

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 660

99TH GENERAL ASSEMBLY

2018

4178S.04T

AN ACT

To repeal sections 208.217, 337.025, 337.029, 337.033, 552.020, 630.745, 630.945, and 632.005, RSMo, and to enact in lieu thereof twenty-three new sections relating to mental health, with penalty provisions and a contingent effective date for certain sections.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 208.217, 337.025, 337.029, 337.033, 552.020, 630.745, 630.945, and 632.005, RSMo, are repealed and twenty-three new sections enacted in lieu thereof, to be known as sections 9.270, 208.217, 337.025, 337.029, 337.033, 337.100, 337.105, 337.110, 337.115, 337.120, 337.125, 337.130, 337.135, 337.140, 337.145, 337.150, 337.155, 337.160, 337.165, 552.020, 630.745, 630.945, and 632.005, to read as follows:

9.270. June twenty-seventh of each year shall be known and designated as "Posttraumatic Stress Awareness Day". It is recommended to the people of the state that the day be appropriately observed through activities which will increase awareness of posttraumatic stress.

208.217. 1. As used in this section, the following terms mean:

(1) "Data match", a method of comparing the department's information with that of another entity and identifying those records which appear in both files. This process is accomplished by a computerized comparison by which both the department and the entity utilize a computer readable electronic media format;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

7 (2) "Department", the Missouri department of social services;

8 (3) "Entity":

9 (a) Any insurance company as defined in chapter 375 or any public
10 organization or agency transacting or doing the business of insurance; or

11 (b) Any health service corporation or health maintenance organization as
12 defined in chapter 354 or any other provider of health services as defined in
13 chapter 354;

14 (c) Any self-insured organization or business providing health services as
15 defined in chapter 354; or

16 (d) Any third-party administrator (TPA), administrative services
17 organization (ASO), or pharmacy benefit manager (PBM) transacting or doing
18 business in Missouri or administering or processing claims or benefits, or both,
19 for residents of Missouri;

20 (4) "Individual", any applicant or present or former participant receiving
21 public assistance benefits under sections 208.151 to 208.159 **or a person**
22 **receiving department of mental health services for the purposes of**
23 **subsection 9 of this section;**

24 (5) "Insurance", any agreement, contract, policy plan or writing entered
25 into voluntarily or by court or administrative order providing for the payment of
26 medical services or for the provision of medical care to or on behalf of an
27 individual;

28 (6) "Request", any inquiry by the MO HealthNet division for the purpose
29 of determining the existence of insurance where the department may have
30 expended MO HealthNet benefits.

31 2. The department may enter into a contract with any entity, and the
32 entity shall, upon request of the department of social services, inform the
33 department of any records or information pertaining to the insurance of any
34 individual.

35 3. The information which is required to be provided by the entity
36 regarding an individual is limited to those insurance benefits that could have
37 been claimed and paid by an insurance policy agreement or plan with respect to
38 medical services or items which are otherwise covered under the MO HealthNet
39 program.

40 4. A request for a data match made by the department pursuant to this
41 section shall include sufficient information to identify each person named in the
42 request in a form that is compatible with the record-keeping methods of the

43 entity. Requests for information shall pertain to any individual or the person
44 legally responsible for such individual and may be requested at a minimum of
45 twice a year.

46 5. The department shall reimburse the entity which is requested to supply
47 information as provided by this section for actual direct costs, based upon
48 industry standards, incurred in furnishing the requested information and as set
49 out in the contract. The department shall specify the time and manner in which
50 information is to be delivered by the entity to the department. No reimbursement
51 will be provided for information requested by the department other than by
52 means of a data match.

53 6. Any entity which has received a request from the department pursuant
54 to this section shall provide the requested information in compliance with
55 **[HIPPAA] HIPAA** required transactions within sixty days of receipt of the
56 request. Willful failure of an entity to provide the requested information within
57 such period shall result in liability to the state for civil penalties of up to ten
58 dollars for each day thereafter. The attorney general shall, upon request of the
59 department, bring an action in a circuit court of competent jurisdiction to recover
60 the civil penalty. The court shall determine the amount of the civil penalty to be
61 assessed. A health insurance carrier, including instances where it acts in the
62 capacity of an administrator of an ASO account, and a TPA acting in the capacity
63 of an administrator for a fully insured or self-funded employer, is required to
64 accept and respond to the **[HIPPAA] HIPAA** ANSI standard transaction for the
65 purpose of validating eligibility.

66 7. The director of the department shall establish guidelines to assure that
67 the information furnished to any entity or obtained from any entity does not
68 violate the laws pertaining to the confidentiality and privacy of an applicant or
69 participant receiving MO HealthNet benefits. Any person disclosing confidential
70 information for purposes other than set forth in this section shall be guilty of a
71 class A misdemeanor.

72 8. The application for or the receipt of benefits under sections 208.151 to
73 208.159 shall be deemed consent by the individual to allow the department to
74 request information from any entity regarding insurance coverage of said person.

75 **9. The provisions of this section that apply to the department of**
76 **social services shall also apply to the department of mental health**
77 **when contracting with any entity to supply information as provided for**
78 **in this section regarding an individual receiving department of mental**

79 health services.

337.025. 1. The provisions of this section shall govern the education and
2 experience requirements for initial licensure as a psychologist for the following
3 persons:

4 (1) A person who has not matriculated in a graduate degree program
5 which is primarily psychological in nature on or before August 28, 1990; and

6 (2) A person who is matriculated after August 28, 1990, in a graduate
7 degree program designed to train professional psychologists.

8 2. Each applicant shall submit satisfactory evidence to the committee that
9 the applicant has received a doctoral degree in psychology from a recognized
10 educational institution, and has had at least one year of satisfactory supervised
11 professional experience in the field of psychology.

12 3. A doctoral degree in psychology is defined as:

13 (1) A program accredited, or provisionally accredited, by the American
14 Psychological Association (**APA**), [or] the Canadian Psychological Association
15 (**CPA**), **or the Psychological Clinical Science Accreditation System**
16 (**PCSAS**); **provided that, such program includes a supervised practicum,**
17 **internship, field, or laboratory training appropriate to the practice of**
18 **psychology**; or

19 (2) A program designated or approved, including provisional approval, by
20 the Association of State and Provincial Psychology Boards or the Council for the
21 National Register of Health Service Providers in Psychology, or both; or

22 (3) A graduate program that meets all of the following criteria:

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

27 (b) The psychology program shall stand as a recognizable, coherent
28 organizational entity within the institution of higher education;

29 (c) There shall be a clear authority and primary responsibility for the core
30 and specialty areas whether or not the program cuts across administrative lines;

31 (d) The program shall be an integrated, organized, sequence of study;

32 (e) There shall be an identifiable psychology faculty and a psychologist
33 responsible for the program;

34 (f) The program shall have an identifiable body of students who are
35 matriculated in that program for a degree;

36 (g) The program shall include a supervised practicum, internship, field,
37 or laboratory training appropriate to the practice of psychology;

38 (h) The curriculum shall encompass a minimum of three academic years
39 of full-time graduate study, with a minimum of one year's residency at the
40 educational institution granting the doctoral degree; and

41 (i) Require the completion by the applicant of a core program in
42 psychology which shall be met by the completion and award of at least one three-
43 semester-hour graduate credit course or a combination of graduate credit courses
44 totaling three semester hours or five quarter hours in each of the following areas:

45 a. The biological bases of behavior such as courses in: physiological
46 psychology, comparative psychology, neuropsychology, sensation and perception,
47 psychopharmacology;

48 b. The cognitive-affective bases of behavior such as courses in: learning,
49 thinking, motivation, emotion, and cognitive psychology;

50 c. The social bases of behavior such as courses in: social psychology,
51 group processes/dynamics, interpersonal relationships, and organizational and
52 systems theory;

53 d. Individual differences such as courses in: personality theory, human
54 development, abnormal psychology, developmental psychology, child psychology,
55 adolescent psychology, psychology of aging, and theories of personality;

56 e. The scientific methods and procedures of understanding, predicting and
57 influencing human behavior such as courses in: statistics, experimental design,
58 psychometrics, individual testing, group testing, and research design and
59 methodology.

60 4. Acceptable supervised professional experience may be accrued through
61 preinternship, internship, predoctoral postinternship, or postdoctoral
62 experiences. The academic training director or the postdoctoral training
63 supervisor shall attest to the hours accrued to meet the requirements of this
64 section. Such hours shall consist of:

65 (1) A minimum of fifteen hundred hours of experience in a successfully
66 completed internship to be completed in not less than twelve nor more than
67 twenty-four months; and

68 (2) A minimum of two thousand hours of experience consisting of any
69 combination of the following:

70 (a) Preinternship and predoctoral postinternship professional experience
71 that occurs following the completion of the first year of the doctoral program or

72 at any time while in a doctoral program after completion of a master's degree in
73 psychology or equivalent as defined by rule by the committee;

74 (b) Up to seven hundred fifty hours obtained while on the internship
75 under subdivision (1) of this subsection but beyond the fifteen hundred hours
76 identified in subdivision (1) of this subsection; or

77 (c) Postdoctoral professional experience obtained in no more than twenty-
78 four consecutive calendar months. In no case shall this experience be
79 accumulated at a rate of more than fifty hours per week. Postdoctoral supervised
80 professional experience for prospective health service providers and other
81 applicants shall involve and relate to the delivery of psychological services in
82 accordance with professional requirements and relevant to the applicant's
83 intended area of practice.

84 5. Experience for those applicants who intend to seek health service
85 provider certification and who have completed a program in one or more of the
86 American Psychological Association designated health service provider delivery
87 areas shall be obtained under the primary supervision of a licensed psychologist
88 who is also a health service provider or who otherwise meets the requirements for
89 health service provider certification. Experience for those applicants who do not
90 intend to seek health service provider certification shall be obtained under the
91 primary supervision of a licensed psychologist or such other qualified mental
92 health professional approved by the committee.

