to unauthorized persons and/or processes.
- J. “Day” means: any part of a day in which psychological work is performed.

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- K. “Distant State” means: the Compact State where a psychologist is physically present (not through the use of telecommunications technologies), to provide temporary in-person, face-to-face psychological services.
- L. “E.Passport” means: a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) 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.
- M. “Executive Board” means: a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.
- N. “Home State” means: a Compact State where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one Compact State and is practicing under the Authorization to Practice Interjurisdictional Telepsychology, the Home State is the Compact State where the psychologist is physically present when the telepsychological services are delivered. If the psychologist is licensed in more than one Compact State and is practicing under the Temporary Authorization to Practice, the Home State is any Compact State where the psychologist is licensed.
- O. “Identity History Summary” means: a summary of information retained by the FBI, or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization, or military service.
- P. “In-Person, Face-to-Face” means: interactions in which the psychologist and the client/patient are in the same physical space and which does not include interactions that may occur through the use of telecommunication technologies.
- Q. “Interjurisdictional Practice Certificate (IPC)” means: a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that grants temporary authority to practice based on notification to the State Psychology Regulatory Authority of intention to practice temporarily, and verification of one’s qualifications for such practice.
- R. “License” means: authorization by a State Psychology Regulatory Authority to engage in the independent practice of psychology, which would be unlawful without the authorization.
- S. “Non-Compact State” means: any State which is not at the time a Compact State.
- T. “Psychologist” means: an individual licensed for the independent practice of psychology.

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- U. “Psychology Interjurisdictional Compact Commission” also referred to as “Commission” means: the national administration of which all Compact States are members.
- V. “Receiving State” means: a Compact State where the client/patient is physically located when the telepsychological services are delivered.
- W. “Rule” means: a written statement by the Psychology Interjurisdictional Compact Commission promulgated pursuant to Section XI of the Compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a Compact State, and includes the amendment, repeal or suspension of an existing rule.
- X. “Significant Investigatory Information” means:
  - 1. investigative information that a State Psychology Regulatory Authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proven true, would indicate more than a violation of state statute or ethics code that would be considered more substantial than minor infraction; or
  - 2. investigative information that indicates that the psychologist represents an immediate threat to public health and safety regardless of whether the psychologist has been notified and/or had an opportunity to respond.
- Y. “State” means: a state, commonwealth, territory, or possession of the United States, the District of Columbia.
- Z. “State Psychology Regulatory Authority” means: the Board, office or other agency with the legislative mandate to license and regulate the practice of psychology.
- AA. “Telepsychology” means: the provision of psychological services using telecommunication technologies.
- BB. “Temporary Authorization to Practice” means: a licensed psychologist’s authority to conduct temporary in-person, face-to-face practice, within the limits authorized under this Compact, in another Compact State.
- CC. “Temporary In-Person, Face-to-Face Practice” means: where a psychologist is physically present (not through the use of telecommunications technologies), in the Distant State to provide for the practice of psychology for 30 days within a calendar year and based on notification to the Distant State.



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## ARTICLE III HOME STATE LICENSURE

- A. The Home State shall be a Compact State where a psychologist is licensed to practice psychology.
- B. A psychologist may hold one or more Compact State licenses at a time. If the psychologist is licensed in more than one Compact State, the Home State is the Compact State where the psychologist is physically present when the services are delivered as authorized by the Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.
- C. Any Compact State may require a psychologist not previously licensed in a Compact State to obtain and retain a license to be authorized to practice in the Compact State under circumstances not authorized by the Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.
- D. Any Compact State may require a psychologist to obtain and retain a license to be authorized to practice in a Compact State under circumstances not authorized by Temporary Authorization to Practice under the terms of this Compact.
- E. A Home State's license authorizes a psychologist to practice in a Receiving State under the Authority to Practice Interjurisdictional Telepsychology only if the Compact State:
  1. Currently requires the psychologist to hold an active E.Passport;
  2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;
  3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;
  4. Requires an Identity History Summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation FBI, or other designee with similar authority, no later than ten years after activation of the Compact; and
  5. Complies with the Bylaws and Rules of the Commission.
- F. A Home State's license grants Temporary Authorization to Practice to a psychologist in a Distant State only if the Compact State:
  1. Currently requires the psychologist to hold an active IPC;
  2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;

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3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;
4. Requires an Identity History Summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation FBI, or other designee with similar authority, no later than ten years after activation of the Compact; and
5. Complies with the Bylaws and Rules of the Commission.

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## ARTICLE IV COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

- A. Compact States shall recognize the right of a psychologist, licensed in a Compact State in conformance with Article III, to practice telepsychology in other Compact States (Receiving States) in which the psychologist is not licensed, under the Authority to Practice Interjurisdictional Telepsychology as provided in the Compact.
  
- B. To exercise the Authority to Practice Interjurisdictional Telepsychology under the terms and provisions of this Compact, a psychologist licensed to practice in a Compact State must:
  1. Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:
    - a. Regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, OR authorized by Provincial Statute or Royal Charter to grant doctoral degrees; OR
    - b. A foreign college or university deemed to be equivalent to 1 (a) above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; AND
  2. Hold a graduate degree in psychology that meets the following criteria:
    - a. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;
    - b. The psychology program must stand as a recognizable, coherent, organizational entity within the institution;
    - c. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;
    - d. The program must consist of an integrated, organized sequence of study;
    - e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;
    - f. The designated director of the program must be a psychologist and a member of the core faculty;

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- g. The program must have an identifiable body of students who are matriculated in that program for a degree;
    - h. The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;
    - i. The curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degree and a minimum of one academic year of full-time graduate study for master's degree;
    - j. The program includes an acceptable residency as defined by the Rules of the Commission.
  - 3. Possess a current, full and unrestricted license to practice psychology in a Home State which is a Compact State;
  - 4. Have no history of adverse action that violate 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 in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology; criminal background; and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the Commission; and
  - 8. Meet other criteria as defined by the Rules of the Commission.
- C. The Home State maintains authority over the license of any psychologist practicing into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology.
- D. A psychologist practicing into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology will be subject to the Receiving State's scope of practice. A Receiving State may, in accordance with that state's due process law, limit or revoke a psychologist's Authority to Practice Interjurisdictional Telepsychology in the Receiving State and may take any other necessary actions under the Receiving State's applicable law to protect the health and safety of the Receiving State's citizens. If a Receiving State takes action, the state shall promptly notify the Home State and the Commission.

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

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## ARTICLE V COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

- A. Compact States shall also recognize the right of a psychologist, licensed in a Compact State in conformance with Article III, to practice temporarily in other Compact States (Distant States) in which the psychologist is not licensed, as provided in the Compact.
- B. To exercise the Temporary Authorization to Practice under the terms and provisions of this Compact, a psychologist licensed to practice in a Compact State must:
  1. Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:
    - a. Regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, OR authorized by Provincial Statute or Royal Charter to grant doctoral degrees; OR
    - b. A foreign college or university deemed to be equivalent to 1 (a) above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; AND
  2. Hold a graduate degree in psychology that meets the following criteria:
    - a. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;
    - b. The psychology program must stand as a recognizable, coherent, organizational entity within the institution;
    - c. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;
    - d. The program must consist of an integrated, organized sequence of study;
    - e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;
    - f. The designated director of the program must be a psychologist and a member of the core faculty;
    - g. The program must have an identifiable body of students who are matriculated in that program for a degree;

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- h. The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;
    - i. The curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degrees and a minimum of one academic year of full-time graduate study for master's degree;
    - j. The program includes an acceptable residency as defined by the Rules of the Commission.
  - 3. Possess a current, full and unrestricted license to practice psychology in a Home State which is a Compact State;
  - 4. No history of adverse action that violate the Rules of the Commission;
  - 5. No criminal record history that violates the Rules of the Commission;
  - 6. Possess a current, active IPC;
  - 7. Provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the Commission; and
  - 8. Meet other criteria as defined by the Rules of the Commission.
- C. 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.
- D. A psychologist practicing into a Distant State under the Temporary Authorization to Practice will be subject to the Distant State's authority and law. A Distant State may, in accordance with that state's due process law, limit or revoke a psychologist's Temporary Authorization to Practice in the Distant State and may take any other necessary actions under the Distant State's applicable law to protect the health and safety of the Distant State's citizens. If a Distant State takes action, the state shall promptly notify the Home State and the Commission.
- E. If a psychologist's license in any Home State, another Compact State, or any Temporary Authorization to Practice in any Distant State, is restricted, suspended or otherwise limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice in a Compact State under the Temporary Authorization to Practice.

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## ARTICLE VI CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

- A. 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/patient contact in a Home State via telecommunications technologies with a client/patient in a Receiving State;
  2. Other conditions regarding telepsychology as determined by Rules promulgated by the Commission.



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## ARTICLE VII ADVERSE ACTIONS

- A. 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 that Distant State.
- B. A Receiving State may take adverse action on a psychologist's Authority to Practice Interjurisdictional Telepsychology within that Receiving State. A Home State may take adverse action against a psychologist based on an adverse action taken by a Distant State regarding temporary in-person, face-to-face practice.
- C. If a Home State takes adverse action against a psychologist's license, that psychologist's Authority to Practice Interjurisdictional Telepsychology is terminated and the E.Passport is revoked. Furthermore, that psychologist's Temporary Authorization to Practice is terminated and the IPC is revoked.
  - 1. All Home State disciplinary orders which impose adverse action shall be reported to the Commission in accordance with the Rules promulgated by the Commission. A Compact State shall report adverse actions in accordance with the Rules of the Commission.
  - 2. In the event discipline is reported on a psychologist, the psychologist will not be eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the Rules of the Commission.
  - 3. Other actions may be imposed as determined by the Rules promulgated by the Commission.
- D. A Home State's Psychology Regulatory Authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a licensee which occurred in a Receiving State as it would if such conduct had occurred by a licensee within the Home State. In such cases, the Home State's law shall control in determining any adverse action against a psychologist's license.
- E. A Distant State's Psychology Regulatory Authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under Temporary Authorization Practice which occurred in that Distant State as it would if such conduct had occurred by a licensee within the Home State. In such cases, Distant State's law shall control in determining any adverse action against a psychologist's Temporary Authorization to Practice.
- F. Nothing in this Compact shall override a Compact State's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the Compact State's law. Compact States must require psychologists who enter any alternative programs to not provide telepsychology services under the Authority to Practice

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Interjurisdictional Telepsychology or provide temporary psychological services under the Temporary Authorization to Practice in any other Compact State during the term of the alternative program.

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

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

- A. In addition to any other powers granted under state law, a Compact State's Psychology Regulatory Authority shall have the authority under this Compact to:
1. Issue subpoenas, for both hearings and investigations, which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a Compact State's Psychology Regulatory Authority for the attendance and testimony of witnesses, and/or the production of evidence from another Compact State shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing State Psychology Regulatory Authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and
  2. Issue cease and desist and/or injunctive relief orders to revoke a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice.
  3. During the course of any investigation, a psychologist may not change his/her Home State licensure. A Home State Psychology Regulatory Authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The Home State Psychology Regulatory Authority shall promptly report the conclusions of such investigations to the Commission. Once an investigation has been completed, and pending the outcome of said investigation, the psychologist may change his/her Home State licensure. The Commission shall promptly notify the new Home State of any such decisions as provided in the Rules of the Commission. All information provided to the Commission or distributed by Compact States pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters. The Commission may create additional rules for mandated or discretionary sharing of information by Compact States.

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## ARTICLE IX COORDINATED LICENSURE INFORMATION SYSTEM

- A. The Commission shall provide for the development and maintenance of a Coordinated Licensure Information System (Coordinated Database) and reporting system containing licensure and disciplinary action information on all psychologists individuals to whom this Compact is applicable in all Compact States as defined by the Rules of the Commission.
  
- B. Notwithstanding any other provision of state law to the contrary, a Compact State shall submit a uniform data set to the Coordinated Database on all licensees as required by the Rules of the Commission, including:
  - 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 and/or Temporary Authorization to Practice is revoked;
  - 6. Non-confidential information related to alternative program participation information;
  - 7. Any denial of application for licensure, and the reasons for such denial; and
  - 8. Other information which may facilitate the administration of this Compact, as determined by the Rules of the Commission.
  
- C. The Coordinated Database administrator shall promptly notify all Compact States of any adverse action taken against, or significant investigative information on, any licensee in a Compact State.
  
- D. Compact States reporting information to the Coordinated Database may designate information that may not be shared with the public without the express permission of the Compact State reporting the information.
  
- E. Any information submitted to the Coordinated Database that is subsequently required to be expunged by the law of the Compact State reporting the information shall be removed from the Coordinated Database.