93 6. For postinternship and postdoctoral hours, the psychological activities
94 of the applicant shall be performed pursuant to the primary supervisor's order,
95 control, and full professional responsibility. The primary supervisor shall
96 maintain a continuing relationship with the applicant and shall meet with the
97 applicant a minimum of one hour per month in face-to-face individual
98 supervision. Clinical supervision may be delegated by the primary supervisor to
99 one or more secondary supervisors who are qualified psychologists. The
100 secondary supervisors shall retain order, control, and full professional
101 responsibility for the applicant's clinical work under their supervision and shall
102 meet with the applicant a minimum of one hour per week in face-to-face
103 individual supervision. If the primary supervisor is also the clinical supervisor,
104 meetings shall be a minimum of one hour per week. Group supervision shall not
105 be acceptable for supervised professional experience. The primary supervisor
106 shall certify to the committee that the applicant has complied with these
107 requirements and that the applicant has demonstrated ethical and competent

108 practice of psychology. The changing by an agency of the primary supervisor
109 during the course of the supervised experience shall not invalidate the supervised
110 experience.

111 7. The committee by rule shall provide procedures for exceptions and
112 variances from the requirements for once a week face-to-face supervision due to
113 vacations, illness, pregnancy, and other good causes.

337.029. 1. A psychologist licensed in another jurisdiction who has had
2 no violations and no suspensions and no revocation of a license to practice
3 psychology in any jurisdiction may receive a license in Missouri, provided the
4 psychologist passes a written examination on Missouri laws and regulations
5 governing the practice of psychology and meets one of the following criteria:

6 (1) Is a diplomate of the American Board of Professional Psychology;
7 (2) Is a member of the National Register of Health Service Providers in
8 Psychology;

9 (3) Is currently licensed or certified as a psychologist in another
10 jurisdiction who is then a signatory to the Association of State and Provincial
11 Psychology Board's reciprocity agreement;

12 (4) Is currently licensed or certified as a psychologist in another state,
13 territory of the United States, or the District of Columbia and:

14 (a) Has a doctoral degree in psychology from a program accredited, or
15 provisionally accredited, **either** by the American Psychological Association **or**
16 **the Psychological Clinical Science Accreditation System**, or that meets
17 the requirements as set forth in subdivision (3) of subsection 3 of section 337.025;

18 (b) Has been licensed for the preceding five years; and

19 (c) Has had no disciplinary action taken against the license for the
20 preceding five years; or

21 (5) Holds a current certificate of professional qualification (CPQ) issued
22 by the Association of State and Provincial Psychology Boards (ASPPB).

23 2. Notwithstanding the provisions of subsection 1 of this section,
24 applicants may be required to pass an oral examination as adopted by the
25 committee.

26 3. A psychologist who receives a license for the practice of psychology in
27 the state of Missouri on the basis of reciprocity as listed in subsection 1 of this
28 section or by endorsement of the score from the examination of professional
29 practice in psychology score will also be eligible for and shall receive certification
30 from the committee as a health service provider if the psychologist meets one or

31 more of the following criteria:

32 (1) Is a diplomate of the American Board of Professional Psychology in one
33 or more of the specialties recognized by the American Board of Professional
34 Psychology as pertaining to health service delivery;

35 (2) Is a member of the National Register of Health Service Providers in
36 Psychology; or

37 (3) Has completed or obtained through education, training, or experience
38 the requisite knowledge comparable to that which is required pursuant to section
39 337.033.

337.033. 1. A licensed psychologist shall limit his or her practice to
2 demonstrated areas of competence as documented by relevant professional
3 education, training, and experience. A psychologist trained in one area shall not
4 practice in another area without obtaining additional relevant professional
5 education, training, and experience through an acceptable program of
6 respecialization.

7 2. A psychologist may not represent or hold himself or herself out as a
8 state certified or registered psychological health service provider unless the
9 psychologist has first received the psychologist health service provider
10 certification from the committee; provided, however, nothing in this section shall
11 be construed to limit or prevent a licensed, whether temporary, provisional or
12 permanent, psychologist who does not hold a health service provider certificate
13 from providing psychological services so long as such services are consistent with
14 subsection 1 of this section.

15 3. "Relevant professional education and training" for health service
16 provider certification, except those entitled to certification pursuant to subsection
17 5 or 6 of this section, shall be defined as a licensed psychologist whose graduate
18 psychology degree from a recognized educational institution is in an area
19 designated by the American Psychological Association as pertaining to health
20 service delivery or a psychologist who subsequent to receipt of his or her graduate
21 degree in psychology has either completed a respecialization program from a
22 recognized educational institution in one or more of the American Psychological
23 Association recognized clinical health service provider areas and who in addition
24 has completed at least one year of postdegree supervised experience in such
25 clinical area or a psychologist who has obtained comparable education and
26 training acceptable to the committee through completion of postdoctoral
27 fellowships or otherwise.

28 4. The degree or respecialization program certificate shall be obtained
29 from a recognized program of graduate study in one or more of the health service
30 delivery areas designated by the American Psychological Association as
31 pertaining to health service delivery, which shall meet one of the criteria
32 established by subdivisions (1) to (3) of this subsection:

33 (1) A doctoral degree or completion of a recognized respecialization
34 program in one or more of the American Psychological Association designated
35 health service provider delivery areas which is accredited, or provisionally
36 accredited, **either** by the American Psychological Association **or the**
37 **Psychological Clinical Science Accreditation System**; or

38 (2) A clinical or counseling psychology doctoral degree program or
39 respecialization program designated, or provisionally approved, by the Association
40 of State and Provincial Psychology Boards or the Council for the National
41 Register of Health Service Providers in Psychology, or both; or

42 (3) A doctoral degree or completion of a respecialization program in one
43 or more of the American Psychological Association designated health service
44 provider delivery areas that meets the following criteria:

45 (a) The program, wherever it may be administratively housed, shall be
46 clearly identified and labeled as being in one or more of the American
47 Psychological Association designated health service provider delivery areas;

48 (b) Such a program shall specify in pertinent institutional catalogues and
49 brochures its intent to educate and train professional psychologists in one or more
50 of the American Psychological Association designated health service provider
51 delivery areas.

52 5. A person who is lawfully licensed as a psychologist pursuant to the
53 provisions of this chapter on August 28, 1989, or who has been approved to sit for
54 examination prior to August 28, 1989, and who subsequently passes the
55 examination shall be deemed to have met all requirements for health service
56 provider certification; provided, however, that such person shall be governed by
57 the provisions of subsection 1 of this section with respect to limitation of practice.

58 6. Any person who is lawfully licensed as a psychologist in this state and
59 who meets one or more of the following criteria shall automatically, upon
60 payment of the requisite fee, be entitled to receive a health service provider
61 certification from the committee:

62 (1) Is a diplomate of the American Board of Professional Psychology in one
63 or more of the specialties recognized by the American Board of Professional

64 Psychology as pertaining to health service delivery; or

65 (2) Is a member of the National Register of Health Service Providers in
66 Psychology.

**337.100. 1. Sections 337.100 to 337.165 shall be known as the
2 "Psychology Interjurisdictional Compact". The party states find that:**

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

6 (2) This compact is intended to regulate the day to day practice
7 of telepsychology, the provision of psychological services using
8 telecommunication technologies, by psychologists across state
9 boundaries in the performance of their psychological practice as
10 assigned by an appropriate authority;

11 (3) This compact is intended to regulate the temporary in-person,
12 face-to-face practice of psychology by psychologists across state
13 boundaries for thirty days within a calendar year in the performance
14 of their psychological practice as assigned by an appropriate authority;

15 (4) This compact is intended to authorize state psychology
16 regulatory authorities to afford legal recognition, in a manner
17 consistent with the terms of the compact, to psychologists licensed in
18 another state;

19 (5) This compact recognizes that states have a vested interest in
20 protecting the public's health and safety through their licensing and
21 regulation of psychologists and that such state regulation will best
22 protect public health and safety;

23 (6) This compact does not apply when a psychologist is licensed
24 in both the home and receiving states; and

25 (7) This compact does not apply to permanent in-person, face-to-
26 face practice, it does allow for authorization of temporary
27 psychological practice.

28 **2. The general purposes of this compact are to:**

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

33 (2) Enhance the states' ability to protect the public's health and
34 safety, especially client/patient safety;

35 **(3) Encourage the cooperation of compact states in the areas of**
36 **psychology licensure and regulation;**

37 **(4) Facilitate the exchange of information between compact**
38 **states regarding psychologist licensure, adverse actions and**
39 **disciplinary history;**

40 **(5) Promote compliance with the laws governing psychological**
41 **practice in each compact state; and**

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

337.105. As used in this compact, the following terms shall mean:

2 **(1) "Adverse action", any action taken by a state psychology**
3 **regulatory authority which finds a violation of a statute or regulation**
4 **that is identified by the state psychology regulatory authority as**
5 **discipline and is a matter of public record;**

6 **(2) "Association of State and Provincial Psychology Boards**
7 **(ASPPB)", the recognized membership organization composed of state**
8 **and provincial psychology regulatory authorities responsible for the**
9 **licensure and registration of psychologists throughout the United**
10 **States and Canada;**

11 **(3) "Authority to practice interjurisdictional telepsychology", a**
12 **licensed psychologist's authority to practice telepsychology, within the**
13 **limits authorized under this compact, in another compact state;**

14 **(4) "Bylaws", those bylaws established by the psychology**
15 **interjurisdictional compact commission pursuant to section 337.145 for**
16 **its governance, or for directing and controlling its actions and conduct;**

17 **(5) "Client/patient", the recipient of psychological services,**
18 **whether psychological services are delivered in the context of**
19 **healthcare, corporate, supervision, or consulting services;**

20 **(6) "Commissioner", the voting representative appointed by each**
21 **state psychology regulatory authority pursuant to section 337.145;**