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## ARTICLE X ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION

- A. The Compact States hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission.
  1. The Commission is a body politic and an instrumentality of the Compact States.
  2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
  3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.
- B. Membership, Voting, and Meetings
  1. The Commission shall consist of one voting representative appointed by each Compact State who shall serve as that state's Commissioner. The State Psychology Regulatory Authority shall appoint its delegate. This delegate shall be empowered to act on behalf of the Compact State. This delegate shall be limited to:
    - a. Executive Director, Executive Secretary or similar executive;
    - b. Current member of the State Psychology Regulatory Authority of a Compact State; OR
    - c. Designee empowered with the appropriate delegate authority to act on behalf of the Compact State.
  2. 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 in the Commission shall be filled in accordance with the laws of the Compact State in which the vacancy exists.
  3. Each Commissioner shall be entitled to one (1) vote with regard to the promulgation of Rules and creation of Bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A Commissioner shall vote in person or by such other means as provided in the Bylaws. The Bylaws may provide for Commissioners' participation in meetings by telephone or other means of communication.
  4. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the Bylaws.

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5. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article XI.
6. The Commission may convene in a closed, non-public meeting if the Commission must discuss:
  - a. Non-compliance of a Compact State with its obligations under the Compact;
  - b. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;
  - c. Current, threatened, or reasonably anticipated litigation against the Commission;
  - d. Negotiation of contracts for the purchase or sale of goods, services or real estate;
  - e. Accusation against any person of a crime or formally censuring any person;
  - f. Disclosure of trade secrets or commercial or financial information which is privileged or confidential;
  - g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
  - h. Disclosure of investigatory records compiled for law enforcement purposes;
  - i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the Compact; or
  - j. Matters specifically exempted from disclosure by federal and state statute.
7. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes which fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, of any person participating in the meeting, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

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- C. The Commission shall, by a majority vote of the Commissioners, prescribe Bylaws and/or Rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the Compact, including but not limited to:
1. Establishing the fiscal year of the Commission;
  2. Providing reasonable standards and procedures:
    - a. for the establishment and meetings of other committees; and
    - b. governing any general or specific delegation of any authority or function of the Commission;
  3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals of such proceedings, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the Commissioners vote to close a meeting to the public in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each Commissioner with no proxy votes allowed;
  4. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;
  5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar law of any Compact State, the Bylaws shall exclusively govern the personnel policies and programs of the Commission;
  6. Promulgating a Code of Ethics to address permissible and prohibited activities of Commission members and employees;
  7. Providing a mechanism for concluding the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations;
  8. The Commission shall publish its Bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the Compact States;
  9. The Commission shall maintain its financial records in accordance with the Bylaws; and

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

D. The Commission shall have the following powers:

1. The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rule shall have the force and effect of law and shall be binding in all Compact States;
2. To 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. To purchase and maintain insurance and bonds;
4. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a Compact State;
5. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
6. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety and/or conflict of interest;
7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;
8. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property real, personal or mixed;
9. To establish a budget and make expenditures;
10. To borrow money;



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11. To appoint committees, including advisory committees comprised of Members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the Bylaws;
12. To provide and receive information from, and to cooperate with, law enforcement agencies;
13. To adopt and use an official seal; and
14. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice and telepsychology practice.

## E. The Executive Board

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

1. The Executive Board shall be comprised of six members:
  - a. Five voting members who are elected from the current membership of the Commission by the Commission;
  - b. One ex-officio, nonvoting member from the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities.
2. The ex-officio member must have served as staff or member on a State Psychology Regulatory Authority and will be selected by its respective organization.
3. The Commission may remove any member of the Executive Board as provided in Bylaws.
4. The Executive Board shall meet at least annually.
5. The Executive Board shall have the following duties and responsibilities:
  - a. Recommend to the entire Commission changes to the Rules or Bylaws, changes to this Compact legislation, fees paid by Compact States such as annual dues, and any other applicable fees;
  - b. Ensure Compact administration services are appropriately provided, contractual or otherwise;
  - c. Prepare and recommend the budget;
  - d. Maintain financial records on behalf of the Commission;
  - e. Monitor Compact compliance of member states and provide compliance reports to the Commission;
  - f. Establish additional committees as necessary; and
  - g. Other duties as provided in Rules or Bylaws.

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## F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.
2. The Commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services.
3. The Commission may levy on and collect an annual assessment from each Compact State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission which shall promulgate a rule binding upon all Compact States.
4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Compact States, except by and with the authority of the Compact State.
5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its Bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

## G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, Executive Director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person.
2. 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

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responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct.

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

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## ARTICLE XI RULEMAKING

- A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.
- B. If a majority of the legislatures of the Compact States rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any Compact State.
- C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.
- D. Prior to promulgation and adoption of a final rule or Rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:
  1. On the website of the Commission; and
  2. On the website of each Compact States' Psychology Regulatory Authority or the publication in which each state would otherwise publish proposed rules.
- E. The Notice of Proposed Rulemaking shall include:
  1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;
  2. The text of the proposed rule or amendment and the reason for the proposed rule;
  3. A request for comments on the proposed rule from any interested person; and
  4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.
- F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.
- G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:
  1. At least twenty-five (25) persons who submit comments independently of each other;

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2. A governmental subdivision or agency; or
  3. A duly appointed person in an association that has having at least twenty-five (25) members.
- H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing.
1. All persons wishing to be heard at the hearing shall notify the Executive Director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.
  2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.
  3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.
  4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.
- I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.
- J. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
- K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.
- L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:
1. Meet an imminent threat to public health, safety, or welfare;

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2. Prevent a loss of Commission or Compact State funds;
  3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
  4. Protect public health and safety
- M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

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## ARTICLE XIII OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

### A. Oversight

1. The Executive, Legislative and Judicial branches of state government in each Compact State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.
2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a Compact State pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Commission.
3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact or promulgated rules.

### B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Compact State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:
  - a. Provide written notice to the defaulting state and other Compact States of the nature of the default, the proposed means of remedying the default and/or any other action to be taken by the Commission; and
  - b. Provide remedial training and specific technical assistance regarding the default.
2. If a state in default fails to remedy the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the Compact States, and all rights, privileges and benefits conferred by this Compact shall be terminated on the effective date of termination. A remedy of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be submitted by the

# MODEL LEGISLATION

Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the Compact States.

4. A Compact State which has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations which extend beyond the effective date of termination.
5. The Commission shall not bear any costs incurred by the state which is found to be in default or which has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.
6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the state of Georgia or the federal district where the Compact has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

## C. Dispute Resolution

1. Upon request by a Compact State, the Commission shall attempt to resolve disputes related to the Compact which arise among Compact States and between Compact and Non-Compact States.
2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.

## D. Enforcement

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



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## ARTICLE XIII DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENTS

- A. The Compact shall come into effect on the date on which the Compact is enacted into law in the seventh Compact State. The provisions which become effective at that time shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.
- B. Any state which joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule which has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.
- C. Any Compact State may withdraw from this Compact by enacting a statute repealing the same.
  - 1. A Compact State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.
  - 2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Psychology Regulatory Authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.
- D. Nothing contained in this Compact shall be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a Compact State and a Non-Compact State which does not conflict with the provisions of this Compact.
- E. This Compact may be amended by the Compact States. No amendment to this Compact shall become effective and binding upon any Compact State until it is enacted into the law of all Compact States.

## ARTICLE XIV CONSTRUCTION AND SEVERABILITY

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

**PSYCHOLOGY INTERJURISDICTIONAL COMPACT (PSYPACT)  
BYLAWS  
(Adopted July 22, 2019;  
Revised February 27, 2020 and November 19, 2020)**

**ARTICLE I**

**NAME**

The name of this organization is the Psychology Interjurisdictional Compact (PSYPACT) Commission, hereinafter referred to as the Commission.

**ARTICLE II**

**COMMISSION PURPOSE**

Pursuant to the terms of the Psychology Interjurisdictional Compact (“the Compact”), the Commission is established to fulfill the objectives of the Compact through a means of joint cooperative action among the Member States. The purpose of the Compact is to facilitate the interstate practice of telepsychology and the temporary in-person, face-to-face practice of psychology with the goal of improving access to mental health services in a manner that preserves the regulatory authority of each Member State to protect the public health and safety.

**ARTICLE III**

**FUNCTIONS**

In pursuit of the fundamental objectives set forth in the Compact, the Commission shall, as necessary or required, exercise all of the powers and fulfill all of the duties delegated to it by the Member States. The Commission’s activities shall include, but are not limited to, the following:

- A. Promulgation of binding rules and operating policies and procedures;
- B. Equitable distribution of the costs, benefits, and obligations of the Compact among the Member States;
- C. Enforcement of Commission Bylaws, Rules, and other Operating Policies and Procedures as established;
- D. Provision of dispute resolution;
- E. Coordination of training and education as it relates to the Compact; and
- F. Collection and dissemination of information concerning the activities of the Compact, as provided by the Compact, or as determined by the Commission to be warranted by, and consistent with, the objectives and provisions of the Compact.

## **ARTICLE IV**

### **BYLAWS**

As required by the Compact, these Bylaws shall govern the management and operations of the Commission. As adopted and subsequently amended, these Bylaws shall remain at all times subject to, and limited by, the terms of the Compact.

## **ARTICLE V**

### **MEMBERSHIP**

#### **Section 1. Member State Representation**

- A. The Commission Membership shall be comprised as provided by the Compact. Each Member State shall have and be limited to one (1) voting representative, selected by the State Psychology Regulatory Authority (Member Board) in the Member State, who shall be the Commissioner of the Member State.
- B. Each Member State shall appoint its Commissioner no later than 90 days after the effective date of the legislation.
- C. Each Member State shall forward the name of its Commissioner to the Commission staff within ten (10) business days of selecting a Commissioner. Member States should consider whether any real or potential conflict of interest exists when selecting their Commissioner.
- D. The Member Board of the member state shall provide notice to the Commission staff within ten (10) business days whenever a vacancy occurs.
- E. Commission staff shall promptly advise the Member Board of the Member State of the need to appoint a new Commissioner whenever a vacancy occurs.

#### **Section 2. Non-Voting, Ex Officio Representation**

- A. In addition to the Commissioner identified in Section 1.A. of this Article, the Commission Membership shall also be comprised of one representative appointed by the organization identified in Article X of the Compact. This individual shall be appointed by his/her respective organization and serve as an ex officio non-voting member.
- B. The organization identified in Article X of the compact shall forward the name of his/her appointed representative to the Commission staff within ten (10) business days of the appointment. The organization identified in Article X should consider whether any real or potential conflict of interest exists when selecting their appointed representative.
- C. The organization identified in Article X of the Compact shall provide reasonable notice to the Commission staff whenever a vacancy occurs.
- D. Commission staff shall promptly advise the appropriate staff of this organization identified in Article X of the need to appoint a new representative whenever vacancy occurs.

### **Section 3. Withdrawal of Membership in the Compact**

A Member State may withdraw from the Commission by enacting legislation repealing the Compact language. As provided in the Compact, the withdrawal will not take effect until six (6) months after the enactment of the legislation repealing the Compact language.

## **ARTICLE VI**

### **COMPACT COMMISSION, OFFICERS, AND EXECUTIVE BOARD**

#### **Section 1. Officers**

The Officers of the Commission shall be the Chair, Vice Chair, and Treasurer. The officers shall be duly appointed Commissioners from Member States.

#### **Section 2. Executive Board**

The Executive Board will consist of the Officers of the Commission, two At Large Members, one ex officio non-voting member selected by and representing the organization listed in Article X of the Compact, as identified in Rules. The At Large Members shall be duly appointed Commissioners from Member States.

A majority of the voting members of the Executive Board will constitute a quorum. The Executive Board has the power to act on behalf of the Commission according to the terms of the Compact.

#### **Section 3. Election and Succession of the Executive Board**

- A. Members of the Executive Board will be elected for a term of two (2) years or until their successors are elected and assume office.
- B. Members of the Executive Board cannot serve more than two (2) consecutive full terms in the same office.
- C. Elections for the Chair, Treasurer, and 1 At Large Member positions shall occur at the annual meeting in odd-numbered years.
- D. Elections for the Vice Chair and 1 At Large member positions shall occur at the annual meeting in even-numbered years. The individuals elected to these positions at the first annual meeting in November 2020 shall serve until the annual meeting in November 2022.
- E. Members of the Executive Board will assume office at the close of the annual meeting at which the individuals are elected.
- F. Members of the Executive Board so elected shall serve without compensation or remuneration, except as provided by the Compact.

#### **Section 4. Duties of the Officers and At Large Members of the Executive Board**

The Commission's officers shall perform all duties of their respective offices as the compact and these Bylaws provide. Their duties shall include but are not limited to the following:

**A. Chair**

The Chair shall call and preside at Commission and Executive Director meetings; prepare agendas for the meetings; act on Commission's behalf between Commission meetings; review minutes from meetings.