22 **(7) "Compact state", a state, the District of Columbia, or United**
23 **States territory that has enacted this compact legislation and which has**
24 **not withdrawn pursuant to subsection 3 of section 337.160 or been**
25 **terminated pursuant to subsection 2 of section 337.155;**

26 **(8) "Coordinated licensure information system" also referred to**
27 **as "coordinated database", an integrated process for collecting, storing,**

28 and sharing information on psychologists' licensure and enforcement
29 activities related to psychology licensure laws, which is administered
30 by the recognized membership organization composed of state and
31 provincial psychology regulatory authorities;

32 (9) "Confidentiality", the principle that data or information is not
33 made available or disclosed to unauthorized persons or processes;

34 (10) "Day", any part of a day in which psychological work is
35 performed;

36 (11) "Distant state", the compact state where a psychologist is
37 physically present, not through the use of telecommunications
38 technologies, to provide temporary in-person, face-to-face psychological
39 services;

40 (12) "E.Passport", a certificate issued by the Association of State
41 and Provincial Psychology Boards (ASPPB) that promotes the
42 standardization in the criteria of interjurisdictional telepsychology
43 practice and facilitates the process for licensed psychologists to
44 provide telepsychological services across state lines;

45 (13) "Executive board", a group of directors elected or appointed
46 to act on behalf of, and within the powers granted to them by, the
47 commission;

48 (14) "Home state", a compact state where a psychologist is
49 licensed to practice psychology. If the psychologist is licensed in more
50 than one compact state and is practicing under the authorization to
51 practice interjurisdictional telepsychology, the home state is the
52 compact state where the psychologist is physically present when the
53 telepsychological services are delivered. If the psychologist is licensed
54 in more than one compact state and is practicing under the temporary
55 authorization to practice, the home state is any compact state where
56 the psychologist is licensed;

57 (15) "Identity history summary", a summary of information
58 retained by the Federal Bureau of Investigation, or other designee with
59 similar authority, in connection with arrests and, in some instances,
60 federal employment, naturalization, or military service;

61 (16) "In-person, face-to-face", interactions in which the
62 psychologist and the client/patient are in the same physical space and
63 which does not include interactions that may occur through the use of
64 telecommunication technologies;

65 (17) "Interjurisdictional practice certificate (IPC)", a certificate
66 issued by the Association of State and Provincial Psychology Boards
67 (ASPPB) that grants temporary authority to practice based on
68 notification to the state psychology regulatory authority of intention
69 to practice temporarily, and verification of one's qualifications for such
70 practice;

71 (18) "License", authorization by a state psychology regulatory
72 authority to engage in the independent practice of psychology, which
73 would be unlawful without the authorization;

74 (19) "Noncompact state", any state which is not at the time a
75 compact state;

76 (20) "Psychologist", an individual licensed for the independent
77 practice of psychology;

78 (21) "Psychology interjurisdictional compact commission" also
79 referred to as "commission", the national administration of which all
80 compact states are members;

81 (22) "Receiving state", a compact state where the client/patient
82 is physically located when the telepsychological services are delivered;

83 (23) "Rule", a written statement by the psychology
84 interjurisdictional compact commission promulgated pursuant to
85 section 337.150 of the compact that is of general applicability,
86 implements, interprets, or prescribes a policy or provision of the
87 compact, or an organizational, procedural, or practice requirement of
88 the commission and has the force and effect of statutory law in a
89 compact state, and includes the amendment, repeal or suspension of an
90 existing rule;

91 (24) "Significant investigatory information":

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

98 (b) Investigative information that indicates that the psychologist
99 represents an immediate threat to public health and safety regardless
100 of whether the psychologist has been notified and had an opportunity
101 to respond;

102 **(25) "State", a state, commonwealth, territory, or possession of**
103 **the United States, the District of Columbia;**

104 **(26) "State psychology regulatory authority", the board, office or**
105 **other agency with the legislative mandate to license and regulate the**
106 **practice of psychology;**

107 **(27) "Telepsychology", the provision of psychological services**
108 **using telecommunication technologies;**

109 **(28) "Temporary authorization to practice", a licensed**
110 **psychologist's authority to conduct temporary in-person, face-to-face**
111 **practice, within the limits authorized under this compact, in another**
112 **compact state;**

113 **(29) "Temporary in-person, face-to-face practice", where a**
114 **psychologist is physically present, not through the use of**
115 **telecommunications technologies, in the distant state to provide for the**
116 **practice of psychology for thirty days within a calendar year and based**
117 **on notification to the distant state.**

337.110. 1. The home state shall be a compact state where a
2 **psychologist is licensed to practice psychology.**

3 **2. A psychologist may hold one or more compact state licenses at**
4 **a time. If the psychologist is licensed in more than one compact state,**
5 **the home state is the compact state where the psychologist is physically**
6 **present when the services are delivered as authorized by the authority**
7 **to practice interjurisdictional telepsychology under the terms of this**
8 **compact.**

9 **3. Any compact state may require a psychologist not previously**
10 **licensed in a compact state to obtain and retain a license to be**
11 **authorized to practice in the compact state under circumstances not**
12 **authorized by the authority to practice interjurisdictional**
13 **telepsychology under the terms of this compact.**

14 **4. Any compact state may require a psychologist to obtain and**
15 **retain a license to be authorized to practice in a compact state under**
16 **circumstances not authorized by temporary authorization to practice**
17 **under the terms of this compact.**

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

21 **(1) Currently requires the psychologist to hold an active**

22 **E.Passport;**

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

25 (3) Notifies the commission, in compliance with the terms herein,
26 of any adverse action or significant investigatory information
27 regarding a licensed individual;

28 (4) Requires an identity history summary of all applicants at
29 initial licensure, including the use of the results of fingerprints or
30 other biometric data checks compliant with the requirements of the
31 Federal Bureau of Investigation, or other designee with similar
32 authority, no later than ten years after activation of the compact; and

33 (5) Complies with the bylaws and rules of the commission.

34 6. A home state's license grants temporary authorization to
35 practice to a psychologist in a distant state only if the compact state:

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

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

39 (3) Notifies the commission, in compliance with the terms herein,
40 of any adverse action or significant investigatory information
41 regarding a licensed individual;

42 (4) Requires an identity history summary of all applicants at
43 initial licensure, including the use of the results of fingerprints or
44 other biometric data checks compliant with the requirements of the
45 Federal Bureau of Investigation, or other designee with similar
46 authority, no later than ten years after activation of the compact; and

47 (5) Complies with the bylaws and rules of the commission.

337.115. 1. Compact states shall recognize the right of a
2 psychologist, licensed in a compact state in conformance with section
3 337.110, to practice telepsychology in receiving states in which the
4 psychologist is not licensed, under the authority to practice
5 interjurisdictional telepsychology as provided in the compact.

6 2. To exercise the authority to practice interjurisdictional
7 telepsychology under the terms and provisions of this compact, a
8 psychologist licensed to practice in a compact state shall:

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

11 (a) Regionally accredited by an accrediting body recognized by

12 the United States Department of Education to grant graduate degrees,
13 or authorized by provincial statute or royal charter to grant doctoral
14 degrees; or

15 (b) A foreign college or university deemed to be equivalent to the
16 requirements of paragraph (a) of this subdivision by a foreign
17 credential evaluation service that is a member of the National
18 Association of Credential Evaluation Services (NACES) or by a
19 recognized foreign credential evaluation service;

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

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

26 (b) The psychology program shall stand as a recognizable,
27 coherent, organizational entity within the institution;

28 (c) There shall be a clear authority and primary responsibility
29 for the core and specialty areas whether or not the program cuts across
30 administrative lines;

31 (d) The program shall consist of an integrated, organized
32 sequence of study;

33 (e) There shall be an identifiable psychology faculty sufficient in
34 size and breadth to carry out its responsibilities;

35 (f) The designated director of the program shall be a
36 psychologist and a member of the core faculty;

37 (g) The program shall have an identifiable body of students who
38 are matriculated in that program for a degree;

39 (h) The program shall include supervised practicum, internship,
40 or field training appropriate to the practice of psychology;

41 (i) The curriculum shall encompass a minimum of three academic
42 years of full-time graduate study for doctoral degree and a minimum of
43 one academic year of full-time graduate study for master's degree;

44 (j) The program includes an acceptable residency as defined by
45 the rules of the commission;

46 (3) Possess a current, full and unrestricted license to practice
47 psychology in a home state which is a compact state;

48 (4) Have no history of adverse action that violate the rules of the

49 **commission;**

50 **(5) Have no criminal record history reported on an identity**
51 **history summary that violates the rules of the commission;**

52 **(6) Possess a current, active E.Passport;**

53 **(7) Provide attestations in regard to areas of intended practice,**
54 **conformity with standards of practice, competence in telepsychology**
55 **technology; criminal background; and knowledge and adherence to**
56 **legal requirements in the home and receiving states, and provide a**
57 **release of information to allow for primary source verification in a**
58 **manner specified by the commission; and**

59 **(8) Meet other criteria as defined by the rules of the commission.**

60 **3. The home state maintains authority over the license of any**
61 **psychologist practicing into a receiving state under the authority to**
62 **practice interjurisdictional telepsychology.**

63 **4. A psychologist practicing into a receiving state under the**
64 **authority to practice interjurisdictional telepsychology will be subject**
65 **to the receiving state's scope of practice. A receiving state may, in**
66 **accordance with that state's due process law, limit or revoke a**
67 **psychologist's authority to practice interjurisdictional telepsychology**
68 **in the receiving state and may take any other necessary actions under**
69 **the receiving state's applicable law to protect the health and safety of**
70 **the receiving state's citizens. If a receiving state takes action, the state**
71 **shall promptly notify the home state and the commission.**

72 **5. If a psychologist's license in any home state, another compact**
73 **state, or any authority to practice interjurisdictional telepsychology in**
74 **any receiving state, is restricted, suspended or otherwise limited, the**
75 **E.Passport shall be revoked and therefore the psychologist shall not be**
76 **eligible to practice telepsychology in a compact state under the**
77 **authority to practice interjurisdictional telepsychology.**

337.120. 1. Compact states shall also recognize the right of a
2 **psychologist, licensed in a compact state in conformance with section**
3 **337.110, to practice temporarily in distant states in which the**
4 **psychologist is not licensed, as provided in the compact.**

5 **2. To exercise the temporary authorization to practice under the**
6 **terms and provisions of this compact, a psychologist licensed to**
7 **practice in a compact state shall:**

8 **(1) Hold a graduate degree in psychology from an institute of**

9 higher education that was, at the time the degree was awarded:

10 (a) Regionally accredited by an accrediting body recognized by
11 the United States Department of Education to grant graduate degrees,
12 or authorized by provincial statute or royal charter to grant doctoral
13 degrees; or

14 (b) A foreign college or university deemed to be equivalent to the
15 requirements of paragraph (a) of this subdivision by a foreign
16 credential evaluation service that is a member of the National
17 Association of Credential Evaluation Services (NACES) or by a
18 recognized foreign credential evaluation service;

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

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

25 (b) The psychology program shall stand as a recognizable,
26 coherent, organizational entity within the institution;

27 (c) There shall be a clear authority and primary responsibility
28 for the core and specialty areas whether or not the program cuts across
29 administrative lines;

30 (d) The program shall consist of an integrated, organized
31 sequence of study;

32 (e) There shall be an identifiable psychology faculty sufficient in
33 size and breadth to carry out its responsibilities;

34 (f) The designated director of the program shall be a
35 psychologist and a member of the core faculty;

36 (g) The program shall have an identifiable body of students who
37 are matriculated in that program for a degree;

38 (h) The program shall include supervised practicum, internship,
39 or field training appropriate to the practice of psychology;

40 (i) The curriculum shall encompass a minimum of three academic
41 years of full-time graduate study for doctoral degrees and a minimum
42 of one academic year of full-time graduate study for master's degree;

43 (j) The program includes an acceptable residency as defined by
44 the rules of the commission;

45 (3) Possess a current, full and unrestricted license to practice

46 **psychology in a home state which is a compact state;**

47 **(4) No history of adverse action that violate the rules of the**
48 **commission;**

49 **(5) No criminal record history that violates the rules of the**
50 **commission;**

51 **(6) Possess a current, active IPC;**

52 **(7) Provide attestations in regard to areas of intended practice**
53 **and work experience and provide a release of information to allow for**
54 **primary source verification in a manner specified by the commission;**
55 **and**

56 **(8) Meet other criteria as defined by the rules of the commission.**

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

60 **4. A psychologist practicing into a distant state under the**
61 **temporary authorization to practice will be subject to the distant**
62 **state's authority and law. A distant state may, in accordance with that**
63 **state's due process law, limit or revoke a psychologist's temporary**
64 **authorization to practice in the distant state and may take any other**
65 **necessary actions under the distant state's applicable law to protect the**
66 **health and safety of the distant state's citizens. If a distant state takes**
67 **action, the state shall promptly notify the home state and the**
68 **commission.**

69 **5. If a psychologist's license in any home state, another compact**
70 **state, or any temporary authorization to practice in any distant state,**
71 **is restricted, suspended or otherwise limited, the IPC shall be revoked**
72 **and therefore the psychologist shall not be eligible to practice in a**
73 **compact state under the temporary authorization to practice.**

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

6 **(1) The psychologist initiates a client/patient contact in a home**
7 **state via telecommunications technologies with a client/patient in a**
8 **receiving state;**

9 **(2) Other conditions regarding telepsychology as determined by**

10 rules promulgated by the commission.

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

6 2. A receiving state may take adverse action on a psychologist's
7 authority to practice interjurisdictional telepsychology within that
8 receiving state. A home state may take adverse action against a
9 psychologist based on an adverse action taken by a distant state
10 regarding temporary in-person, face-to-face practice.

11 3. (1) If a home state takes adverse action against a
12 psychologist's license, that psychologist's authority to practice
13 interjurisdictional telepsychology is terminated and the E.Passport is
14 revoked. Furthermore, that psychologist's temporary authorization to
15 practice is terminated and the IPC is revoked.

16 (2) All home state disciplinary orders which impose adverse
17 action shall be reported to the commission in accordance with the rules
18 promulgated by the commission. A compact state shall report adverse
19 actions in accordance with the rules of the commission.

20 (3) In the event discipline is reported on a psychologist, the
21 psychologist will not be eligible for telepsychology or temporary in-
22 person, face-to-face practice in accordance with the rules of the
23 commission.

24 (4) Other actions may be imposed as determined by the rules
25 promulgated by the commission.

26 4. A home state's psychology regulatory authority shall
27 investigate and take appropriate action with respect to reported
28 inappropriate conduct engaged in by a licensee which occurred in a
29 receiving state as it would if such conduct had occurred by a licensee
30 within the home state. In such cases, the home state's law shall control
31 in determining any adverse action against a psychologist's license.

32 5. A distant state's psychology regulatory authority shall
33 investigate and take appropriate action with respect to reported
34 inappropriate conduct engaged in by a psychologist practicing under
35 temporary authorization practice which occurred in that distant state
36 as it would if such conduct had occurred by a licensee within the home

37 state. In such cases, distant state's law shall control in determining any
38 adverse action against a psychologist's temporary authorization to
39 practice.

40 6. Nothing in this compact shall override a compact state's
41 decision that a psychologist's participation in an alternative program
42 may be used in lieu of adverse action and that such participation shall
43 remain non-public if required by the compact state's law. Compact
44 states shall require psychologists who enter any alternative programs
45 to not provide telepsychology services under the authority to practice
46 interjurisdictional telepsychology or provide temporary psychological
47 services under the temporary authorization to practice in any other
48 compact state during the term of the alternative program.

49 7. No other judicial or administrative remedies shall be available
50 to a psychologist in the event a compact state imposes an adverse
51 action pursuant to subsection 3 of this section.

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

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

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

18 2. During the course of any investigation, a psychologist may not
19 change his or her home state licensure. A home state psychology
20 regulatory authority is authorized to complete any pending
21 investigations of a psychologist and to take any actions appropriate
22 under its law. The home state psychology regulatory authority shall

23 promptly report the conclusions of such investigations to the
24 commission. Once an investigation has been completed, and pending
25 the outcome of said investigation, the psychologist may change his or
26 her home state licensure. The commission shall promptly notify the
27 new home state of any such decisions as provided in the rules of the
28 commission. All information provided to the commission or distributed
29 by compact states pursuant to the psychologist shall be confidential,
30 filed under seal and used for investigatory or disciplinary matters. The
31 commission may create additional rules for mandated or discretionary
32 sharing of information by compact states.

337.140. 1. The commission shall provide for the development
2 and maintenance of a coordinated licensure information system
3 "coordinated database" and reporting system containing licensure and
4 disciplinary action information on all psychologist individuals to whom
5 this compact is applicable in all compact states as defined by the rules
6 of the commission.

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

- 11 (1) Identifying information;
- 12 (2) Licensure data;
- 13 (3) Significant investigatory information;
- 14 (4) Adverse actions against a psychologist's license;
- 15 (5) An indicator that a psychologist's authority to practice
16 interjurisdictional telepsychology or temporary authorization to
17 practice is revoked;
- 18 (6) Nonconfidential information related to alternative program
19 participation information;
- 20 (7) Any denial of application for licensure, and the reasons for
21 such denial; and
- 22 (8) Other information which may facilitate the administration of
23 this compact, as determined by the rules of the commission.

24 3. The coordinated database administrator shall promptly notify
25 all compact states of any adverse action taken against, or significant
26 investigative information on, any licensee in a compact state.

27 4. Compact states reporting information to the coordinated

28 database may designate information that may not be shared with the
29 public without the express permission of the compact state reporting
30 the information.

31 5. Any information submitted to the coordinated database that
32 is subsequently required to be expunged by the law of the compact
33 state reporting the information shall be removed from the coordinated
34 database.

337.145. 1. The compact states hereby create and establish a
2 joint public agency known as the psychology interjurisdictional
3 compact commission.

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

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

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

14 2. The commission shall consist of one voting representative
15 appointed by each compact state who shall serve as that state's
16 commissioner. The state psychology regulatory authority shall appoint
17 its delegate. This delegate shall be empowered to act on behalf of the
18 compact state. This delegate shall be limited to:

19 (1) Executive director, executive secretary or similar executive;

20 (2) Current member of the state psychology regulatory authority
21 of a compact state; or

22 (3) Designee empowered with the appropriate delegate authority
23 to act on behalf of the compact state.

24 3. (1) Any commissioner may be removed or suspended from
25 office as provided by the law of the state from which the commissioner
26 is appointed. Any vacancy occurring in the commission shall be filled
27 in accordance with the laws of the compact state in which the vacancy
28 exists.

29 (2) Each commissioner shall be entitled to one vote with regard
30 to the promulgation of rules and creation of bylaws and shall otherwise

31 have an opportunity to participate in the business and affairs of the
32 commission. A commissioner shall vote in person or by such other
33 means as provided in the bylaws. The bylaws may provide for
34 commissioners' participation in meetings by telephone or other means
35 of communication.

36 (3) The commission shall meet at least once during each calendar
37 year. Additional meetings shall be held as set forth in the bylaws.

38 (4) All meetings shall be open to the public, and public notice of
39 meetings shall be given in the same manner as required under the
40 rulemaking provisions in section 337.150.