**B. Vice Chair**

The Vice Chair shall perform the Chair duties in their absence or at the Chair's direction. In the event of a vacancy in the Chair's office, the Vice Chair shall serve until the Commission elects a new Chair.

**C. Treasurer**

The Treasurer, with the assistance of the Executive Director of the Compact, shall monitor the Commission's fiscal policies and procedures. If the Commission does not have an Executive Director of the Compact, the Treasurer will also serve as secretary and perform the duties of the secretary.

The Executive Board shall:

Administer the affairs of the Commission in a manner consistent with the Bylaws and purpose of the Commission:

1. Propose budgets, provide fiscal oversight and provide for an annual fiscal review;
2. Propose policies and procedures for consideration by the Commission;
3. Contract for services and monitor contract compliance;
4. Monitor and enforce member compliance with the Compact;
5. Propose standing and ad hoc committees.
6. Approve and maintain its minutes;
7. Perform such other functions as are necessary or appropriate to carry out the purpose of the Commission.

**Section 5. Removal from Office**

**A. Member of the Executive Board**

1. The Executive Board may, by a vote of two-thirds (2/3rds) of the membership of the Executive Board, decide that a member of the Executive Board: has a conflict of interest; has become incapacitated and unable to fulfill his/her duties; or has engaged in conduct constituting cause. In that event, the Executive Board member will be removed or, in the case of conflict of interest, resolve the conflict of interest to the satisfaction of the Executive Board. The affected Executive Board member will not vote on, and may be excluded from the discussion of, the issues. The decision of the Executive Board is final.
2. A member of the Executive Board may be removed from office for cause by a two-thirds (2/3rds) vote of the Commissioners voting at any meeting of the Commission. Cause is defined as conduct that is or could be detrimental to the good name of the organization, potentially or actually disturbs its wellbeing or potentially or actually hampers its work.
3. The removal of a member of the Executive Board in accordance with this section of the Bylaws does not impact that individual's status as the Commissioner from the

Member State or as the ex officio non-voting member appointed by one of the organizations identified Article X of the Compact.

**B. Member State Commissioner**

The Commissioner from a Member State may be removed or suspended from office as provided by the law in that Member State.

**Section 6. Vacancies in Office**

**A. Chair**

The Vice Chair will fill a vacancy occurring in the office of Chair for the remainder of the unexpired term.

**B. Vice Chair or Treasurer**

A vacancy occurring in the position of Vice Chair or Treasurer between meetings of the Commission may be filled by appointment by the Executive Board. The appointee will serve for the remainder of the unexpired term.

**C. At Large Members**

A vacancy occurring in the position of At Large Member between meetings of the Commission may be filled by appointment by the Executive Board. The appointee will serve for the remainder of the unexpired term.

**D. Vacancy Due to Election**

If a vacancy occurs on the Executive Board as a result of an election, a second election shall be required. All candidates who were slated for any position on the Executive Board and were not elected in the first election will be slated in the second election unless they have indicated otherwise.

**Section 7. Conduct of Business of the Executive Board**

**A. Public Notice of Meetings**

1. The Executive Board shall meet at least once each calendar year at a time and place to be determined by the Executive Board.
2. Additional meetings may be scheduled at the discretion of the Chair, or may be called upon the request of a majority of the Executive Board.
3. Notice of meetings shall be made at least thirty (30) days before the scheduled meeting date. The meeting notice shall be published on the Commission's website and sent to the board administrator of the Member Board in all Member States.
4. The meeting agenda, including meeting start time and telecommunications information, shall be published on the Commission's website and sent to the board administrator of the Member Board in all Member States no later than seven (7) days before the meeting date. Additional agenda items requiring Executive Board action may not be added to the final agenda, except by an affirmative vote of a majority of the Executive Board.
5. If a special meeting is called, the notice shall be made at least twenty-four (24) hours before the scheduled meeting. The notice shall include the topic(s) that will be discussed at the special meeting. No additional agenda items may be added to the agenda. The notice of a special meeting shall be published on the Commission's website and sent to the board administrator of the Member Board in all Member States.

**B. Closed Session and Up for Discussion**

1. Except as provided for in the Compact, all meetings of the Executive Board are open to the public. The Executive Board may meet in closed session only after a majority of the Executive Board votes to convene in a closed, non-public meeting. The vote to convene in a closed session must be done by a roll call vote that reveals the vote of each member of the Executive Board.
2. As authorized in Article X.B.6 of the Compact the Executive Board may convene in a closed, non-public meeting for ten (10) reasons. The Commission's legal counsel or designee will certify which of the ten (10) reasons for which the meeting, or portions of the meeting, is being closed.

### **Section 8. Compact Commission**

The Psychology Interjurisdictional Compact Commission is a joint public agency created and established by the Member States. A majority of the Commission will constitute a quorum.

### **Section 9. Duties of the Compact Commission Commissioners**

- A. Represent their Member State in all meetings of the Commission.
- B. Attend the annual meeting of the Commission and any other meetings of the Commission.
- C. Participate in the business and affairs of the Commission.
- D. Vote on the promulgation of Rules and creation of Bylaws.

### **Section 10. Conduct of Business of the Compact Commission**

#### **A. Public Notice of Meetings**

1. The Commission shall meet at least once each calendar year at a time and place to be determined by the Commission.
2. Additional meetings may be scheduled at the discretion of the Chair and must be called upon the request of a majority of the Commission.
3. Notice of meetings shall be made at least thirty (30) days before the scheduled meeting date. The meeting notice shall be published on the Commission's website and sent to the board administrator of the Member Board in all Member States.
4. The meeting agenda, including meeting start time and telecommunications information, shall be published on the Commission's website and sent to the Board administrator of the Member Board in all Member States no later than seven (7) days before the meeting date. Additional agenda items requiring Commission action may not be added to the final agenda, except by an affirmative vote of a majority of the Commission.
5. If a special meeting is called, the notice shall be made at least twenty-four (24) hours before the scheduled meeting. The notice shall include the topic(s) that will be discussed at the special meeting. No additional agenda items may be added to the agenda. The notice of a special meeting shall be published on the Commission's website and sent to the board administrator of the Member Board in all Member States.

#### **B. Notice of Proposed Rulemaking**

1. Notice of Proposed Rulemaking shall be made at least sixty (60) days before a meeting at which the Commission reviews and plans to adopt, amend, or rescind a rule.