41 (5) The commission may convene in a closed, nonpublic meeting
42 if the commission shall discuss:

43 (a) Noncompliance of a compact state with its obligations under
44 the compact;

45 (b) The employment, compensation, discipline or other personnel
46 matters, practices or procedures related to specific employees or other
47 matters related to the commission's internal personnel practices and
48 procedures;

49 (c) Current, threatened, or reasonably anticipated litigation
50 against the commission;

51 (d) Negotiation of contracts for the purchase or sale of goods,
52 services or real estate;

53 (e) Accusation against any person of a crime or formally
54 censuring any person;

55 (f) Disclosure of trade secrets or commercial or financial
56 information which is privileged or confidential;

57 (g) Disclosure of information of a personal nature where
58 disclosure would constitute a clearly unwarranted invasion of personal
59 privacy;

60 (h) Disclosure of investigatory records compiled for law
61 enforcement purposes;

62 (i) Disclosure of information related to any investigatory reports
63 prepared by or on behalf of or for use of the commission or other
64 committee charged with responsibility for investigation or
65 determination of compliance issues pursuant to the compact;

66 (j) Matters specifically exempted from disclosure by federal and
67 state statute.

68 **(6) If a meeting, or portion of a meeting, is closed pursuant to**
69 **subdivision (5) of subsection 3 of this section, the commission's legal**
70 **counsel or designee shall certify that the meeting may be closed and**
71 **shall reference each relevant exempting provision. The commission**
72 **shall keep minutes which fully and clearly describe all matters**
73 **discussed in a meeting and shall provide a full and accurate summary**
74 **of actions taken, of any person participating in the meeting, and the**
75 **reasons therefore, including a description of the views expressed. All**
76 **documents considered in connection with an action shall be identified**
77 **in such minutes. All minutes and documents of a closed meeting shall**
78 **remain under seal, subject to release only by a majority vote of the**
79 **commission or order of a court of competent jurisdiction.**

80 **4. The commission shall, by a majority vote of the commissioners,**
81 **prescribe bylaws or rules to govern its conduct as may be necessary or**
82 **appropriate to carry out the purposes and exercise the powers of the**
83 **compact, including but not limited to:**

84 **(1) Establishing the fiscal year of the commission;**

85 **(2) Providing reasonable standards and procedures:**

86 **(a) For the establishment and meetings of other committees; and**

87 **(b) Governing any general or specific delegation of any authority**
88 **or function of the commission;**

89 **(3) Providing reasonable procedures for calling and conducting**
90 **meetings of the commission, ensuring reasonable advance notice of all**
91 **meetings and providing an opportunity for attendance of such meetings**
92 **by interested parties, with enumerated exceptions designed to protect**
93 **the public's interest, the privacy of individuals of such proceedings,**
94 **and proprietary information, including trade secrets. The commission**
95 **may meet in closed session only after a majority of the commissioners**
96 **vote to close a meeting to the public in whole or in part. As soon as**
97 **practicable, the commission shall make public a copy of the vote to**
98 **close the meeting revealing the vote of each commissioner with no**
99 **proxy votes allowed;**

100 **(4) Establishing the titles, duties and authority and reasonable**
101 **procedures for the election of the officers of the commission;**

102 **(5) Providing reasonable standards and procedures for the**
103 **establishment of the personnel policies and programs of the**
104 **commission. Notwithstanding any civil service or other similar law of**

105 any compact state, the bylaws shall exclusively govern the personnel
106 policies and programs of the commission;

107 (6) Promulgating a code of ethics to address permissible and
108 prohibited activities of commission members and employees;

109 (7) Providing a mechanism for concluding the operations of the
110 commission and the equitable disposition of any surplus funds that may
111 exist after the termination of the compact after the payment or
112 reserving of all of its debts and obligations.

113 5. (1) The commission shall publish its bylaws in a convenient
114 form and file a copy thereof and a copy of any amendment thereto, with
115 the appropriate agency or officer in each of the compact states;

116 (2) The commission shall maintain its financial records in
117 accordance with the bylaws; and

118 (3) The commission shall meet and take such actions as are
119 consistent with the provisions of this compact and the bylaws.

120 6. The commission shall have the following powers:

121 (1) The authority to promulgate uniform rules to facilitate and
122 coordinate implementation and administration of this compact. The
123 rule shall have the force and effect of law and shall be binding in all
124 compact states;

125 (2) To bring and prosecute legal proceedings or actions in the
126 name of the commission, provided that the standing of any state
127 psychology regulatory authority or other regulatory body responsible
128 for psychology licensure to sue or be sued under applicable law shall
129 not be affected;

130 (3) To purchase and maintain insurance and bonds;

131 (4) To borrow, accept or contract for services of personnel,
132 including, but not limited to, employees of a compact state;

133 (5) To hire employees, elect or appoint officers, fix compensation,
134 define duties, grant such individuals appropriate authority to carry out
135 the purposes of the compact, and to establish the commission's
136 personnel policies and programs relating to conflicts of interest,
137 qualifications of personnel, and other related personnel matters;

138 (6) To accept any and all appropriate donations and grants of
139 money, equipment, supplies, materials and services, and to receive,
140 utilize and dispose of the same; provided that at all times the
141 commission shall strive to avoid any appearance of impropriety or

142 **conflict of interest;**

143 **(7) To lease, purchase, accept appropriate gifts or donations of,**
144 **or otherwise to own, hold, improve or use, any property, real, personal**
145 **or mixed; provided that at all times the commission shall strive to avoid**
146 **any appearance of impropriety;**

147 **(8) To lease, purchase, accept appropriate gifts or donations of,**
148 **or otherwise to own, hold, improve or use, any property, real, personal**
149 **or mixed; provided that at all times the commission shall strive to avoid**
150 **any appearance of impropriety;**

151 **(9) To establish a budget and make expenditures;**

152 **(10) To borrow money;**

153 **(11) To appoint committees, including advisory committees**
154 **comprised of members, state regulators, state legislators or their**
155 **representatives, and consumer representatives, and such other**
156 **interested persons as may be designated in this compact and the**
157 **bylaws;**

158 **(12) To provide and receive information from, and to cooperate**
159 **with, law enforcement agencies;**

160 **(13) To adopt and use an official seal; and**

161 **(14) To perform such other functions as may be necessary or**
162 **appropriate to achieve the purposes of this compact consistent with the**
163 **state regulation of psychology licensure, temporary in-person, face-to-**
164 **face practice and telepsychology practice.**

165 **7. (1) The elected officers shall serve as the executive board,**
166 **which shall have the power to act on behalf of the commission**
167 **according to the terms of this compact.**

168 **(2) The executive board shall be comprised of six members:**

169 **(a) Five voting members who are elected from the current**
170 **membership of the commission by the commission;**

171 **(b) One ex officio, nonvoting member from the recognized**
172 **membership organization composed of state and provincial psychology**
173 **regulatory authorities.**

174 **(3) The ex officio member shall have served as staff or member**
175 **on a state psychology regulatory authority and will be selected by its**
176 **respective organization.**

177 **(4) The commission may remove any member of the executive**
178 **board as provided in bylaws.**

179 (5) The executive board shall meet at least annually.

180 (6) The executive board shall have the following duties and
181 responsibilities:

182 (a) Recommend to the entire commission changes to the rules or
183 bylaws, changes to this compact legislation, fees paid by compact states
184 such as annual dues, and any other applicable fees;

185 (b) Ensure compact administration services are appropriately
186 provided, contractual or otherwise;

187 (c) Prepare and recommend the budget;

188 (d) Maintain financial records on behalf of the commission;

189 (e) Monitor compact compliance of member states and provide
190 compliance reports to the commission;

191 (f) Establish additional committees as necessary; and

192 (g) Other duties as provided in rules or bylaws.

193 8. (1) The commission shall pay, or provide for the payment of
194 the reasonable expenses of its establishment, organization and ongoing
195 activities.

196 (2) The commission may accept any and all appropriate revenue
197 sources, donations and grants of money, equipment, supplies, materials
198 and services.

199 (3) The commission may levy on and collect an annual
200 assessment from each compact state or impose fees on other parties to
201 cover the cost of the operations and activities of the commission and its
202 staff which shall be in a total amount sufficient to cover its annual
203 budget as approved each year for which revenue is not provided by
204 other sources. The aggregate annual assessment amount shall be
205 allocated based upon a formula to be determined by the commission
206 which shall promulgate a rule binding upon all compact states.

207 (4) The commission shall not incur obligations of any kind prior
208 to securing the funds adequate to meet the same; nor shall the
209 commission pledge the credit of any of the compact states, except by
210 and with the authority of the compact state.

211 (5) The commission shall keep accurate accounts of all receipts
212 and disbursements. The receipts and disbursements of the commission
213 shall be subject to the audit and accounting procedures established
214 under its bylaws. However, all receipts and disbursements of funds
215 handled by the commission shall be audited yearly by a certified or

216 licensed public accountant and the report of the audit shall be included
217 in and become part of the annual report of the commission.

218 9. (1) The members, officers, executive director, employees and
219 representatives of the commission shall be immune from suit and
220 liability, either personally or in their official capacity, for any claim for
221 damage to or loss of property or personal injury or other civil liability
222 caused by or arising out of any actual or alleged act, error or omission
223 that occurred, or that the person against whom the claim is made had
224 a reasonable basis for believing occurred within the scope of
225 commission employment, duties or responsibilities; provided that
226 nothing in this subsection shall be construed to protect any such
227 person from suit or liability for any damage, loss, injury or liability
228 caused by the intentional or willful or wanton misconduct of that
229 person.

230 (2) The commission shall defend any member, officer, executive
231 director, employee or representative of the commission in any civil
232 action seeking to impose liability arising out of any actual or alleged
233 act, error or omission that occurred within the scope of commission
234 employment, duties or responsibilities, or that the person against whom
235 the claim is made had a reasonable basis for believing occurred within
236 the scope of commission employment, duties or responsibilities;
237 provided that nothing herein shall be construed to prohibit that person
238 from retaining his or her own counsel; and provided further, that the
239 actual or alleged act, error or omission did not result from that
240 person's intentional or willful or wanton misconduct.

241 (3) The commission shall indemnify and hold harmless any
242 member, officer, executive director, employee or representative of the
243 commission for the amount of any settlement or judgment obtained
244 against that person arising out of any actual or alleged act, error or
245 omission that occurred within the scope of commission employment,
246 duties or responsibilities, or that such person had a reasonable basis
247 for believing occurred within the scope of commission employment,
248 duties or responsibilities, provided that the actual or alleged act, error
249 or omission did not result from the intentional or willful or wanton
250 misconduct of that person.

337.150. 1. The commission shall exercise its rulemaking powers
2 pursuant to the criteria set forth in this section and the rules adopted

3 thereunder. Rules and amendments shall become binding as of the date
4 specified in each rule or amendment.

5 2. If a majority of the legislatures of the compact states rejects
6 a rule, by enactment of a statute or resolution in the same manner used
7 to adopt the compact, then such rule shall have no further force and
8 effect in any compact state.

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

11 4. Prior to promulgation and adoption of a final rule or rules by
12 the commission, and at least sixty days in advance of the meeting at
13 which the rule will be considered and voted upon, the commission shall
14 file a notice of proposed rulemaking:

15 (1) On the website of the commission; and

16 (2) On the website of each compact states' psychology regulatory
17 authority or the publication in which each state would otherwise
18 publish proposed rules.

19 5. The notice of proposed rulemaking shall include:

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

22 (2) The text of the proposed rule or amendment and the reason
23 for the proposed rule;

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

26 (4) The manner in which interested persons may submit notice
27 to the commission of their intention to attend the public hearing and
28 any written comments.

29 6. Prior to adoption of a proposed rule, the commission shall
30 allow persons to submit written data, facts, opinions and arguments,
31 which shall be made available to the public.

32 7. The commission shall grant an opportunity for a public
33 hearing before it adopts a rule or amendment if a hearing is requested
34 by:

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

37 (2) A governmental subdivision or agency; or

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

40 8. (1) If a hearing is held on the proposed rule or amendment,
41 the commission shall publish the place, time, and date of the scheduled
42 public hearing.

43 (2) All persons wishing to be heard at the hearing shall notify the
44 executive director of the commission or other designated member in
45 writing of their desire to appear and testify at the hearing not less than
46 five business days before the scheduled date of the hearing.

47 (3) Hearings shall be conducted in a manner providing each
48 person who wishes to comment a fair and reasonable opportunity to
49 comment orally or in writing.

50 (4) No transcript of the hearing is required, unless a written
51 request for a transcript is made, in which case the person requesting
52 the transcript shall bear the cost of producing the transcript. A
53 recording may be made in lieu of a transcript under the same terms
54 and conditions as a transcript. This subdivision shall not preclude the
55 commission from making a transcript or recording of the hearing if it
56 so chooses.

57 (5) Nothing in this section shall be construed as requiring a
58 separate hearing on each rule. Rules may be grouped for the
59 convenience of the commission at hearings required by this section.

60 9. Following the scheduled hearing date, or by the close of
61 business on the scheduled hearing date if the hearing was not held, the
62 commission shall consider all written and oral comments received.

63 10. The commission shall, by majority vote of all members, take
64 final action on the proposed rule and shall determine the effective date
65 of the rule, if any, based on the rulemaking record and the full text of
66 the rule.

67 11. If no written notice of intent to attend the public hearing by
68 interested parties is received, the commission may proceed with
69 promulgation of the proposed rule without a public hearing.

70 12. Upon determination that an emergency exists, the
71 commission may consider and adopt an emergency rule without prior
72 notice, opportunity for comment, or hearing, provided that the usual
73 rulemaking procedures provided in the compact and in this section
74 shall be retroactively applied to the rule as soon as reasonably possible,
75 in no event later than ninety days after the effective date of the
76 rule. For the purposes of this provision, an emergency rule is one that

77 shall be adopted immediately in order to:

- 78 (1) Meet an imminent threat to public health, safety, or welfare;
79 (2) Prevent a loss of commission or compact state funds;
80 (3) Meet a deadline for the promulgation of an administrative
81 rule that is established by federal law or rule; or
82 (4) Protect public health and safety.

83 13. (1) The commission or an authorized committee of the
84 commission may direct revisions to a previously adopted rule or
85 amendment for purposes of correcting typographical errors, errors in
86 format, errors in consistency, or grammatical errors. Public notice of
87 any revisions shall be posted on the website of the commission. The
88 revision shall be subject to challenge by any person for a period of
89 thirty days after posting. The revision may be challenged only on
90 grounds that the revision results in a material change to a rule.

91 (2) A challenge shall be made in writing, and delivered to the
92 chair of the commission prior to the end of the notice period. If no
93 challenge is made, the revision will take effect without further action.
94 If the revision is challenged, the revision may not take effect without
95 the approval of the commission.

337.155. 1. (1) The executive, legislative and judicial branches
2 of state government in each compact state shall enforce this compact
3 and take all actions necessary and appropriate to effectuate the
4 compact's purposes and intent. The provisions of this compact and the
5 rules promulgated hereunder shall have standing as statutory law.

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

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

15 2. (1) If the commission determines that a compact state has
16 defaulted in the performance of its obligations or responsibilities under
17 this compact or the promulgated rules, the commission shall:

18 (a) Provide written notice to the defaulting state and other

19 compact states of the nature of the default, the proposed means of
20 remedying the default or any other action to be taken by the
21 commission; and

22 (b) Provide remedial training and specific technical assistance
23 regarding the default.

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

30 (3) Termination of membership in the compact shall be imposed
31 only after all other means of securing compliance have been
32 exhausted. Notice of intent to suspend or terminate shall be submitted
33 by the commission to the governor, the majority and minority leaders
34 of the defaulting state's legislature, and each of the compact states.

35 (4) A compact state which has been terminated is responsible for
36 all assessments, obligations and liabilities incurred through the
37 effective date of termination, including obligations which extend
38 beyond the effective date of termination.

39 (5) The commission shall not bear any costs incurred by the state
40 which is found to be in default or which has been terminated from the
41 compact, unless agreed upon in writing between the commission and
42 the defaulting state.

43 (6) The defaulting state may appeal the action of the commission
44 by petitioning the U.S. District Court for the state of Georgia or the
45 federal district where the compact has its principal offices. The
46 prevailing member shall be awarded all costs of such litigation,
47 including reasonable attorney's fees.

48 3. (1) Upon request by a compact state, the commission shall
49 attempt to resolve disputes related to the compact which arise among
50 compact states and between compact and noncompact states.

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

54 4. (1) The commission, in the reasonable exercise of its
55 discretion, shall enforce the provisions and rules of this compact.

56 **(2) By majority vote, the commission may initiate legal action in**
57 **the United States District Court for the State of Georgia or the federal**
58 **district where the compact has its principal offices against a compact**
59 **state in default to enforce compliance with the provisions of the**
60 **compact and its promulgated rules and bylaws. The relief sought may**
61 **include both injunctive relief and damages. In the event judicial**
62 **enforcement is necessary, the prevailing member shall be awarded all**
63 **costs of such litigation, including reasonable attorney's fees.**

64 **(3) The remedies herein shall not be the exclusive remedies of**
65 **the commission. The commission may pursue any other remedies**
66 **available under federal or state law.**

337.160. 1. The compact shall come into effect on the date on
2 **which the compact is enacted into law in the seventh compact**
3 **state. The provisions which become effective at that time shall be**
4 **limited to the powers granted to the commission relating to assembly**
5 **and the promulgation of rules. Thereafter, the commission shall meet**
6 **and exercise rulemaking powers necessary to the implementation and**
7 **administration of the compact.**

8 **2. Any state which joins the compact subsequent to the**
9 **commission's initial adoption of the rules shall be subject to the rules**
10 **as they exist on the date on which the compact becomes law in that**
11 **state. Any rule which has been previously adopted by the commission**
12 **shall have the full force and effect of law on the day the compact**
13 **becomes law in that state.**

14 **3. (1) Any compact state may withdraw from this compact by**
15 **enacting a statute repealing the same.**

16 **(2) A compact state's withdrawal shall not take effect until six**
17 **months after enactment of the repealing statute.**

18 **(3) Withdrawal shall not affect the continuing requirement of the**
19 **withdrawing state's psychology regulatory authority to comply with the**
20 **investigative and adverse action reporting requirements of this act**
21 **prior to the effective date of withdrawal.**

22 **4. Nothing contained in this compact shall be construed to**
23 **invalidate or prevent any psychology licensure agreement or other**
24 **cooperative arrangement between a compact state and a noncompact**
25 **state which does not conflict with the provisions of this compact.**

26 **5. This compact may be amended by the compact states. No**

27 **amendment to this compact shall become effective and binding upon**
28 **any compact state until it is enacted into the law of all compact states.**

337.165. This compact shall be liberally construed so as to
2 **effectuate the purposes thereof. If this compact shall be held contrary**
3 **to the constitution of any state member thereto, the compact shall**
4 **remain in full force and effect as to the remaining compact states.**

552.020. 1. No person who as a result of mental disease or defect lacks
2 capacity to understand the proceedings against him **or her** or to assist in his **or**
3 **her** own defense shall be tried, convicted or sentenced for the commission of an
4 offense so long as the incapacity endures.