2. The meeting notice shall be published on the Commission's website and sent to the Member Board in all Member States for publishing on the board's website.
3. The meeting notice shall include information about the meeting time and location, the text of the proposed changes, and the mechanism and timeframe in which interested parties may indicate intention to attend the public meeting and/or submit written comments on the proposed changes.
4. The Commission may proceed with the proposed changes without a public hearing if no written notice of intent to attend by interested parties is timely received.
5. The Commission must hold a public hearing if it is requested in the manner outlined in Article XI of the Compact.

**C. Closed Session**

1. Except as provided for in the Compact, all meetings of the Commission are open to the public.
2. As authorized in as authorized in Article X.B.6 of the Compact, a closed, non-public meeting may be convened. The Commission's legal counsel or designee will certify which of the ten (10) reasons for which the meeting is being closed.
3. The Commission may meet in closed session only after a majority of the Commission votes to convene in a closed, non-public meeting.

**D. Rights and Privileges of Individuals Other than Commissioners and Non-Commissioners**

1. Adding Item to the Agenda  
Upon written request to the Commission at least ten (10) business days prior to the meeting date, any person who desires to add an item to the agenda and present a statement shall be afforded an opportunity to present an oral statement to the Commission at an open meeting. If the request is not made at least ten (10) business days prior to the meeting date, the Chair will determine whether to add the item to the agenda.
2. Speaking During a Public Meeting  
Non-Commissioners may attend Commission meetings and speak during the public comment period.
3. At the discretion of the Chair, consultants, staff, resource individuals, or other guests may speak to address an issue on the agenda, other than the situations identified in Article X of this Article of the Bylaws.
4. The Chair may limit the time and manner of any statements from non-commissioners at any open meeting.
5. Nothing in this Section of the Bylaws shall apply to public rules hearings held in accordance with Article X of the Compact.

**E. Conduct of Business by Mail or Electronically**

1. When business is conducted by telecommunications, all members must be notified in advance. Commission staff will establish an electronic mechanism for Commissioners to participate in the meeting.
2. If a Commissioner is unable to attend an in-person meeting of the Commission, the Member States must notify Commission staff at least ten (10) business days prior to the date of the meeting to allow sufficient time for Commission staff to establish an electronic mechanism for the Commissioner to participate in the meeting.



3. For ballot votes, the Commissioner will electronically submit his or her vote to Commission staff. For voice votes, the Commissioner will vote via phone.

**F. Duties of the Commission**

1. Adopt changes to the Rules or Bylaws.
2. Adopt in rule the fees/dues to be paid by Member States.
3. Adopt the budget based on the recommendation from the Executive Board.
4. Enter into contracts for the provision of personnel and other administrative services.
5. Enforce Member State compliance with the terms of the Compact, including these Bylaws and Rules adopted by the Commission.
6. Perform any other necessary or appropriate duties authorized by the Compact.

**Section 11. Conflict of Interest**

The Commission shall adopt a conflict of interest policy that addresses how to resolve potential conflicts of interest.

**ARTICLE VII**

**COMMITTEES AND TASK FORCES**

**Section 1. Standing Committees of the Commission**

The Commission shall establish committees, as it deems necessary, to carry out its objective which shall include, but not be limited, to:

**A. Executive Board**

An Executive Board shall be established as a standing committee which shall be comprised of the officers of the Commission as well as those members specified in Article X of the Compact.

**B. Rules Committee**

A Rules Committee shall be established as a standing committee to develop uniform Compact rules for consideration by the Commission and subsequent implementation by the states and to review existing rules and recommend necessary changes to the Commission for consideration.

**C. Compliance Committee**

The Compliance Committee shall be established as a standing committee responsible for administering the provisions of the Compact related to compliance and enforcement.

**D. Finance Committee**

The Finance Committee shall be established as a standing committee to audit needs, finances, develop state-specific materials, etc.

**E. Training and Public Relations Committee**

The Training and Public Relations Committee shall be established as a standing committee to administer training and public relations on behalf of the Commission.

**F. Elections Committee**

An Elections Committee shall be established as a standing committee to:

1. Inform the Commission on the responsibilities of the office;
2. Encourage participation by the Commissioners in the elections process;

3. Announce nominations deadline and anticipated vacancies of the Executive Director of the Commission;
4. Communicate with incumbents to determine if they wish to run for re-election;
5. Accept qualified nominees and prepare a slate of candidates for the election of the officers or members at large of the Executive Director;
6. Present a list of candidates to the Commission including the terms of office expiration dates; and
7. Tally/verify the election results and report to the Commission.

**G. Requirements Review Committee**

A Requirements Review Committee shall be established as a standing committee to review of denials for authorization, review ongoing standards for reasonableness and interface with Association and Provincial Psychology Boards regarding E.Passport and Interjurisdictional Practice Certificate Requirements as needed.

The composition, procedures, duties, budget and tenure of all committees shall be determined by the Commission. The Commission may dissolve any committee it determines is no longer needed.

**ARTICLE VIII**

**COMMISSION PERSONNEL**

**Section 1. Commission Staff**

The Executive Board may engage in services provided by an Executive Director, who shall serve at the pleasure of the Executive Board. The Executive Director shall hire and supervise such other staff as may be needed.

**Section 2. Duties of the Executive Director**

As the Commission's principal administrator, the Executive Director shall also perform such other duties as may be delegated by the Commission or required by the Compact and the Bylaws, including, but not limited to, the following:

- A. Serve as its discretion and act as Secretary to the Commission, but shall not be a Member of the Commission;
- B. Establish and manage the Commission's office or offices as determined by the Commission;
- C. Recommend general policies and program initiatives for the Commission's consideration;
- D. Recommend for the Commission's consideration administrative personnel policies governing the recruitment, hiring, management, compensation, and dismissal of Commission staff;
- E. Implement and monitor administration of all policies, programs, and initiatives adopted by the Commission;
- F. Prepare draft annual budgets for the Commission's consideration;
- G. Monitor the Commission's financial performance for compliance with approved budgets and policies, and maintain accurate records of the Commission's financial account(s);
- H. Execute contracts on behalf of the Commission as directed;

- I. Receive service of process on behalf of the Commission;
- J. Prepare and disseminate all required reports and notices directed by the Commission;
- K. Assist the members of the Executive Director in the performance of its duties;
- L. Speak on behalf and represent the Commission;
- M. In collaboration with legal counsel, ensure the legal integrity of the Commission and
- N. Report about policy, regulatory, political, legal or other developments of relevance to the Commission's operation.