5 2. Whenever any judge has reasonable cause to believe that the accused
6 lacks mental fitness to proceed, **[he] the judge** shall, upon his **or her** own
7 motion or upon motion filed by the state or by or on behalf of the accused, by
8 order of record, appoint one or more private psychiatrists or psychologists, as
9 defined in section 632.005, or physicians with a minimum of one year training or
10 experience in providing treatment or services to persons with an intellectual
11 disability or developmental disability or mental illness, who are neither
12 employees nor contractors of the department of mental health for purposes of
13 performing the examination in question, to examine the accused; or shall direct
14 the director to have the accused so examined by one or more psychiatrists or
15 psychologists, as defined in section 632.005, or physicians with a minimum of one
16 year training or experience in providing treatment or services to persons with an
17 intellectual disability, developmental disability, or mental illness. The order
18 shall direct that a written report or reports of such examination be filed with the
19 clerk of the court. No private physician, psychiatrist, or psychologist shall be
20 appointed by the court unless he **or she** has consented to act. The examinations
21 ordered shall be made at such time and place and under such conditions as the
22 court deems proper; except that, if the order directs the director of the
23 department to have the accused examined, the director, or his **or her** designee,
24 shall determine the time, place and conditions under which the examination shall
25 be conducted. The order may include provisions for the interview of witnesses
26 and may require the provision of police reports to the department for use in
27 evaluations. The department shall establish standards and provide training for
28 those individuals performing examinations pursuant to this section and section
29 552.030. No individual who is employed by or contracts with the department
30 shall be designated to perform an examination pursuant to this chapter unless

31 the individual meets the qualifications so established by the department. Any
32 examination performed pursuant to this subsection shall be completed and filed
33 with the court within sixty days of the order unless the court for good cause
34 orders otherwise. Nothing in this section or section 552.030 shall be construed
35 to permit psychologists to engage in any activity not authorized by chapter
36 337. One pretrial evaluation shall be provided at no charge to the defendant by
37 the department. All costs of subsequent evaluations shall be assessed to the
38 party requesting the evaluation.

39 3. A report of the examination made under this section shall include:

40 (1) Detailed findings;

41 (2) An opinion as to whether the accused has a mental disease or defect;

42 (3) An opinion based upon a reasonable degree of medical or psychological
43 certainty as to whether the accused, as a result of a mental disease or defect,
44 lacks capacity to understand the proceedings against him **or her** or to assist in
45 his **or her** own defense;

46 (4) A recommendation as to whether the accused should be held in custody
47 in a suitable hospital facility for treatment pending determination, by the court,
48 of mental fitness to proceed; and

49 (5) A recommendation as to whether the accused, if found by the court to
50 be mentally fit to proceed, should be detained in such hospital facility pending
51 further proceedings.

52 4. If the accused has pleaded lack of responsibility due to mental disease
53 or defect or has given the written notice provided in subsection 2 of section
54 552.030, the court shall order the report of the examination conducted pursuant
55 to this section to include, in addition to the information required in subsection 3
56 of this section, an opinion as to whether at the time of the alleged criminal
57 conduct the accused, as a result of mental disease or defect, did not know or
58 appreciate the nature, quality, or wrongfulness of his **or her** conduct or as a
59 result of mental disease or defect was incapable of conforming his **or her** conduct
60 to the requirements of law. A plea of not guilty by reason of mental disease or
61 defect shall not be accepted by the court in the absence of any such pretrial
62 evaluation which supports such a defense. In addition, if the accused has pleaded
63 not guilty by reason of mental disease or defect, and the alleged crime is not a
64 dangerous felony as defined in section 556.061, or those crimes set forth in
65 subsection [11] 10 of section 552.040, or the attempts thereof, the court shall
66 order the report of the examination to include an opinion as to whether or not the

67 accused should be immediately conditionally released by the court pursuant to the
68 provisions of section 552.040 or should be committed to a mental health or
69 developmental disability facility. If such an evaluation is conducted at the
70 direction of the director of the department of mental health, the court shall also
71 order the report of the examination to include an opinion as to the conditions of
72 release which are consistent with the needs of the accused and the interest of
73 public safety, including, but not limited to, the following factors:

- 74 (1) Location and degree of necessary supervision of housing;
- 75 (2) Location of and responsibilities for appropriate psychiatric,
76 rehabilitation and aftercare services, including the frequency of such services;
- 77 (3) Medication follow-up, including necessary testing to monitor
78 medication compliance;
- 79 (4) At least monthly contact with the department's forensic case monitor;
- 80 (5) Any other conditions or supervision as may be warranted by the
81 circumstances of the case.

82 5. If the report contains the recommendation that the accused should be
83 committed to or held in a suitable hospital facility pending determination of the
84 issue of mental fitness to proceed, and if the accused is not admitted to bail or
85 released on other conditions, the court may order that the accused be committed
86 to or held in a suitable hospital facility pending determination of the issue of
87 mental fitness to proceed.

88 6. The clerk of the court shall deliver copies of the report to the
89 prosecuting or circuit attorney and to the accused or his **or her** counsel. The
90 report shall not be a public record or open to the public. Within ten days after
91 the filing of the report, both the defendant and the state shall, upon written
92 request, be entitled to an order granting them an examination of the accused by
93 a psychiatrist or psychologist, as defined in section 632.005, or a physician with
94 a minimum of one year training or experience in providing treatment or services
95 to persons with an intellectual disability or developmental disability or mental
96 illness, of their own choosing and at their own expense. An examination
97 performed pursuant to this subsection shall be completed and a report filed with
98 the court within sixty days of the date it is received by the department or private
99 psychiatrist, psychologist or physician unless the court, for good cause, orders
100 otherwise. A copy shall be furnished the opposing party.

101 7. If neither the state nor the accused nor his **or her** counsel requests a
102 second examination relative to fitness to proceed or contests the findings of the

103 report referred to in subsections 2 and 3 of this section, the court may make a
104 determination and finding on the basis of the report filed or may hold a hearing
105 on its own motion. If any such opinion is contested, the court shall hold a
106 hearing on the issue. The court shall determine the issue of mental fitness to
107 proceed and may impanel a jury of six persons to assist in making the
108 determination. The report or reports may be received in evidence at any hearing
109 on the issue but the party contesting any opinion therein shall have the right to
110 summon and to cross-examine the examiner who rendered such opinion and to
111 offer evidence upon the issue.

112 8. At a hearing on the issue pursuant to subsection 7 of this section, the
113 accused is presumed to have the mental fitness to proceed. The burden of proving
114 that the accused does not have the mental fitness to proceed is by a
115 preponderance of the evidence and the burden of going forward with the evidence
116 is on the party raising the issue. The burden of going forward shall be on the
117 state if the court raises the issue.

118 9. If the court determines that the accused lacks mental fitness to
119 proceed, the criminal proceedings shall be suspended and the court shall commit
120 him or her to the director of the department of mental health. **After the person**
121 **has been committed, legal counsel for the department of mental health**
122 **shall have standing to file motions and participate in hearings on the**
123 **issue of involuntary medications.**

124 10. Any person committed pursuant to subsection 9 of this section shall
125 be entitled to the writ of habeas corpus upon proper petition to the court that
126 committed him or her. The issue of the mental fitness to proceed after
127 commitment under subsection 9 of this section may also be raised by a motion
128 filed by the director of the department of mental health or by the state, alleging
129 the mental fitness of the accused to proceed. A report relating to the issue of the
130 accused's mental fitness to proceed may be attached thereto. **When a motion**
131 **to proceed is filed, legal counsel for the department of mental health**
132 **shall have standing to participate in hearings on such motions.** If the
133 motion is not contested by the accused or his **or her** counsel or if after a hearing
134 on a motion the court finds the accused mentally fit to proceed, or if he **or she**
135 is ordered discharged from the director's custody upon a habeas corpus hearing,
136 the criminal proceedings shall be resumed.

137 11. The following provisions shall apply after a commitment as provided
138 in this section:

139 (1) Six months after such commitment, the court which ordered the
140 accused committed shall order an examination by the head of the facility in which
141 the accused is committed, or a qualified designee, to ascertain whether the
142 accused is mentally fit to proceed and if not, whether there is a substantial
143 probability that the accused will attain the mental fitness to proceed to trial in
144 the foreseeable future. The order shall direct that written report or reports of the
145 examination be filed with the clerk of the court within thirty days and the clerk
146 shall deliver copies to the prosecuting attorney or circuit attorney and to the
147 accused or his **or her** counsel. The report required by this subsection shall
148 conform to the requirements under subsection 3 of this section with the additional
149 requirement that it include an opinion, if the accused lacks mental fitness to
150 proceed, as to whether there is a substantial probability that the accused will
151 attain the mental fitness to proceed in the foreseeable future;

152 (2) Within ten days after the filing of the report, both the accused and the
153 state shall, upon written request, be entitled to an order granting them an
154 examination of the accused by a psychiatrist or psychologist, as defined in section
155 632.005, or a physician with a minimum of one year training or experience in
156 providing treatment or services to persons with an intellectual disability or
157 developmental disability or mental illness, of their own choosing and at their own
158 expense. An examination performed pursuant to this subdivision shall be
159 completed and filed with the court within thirty days unless the court, for good
160 cause, orders otherwise. A copy shall be furnished to the opposing party;

161 (3) If neither the state nor the accused nor his **or her** counsel requests
162 a second examination relative to fitness to proceed or contests the findings of the
163 report referred to in subdivision (1) of this subsection, the court may make a
164 determination and finding on the basis of the report filed, or may hold a hearing
165 on its own motion. If any such opinion is contested, the court shall hold a
166 hearing on the issue. The report or reports may be received in evidence at any
167 hearing on the issue but the party contesting any opinion therein relative to
168 fitness to proceed shall have the right to summon and to cross-examine the
169 examiner who rendered such opinion and to offer evidence upon the issue;

170 (4) If the accused is found mentally fit to proceed, the criminal
171 proceedings shall be resumed;

172 (5) If it is found that the accused lacks mental fitness to proceed but there
173 is a substantial probability the accused will be mentally fit to proceed in the
174 reasonably foreseeable future, the court shall continue such commitment for a

175 period not longer than six months, after which the court shall reinstitute the
176 proceedings required under subdivision (1) of this subsection;

177 (6) If it is found that the accused lacks mental fitness to proceed and
178 there is no substantial probability that the accused will be mentally fit to proceed
179 in the reasonably foreseeable future, the court shall dismiss the charges without
180 prejudice and the accused shall be discharged, but only if proper proceedings have
181 been filed under chapter 632 or chapter 475, in which case those sections and no
182 others will be applicable. The probate division of the circuit court shall have
183 concurrent jurisdiction over the accused upon the filing of a proper pleading to
184 determine if the accused shall be involuntarily detained under chapter 632, or to
185 determine if the accused shall be declared incapacitated under chapter 475, and
186 approved for admission by the guardian under section 632.120 or 633.120, to a
187 mental health or developmental disability facility. When such proceedings are
188 filed, the criminal charges shall be dismissed without prejudice if the court finds
189 that the accused is mentally ill and should be committed or that he **or she** is
190 incapacitated and should have a guardian appointed. The period of limitation on
191 prosecuting any criminal offense shall be tolled during the period that the
192 accused lacks mental fitness to proceed.