## **ARTICLE IX**

### **QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION**

#### **Section 1. Immunity**

The Commission, its Members, officers, Executive Director, and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability, or both, for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

#### **Section 2. Defense**

Subject to the provisions of the Compact and Rules promulgated thereunder, the Commission shall defend the Commissioner of a Member State, his or her representatives or employees, or the Commission, and its representatives or employees in any civil action seeking to impose liability against such person arising out of or relating to any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided, that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

#### **Section 3. Indemnification**

The Commission shall indemnify and hold the Commissioner of a Member State, his or her representatives or employees, or the Commission, and its representatives or employees, harmless in the amount of any settlement or judgement obtained against such person arising out of or relating to any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part if such person.

## ARTICLE X

### FINANCE

#### **Section 1. Fiscal Year**

The Fiscal Year of the Commission shall be January 1 through December 31.

#### **Section 2. Budget**

The Commission shall operate on an annual budget cycle and shall, in any given year, adopt budgets for the following fiscal year or years only after notice and comment as provided by the Compact.

#### **Section 3. Dues**

Each Member State shall pay an annual assessment in accordance with Article X of the Compact. The amount of the annual assessment will be specified in the Rules adopted by the Commission and shall be sent timely to be received no later than ninety (90) days after the start of the fiscal year. A Member State will be ineligible to vote on any matter that come before the Commission if the annual assessment is not received within the 90-day timeframe. Voting rights will be restored once the Member State pays the annual assessment. If the assessment is not paid within six (6) months after the start of the fiscal year, the Commission will take appropriate enforcement action in accordance with the Rules adopted by the Commission.

#### **Section 4. Authority to Expend and Disperse Money**

No Commissioner or employee of the Commission will have the right or authority to expend any money of the Commission, to incur any liability in its behalf, or to make any commitment which binds the Commission to any expense or financial liability, unless such expenditure, liability, or commitment has been incorporated in the budget or the Executive board has made an appropriation or has approved a policy to pay same. The Commission may assume debt as a means of financing operations, including credit facilities such as a line of credit. The Commission shall monitor its own and its committees' affairs for compliance with all provisions of the Compact, its Rules, and these Bylaws governing the incursion of debt and the pledging of credit.

#### **Section 5. Accounting and Audit**

The financial records of the Commission will be audited annually by an independent certified public accountant. The audit report will be presented to the Executive Board when the report is received and to the full Commission at the Commission's annual meeting. The report shall also be made available to the public and shall be included in and become part of the annual report to the Governors, legislatures, and judiciary of the Member States.

The Commission's internal accounts, any workpapers related to any internal audit, and any workpapers related the independent audit shall be confidential; provided, that such materials shall be available: (1) in compliance with the order of any court of competent jurisdiction; (2) pursuant to such reasonable Rules as the Commission shall promulgate; and (3) to any Commissioner of a Member State, or their duty authorized representatives.

**Section 6. Travel Reimbursements.**

Subject to the availability of budgeted funds and unless otherwise provided by the Commission, Commissioners may be reimbursed for any actual and necessary expenses incurred pursuant to their attendance at all duly convened meetings of the Commission, its committees as provided by the Compact, or the Executive Board.

**ARTICLE XI**

**WITHDRAWAL, DEFAULT, AND TERMINATION**

Member States may withdraw from the Compact only as provided by the Compact. The Commission may suspend and/or terminate a Member State as provided by the Compact.

**ARTICLE XII**

**PARLIAMENTARY AUTHORITY**

Matters of parliamentary procedure not covered by these Bylaws shall be governed by the current edition of Robert's Rules of Order.

**ARTICLE XIII**

**ADOPTION AND AMENDMENT OF BYLAWS**

Any Bylaws may be adopted, amended, or repealed by a majority vote of the Commission, provided that written notice and the full text of the proposed action is provided to all Commissioners of member States at least thirty (30) days prior to the meeting at which the action is to be considered. Failing the required notice, a two-third (2/3rds) vote of the Commissioners of Member States shall be required for such action.

**ARTICLE XIV**

**DISSOLUTION OF THE COMPACT**

The Compact shall dissolve effective upon the date of the withdrawal or the termination by default of a Member State which reduces Membership in the Compact to one Member State as provided by the Compact.

Upon dissolution of the Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Commission shall be concluded in an orderly manner and according to applicable law.

**ARTICLE XV**

**AFFILIATION WITH THE ASSOCIATION OF STATE AND PROVINCIAL  
PSYCHOLOGY BOARDS**

The Commission shall be affiliated with and supported by the Association of State and Provincial Psychology Boards (ASPPB). The Commission shall negotiate payment for secretariat services by the ASPPB. Payment for the secretariat services shall be made from the funds collected by the Commission.

April 16, 2021

State of California Board of Psychology

To the Board of Psychology,

Regarding the recent proposal for the Psychology Inter-jurisdictional Compact (PSYPACT), I wish to submit this written comment.

PSYPACT does not currently require all member states to impose a criminal history background check as a licensure requirement. As criminal history background checks will not be required for 10 years from the activation date for PSYPACT, it appears that such checks will not be a requirement until 2028.

The Board should therefore oppose attempts to enter into the PSYPACT compact as criminal history background checks are necessary to protect the health, safety, and welfare of clients who receive psychological services.

Sincerely yours,

A handwritten signature in black ink, reading "Joseph D. Salerno". The signature is written in a cursive style and is contained within a light gray rectangular box.

Joseph D. Salerno, PsyD

**From:** [Sorrick, Antonette@DCA](mailto:Sorrick.Antonette@DCA)  
**To:** [Burke, Jonathan@DCA](mailto:Burke.Jonathan@DCA)  
**Subject:** FW: tele psychology meeting opinion  
**Date:** Friday, April 16, 2021 2:15:09 PM

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**From:** bopmail@DCA <bopmail@dca.ca.gov>  
**Sent:** Friday, April 16, 2021 1:37 PM  
**To:** Sorrick, Antonette@DCA <Antonette.Sorrick@dca.ca.gov>  
**Cc:** Glasspiegel, Jason@DCA <Jason.Glasspiegel@dca.ca.gov>  
**Subject:** FW: tele psychology meeting opinion

**From:** Hillary Wright <[hwrightpsych@gmail.com](mailto:hwrightpsych@gmail.com)>  
**Sent:** Friday, April 16, 2021 1:28 PM  
**To:** bopmail@DCA <[bopmail@dca.ca.gov](mailto:bopmail@dca.ca.gov)>  
**Subject:** tele psychology meeting opinion

[EXTERNAL]: [hwrightpsych@gmail.com](mailto:hwrightpsych@gmail.com)

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To Whom It May Concern,

Before Covid, I was very against doing psychotherapy via video. However, over this year, I have learned all of the benefits and pitfalls of doing telemedicine. And while there are some important downfalls, I believe the benefits outweigh the shortcomings. I believe PSYPACT is an important way for us to be moving into the future with tele psychology and hope that the board can move towards participation in it.

Hillary Wright  
310-633-1295  
Clinical Psychologist  
pronouns: she/her

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**ANDREW HARLEM, PH.D.**

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April 21, 2021

Stephen Phillips, JD, PsyD  
Chair, Board of Psychology Telepsychology Committee  
1625 North Market Blvd., Suite N-215  
Sacramento, CA 95834

Dear Dr. Phillips,

I am writing in regard to the Board of Psychology's potential adoption of the Psychology Interjurisdictional Compact (PSYPACT).

I understand that a Telepsychology Committee has been convened to review the PSYPACT's potential benefits to the citizens of California, including licensed psychologists within the State, as well as identify outstanding issues, conflicts or negative impacts that adoption of the PSYPACT may present. My purpose is to alert the Committee to one such devastating impact for thousands of California licensees and hundreds of students who are currently earning their credentials to practice in the State.

Stated succinctly, adoption of the PSYPACT would introduce profound marketplace discrimination against the thousands of us who earned our doctoral degrees from regionally accredited institutions. It effectively excludes thousands of psychologists, many of whom work in community mental health, from the most important emerging practice area of our generation. And it does so by means of a *de facto licensing standard enacted not by yourselves, appointees of California elected officials to serve Californians*, but by a private organization that has no direct responsibility to the public, let alone the consumers and psychologists of our state.

Approximately 23% of the psychologists in this country reside in California. Our practitioners and our regulatory bodies have always been at the forefront – the forefront of social justice in psychology education and practice; the recognition that the public is best served by multiple voices and multiple psychological approaches; and the confidence in our ability to create new methods, innovate into new forms. Beginning with the Governors and State Senators who appoint, we have a history on the Board of Psychology of valuing and protecting educational models that integrate, reach into new areas, and orient themselves to the specific needs of California consumers. These commitments have been strong enough to resist the pressures exerted by professional guilds and organizations. This sensibility is, in fact, enshrined in our state law (see bolded section):

§ 2914. Applicant's requirements Each applicant for licensure shall comply with all of the following requirements: (a) Is not subject to denial

of licensure under Division 1.5 (commencing with Section 475). (b)(1) Possess an earned doctorate degree (A) in psychology, (B) in educational psychology, or (C) in education with the field of specialization in counseling psychology or educational psychology. Except as provided in subdivision (g), this degree or training shall be obtained from an accredited university, college, or professional school. The board shall make the final determination as to whether a degree meets the requirements of this section. **(2) No educational institution shall be denied recognition as an accredited academic institution solely because its program is not accredited by any professional organization of psychologists,** and nothing in this chapter or in the administration of this chapter shall require the registration with the board by educational institutions of their departments of psychology or their doctoral programs in psychology (bolding added).

Regionally-accredited institutions span the State: Antioch University (Santa Barbara), the California Institute of Integral Studies, Pacifica Graduate Institute, Saybrook University, Sophia University, The Chicago School of Professional Psychology (Applied Clinical Psychology), The Chicago School of Professional Psychology (Clinical Forensic Psychology), and California Southern University. Together they produce hundreds of graduates every year and provide tens of thousands of clinical hours serving disadvantaged and disenfranchised Californians through the public mental health system. Their value to our consumers is enormous. Unlike students in APA-accredited programs, most of whom leave the State for internship, students from regionally-accredited institutions serve us; CAPIC, the internship placement system recognized in California law and now abandoned by APA programs, is now largely directed and financed by regionally-accredited schools and their faculty.

This year of pandemic has taught all of us many lessons; indeed, our worlds have been turned upside down. Amidst all of that suffering, only now are we beginning to imagine the future again and take account of the changes that have been set in motion. One of those changes is the disruption to how health services are delivered. It now seems inevitable that a significant portion of psychological service provision is going to happen through electronic means. It is likely that psychologists are going to depend increasingly upon telehealth to earn a living. Furthermore, it is not difficult to imagine, should the Board sign on, that the PSYPACT credential may eventually come to serve as an employment requirement in California.

It makes sense, of course, to revisit the issue of interjurisdictional telepsychology practice at this time. However, it is essential to recognize that the potential benefits of interjurisdictional practice afforded by a mechanism like the PSYPACT *need not entail the adoption of a de facto licensing law that discriminates against such a large number of California psychologists, essentially superseding the priorities expressed in California law and regulation.* The fact that the PSYPACT ties the ability to practice in this emerging marketplace to an educational standard we have clearly and repeatedly rejected in this state should alert the Board to its obligations, the importance of consistency in law and, perhaps, to the efforts by non-governmental organizations to supersede, through indirect measure, the position the Board has always taken on its role in determining the educational requirements that enable California psychologists to practice.

This responsibility was, indeed, a motivating force behind the Board's 2015 firm decision to decline adoption of the PSYPACT. Written following a process of lengthy

and comprehensive review, the Board's January 22, 2015, letter to the ASPPB concludes with a statement of the determining factor in the Board's decision: "[I]t is the Board's opinion that the Compact unnecessarily cedes too much regulatory control and licensee information to non-governmental out-of-state entities."

While the pandemic has certainly altered how we go about our daily lives and led to many changes in how we relate to one another, I believe the trust invested in the California Board of Psychology to protect the interests of its citizens, including its licensees and the educational institutions that serve its public, remains steadfast and unchanged. Signing on to an agreement that so clearly discriminates against thousands of psychologists in the State, while it may provide benefit to some in the short run, lays the groundwork for a system that is unfairly restrictive in both principle and impact.

The future of telepsychology is being built now. I urge the Board to refrain from entering into an interjurisdictional agreement that effectively delegates to a non-governmental organization the authority to establish educational standards for its own licensees, and thereby cedes regulatory control of this emerging area of practice. Let's ensure, instead, that the Board acts in accordance with its primary mission, in lockstep with its established commitments, and in recognition of the need to ensure fairness and equity among its licensees and the State's educational institutions. Let's get this right.

Thank you for this opportunity to address the Committee.

Sincerely,



Andrew Harlem, PhD  
California Psychologist #19482  
Professor, California Institute of Integral Studies  
San Francisco, CA

cc: Lea Tate, PsyD  
Julie Nystrom