193 12. If the question of the accused's mental fitness to proceed was raised
194 after a jury was impaneled to try the issues raised by a plea of not guilty and the
195 court determines that the accused lacks the mental fitness to proceed or orders
196 the accused committed for an examination pursuant to this section, the court may
197 declare a mistrial. Declaration of a mistrial under these circumstances, or
198 dismissal of the charges pursuant to subsection 11 of this section, does not
199 constitute jeopardy, nor does it prohibit the trial, sentencing or execution of the
200 accused for the same offense after he **or she** has been found restored to
201 competency.

202 13. The result of any examinations made pursuant to this section shall
203 not be a public record or open to the public.

204 14. No statement made by the accused in the course of any examination
205 or treatment pursuant to this section and no information received by any
206 examiner or other person in the course thereof, whether such examination or
207 treatment was made with or without the consent of the accused or upon his **or**
208 **her** motion or upon that of others, shall be admitted in evidence against the
209 accused on the issue of guilt in any criminal proceeding then or thereafter
210 pending in any court, state or federal. A finding by the court that the accused is

211 mentally fit to proceed shall in no way prejudice the accused in a defense to the
212 crime charged on the ground that at the time thereof he **or she** was afflicted with
213 a mental disease or defect excluding responsibility, nor shall such finding by the
214 court be introduced in evidence on that issue nor otherwise be brought to the
215 notice of the jury.

630.745. 1. If a duly authorized representative of the department finds
2 upon inspection of a residential facility or day program that it is not in
3 compliance with the provisions of sections 630.705 to 630.760, and the standards
4 established thereunder, the head of the facility or program shall be informed of
5 the deficiencies in an exit interview conducted with him. A written report shall
6 be prepared of any deficiency for which there has not been prompt remedial
7 action, and a copy of such report and a written correction order shall be sent to
8 the [head of the] facility or program [by certified mail, return receipt requested,]
9 at the facility or program address within twenty working days after the
10 inspection, stating separately each deficiency and the specific statute or
11 regulation violated.

12 2. The head of the facility or program shall have twenty working days
13 following receipt of the report and correction order to request any conference and
14 to submit a plan of correction for the department's approval which contains
15 specific dates for achieving compliance. Within ten working days after receiving
16 a plan of correction, the department shall give its written approval or rejection
17 of the plan.

18 3. A reinspection shall be conducted within [~~fifty-five~~] **sixty** days after
19 the original inspection to determine if deficiencies are being corrected as required
20 in the approved correction plan or any subsequent authorized modification. If the
21 facility or program is not in substantial compliance and the head of the facility
22 or program is not correcting the noncompliance in accordance with the time
23 schedules in his approved plan of correction, the department shall issue a notice
24 of noncompliance, which shall be sent by certified mail, return receipt requested,
25 to the head of the facility or program.

26 4. The notice of noncompliance shall inform the head of the facility or
27 program that the department may seek the imposition of any of the sanctions and
28 remedies provided for in section 630.755, or any other action authorized by law.

29 5. At any time after an inspection is conducted, the head of the facility or
30 program may choose to enter into a consent agreement with the department to
31 obtain a probationary license. The consent agreement shall include a provision

32 that the head of the facility or program will voluntarily surrender the license if
33 substantial compliance is not reached in accordance with the terms and deadlines
34 established under the agreement. The agreement shall specify the stages, actions
35 and time span to achieve substantial compliance.

36 6. If a notice of noncompliance has been issued, the head of the facility or
37 program shall post a copy of the notice of noncompliance and a copy of the most
38 recent inspection report in a conspicuous location in the facility or program, and
39 the department shall send a copy of the notice of noncompliance to any concerned
40 federal, state or local governmental agencies.

630.945. Beginning July 1, 2013, no state employee, regardless of job
2 classification, who is working in a maximum or intermediate security mental
3 health facility or any portion of a mental health facility which has maximum or
4 intermediate security shall be mandated to work more than twelve hours in any
5 twenty-four hour period unless the department of mental health declares an
6 emergency workforce shortage. **The provisions of this section shall not
7 apply on the first Sunday of November each year when the standard
8 time changes according to 15 U.S.C. Section 260a.**

632.005. As used in chapter 631 and this chapter, unless the context
2 clearly requires otherwise, the following terms shall mean:

3 (1) "Comprehensive psychiatric services", any one, or any combination of
4 two or more, of the following services to persons affected by mental disorders
5 other than intellectual disabilities or developmental disabilities: inpatient,
6 outpatient, day program or other partial hospitalization, emergency, diagnostic,
7 treatment, liaison, follow-up, consultation, education, rehabilitation, prevention,
8 screening, transitional living, medical prevention and treatment for alcohol abuse,
9 and medical prevention and treatment for drug abuse;

10 (2) "Council", the Missouri advisory council for comprehensive psychiatric
11 services;

12 (3) "Court", the court which has jurisdiction over the respondent or
13 patient;

14 (4) "Division", the division of comprehensive psychiatric services of the
15 department of mental health;

16 (5) "Division director", director of the division of comprehensive
17 psychiatric services of the department of mental health, or his designee;

18 (6) "Head of mental health facility", superintendent or other chief
19 administrative officer of a mental health facility, or his designee;

20 (7) "Judicial day", any Monday, Tuesday, Wednesday, Thursday or Friday
21 when the court is open for business, but excluding Saturdays, Sundays and legal
22 holidays;

23 (8) "Licensed physician", a physician licensed pursuant to the provisions
24 of chapter 334 or a person authorized to practice medicine in this state pursuant
25 to the provisions of section 334.150;

26 (9) "Licensed professional counselor", a person licensed as a professional
27 counselor under chapter 337 and with a minimum of one year training or
28 experience in providing psychiatric care, treatment, or services in a psychiatric
29 setting to individuals suffering from a mental disorder;

30 (10) "Likelihood of serious harm" means any one or more of the following
31 but does not require actual physical injury to have occurred:

32 (a) A substantial risk that serious physical harm will be inflicted by a
33 person upon his own person, as evidenced by recent threats, including verbal
34 threats, or attempts to commit suicide or inflict physical harm on
35 himself. Evidence of substantial risk may also include information about
36 patterns of behavior that historically have resulted in serious harm previously
37 being inflicted by a person upon himself;

38 (b) A substantial risk that serious physical harm to a person will result
39 or is occurring because of an impairment in his capacity to make decisions with
40 respect to his hospitalization and need for treatment as evidenced by his current
41 mental disorder or mental illness which results in an inability to provide for his
42 own basic necessities of food, clothing, shelter, safety or medical care or his
43 inability to provide for his own mental health care which may result in a
44 substantial risk of serious physical harm. Evidence of that substantial risk may
45 also include information about patterns of behavior that historically have resulted
46 in serious harm to the person previously taking place because of a mental
47 disorder or mental illness which resulted in his inability to provide for his basic
48 necessities of food, clothing, shelter, safety or medical or mental health care; or

49 (c) A substantial risk that serious physical harm will be inflicted by a
50 person upon another as evidenced by recent overt acts, behavior or threats,
51 including verbal threats, which have caused such harm or which would place a
52 reasonable person in reasonable fear of sustaining such harm. Evidence of that
53 substantial risk may also include information about patterns of behavior that
54 historically have resulted in physical harm previously being inflicted by a person
55 upon another person;

56 (11) "Mental health coordinator", a mental health professional who has
57 knowledge of the laws relating to hospital admissions and civil commitment and
58 who is authorized by the director of the department, or his designee, to serve a
59 designated geographic area or mental health facility and who has the powers,
60 duties and responsibilities provided in this chapter;

61 (12) "Mental health facility", any residential facility, public or private, or
62 any public or private hospital, which can provide evaluation, treatment and,
63 inpatient care to persons suffering from a mental disorder or mental illness and
64 which is recognized as such by the department or any outpatient treatment
65 program certified by the department of mental health. No correctional institution
66 or facility, jail, regional center or developmental disability facility shall be a
67 mental health facility within the meaning of this chapter;

68 (13) "Mental health professional", a psychiatrist, resident in psychiatry,
69 **psychiatric physician assistant, psychiatric assistant physician,**
70 **psychiatric advanced practice registered nurse,** psychologist, psychiatric
71 nurse, licensed professional counselor, or psychiatric social worker;

72 (14) "Mental health program", any public or private residential facility,
73 public or private hospital, public or private specialized service or public or private
74 day program that can provide care, treatment, rehabilitation or services, either
75 through its own staff or through contracted providers, in an inpatient or
76 outpatient setting to persons with a mental disorder or mental illness or with a
77 diagnosis of alcohol abuse or drug abuse which is recognized as such by the
78 department. No correctional institution or facility or jail may be a mental health
79 program within the meaning of this chapter;

80 (15) "Ninety-six hours" shall be construed and computed to exclude
81 Saturdays, Sundays and legal holidays which are observed either by the court or
82 by the mental health facility where the respondent is detained;

83 (16) "Peace officer", a sheriff, deputy sheriff, county or municipal police
84 officer or highway patrolman;

85 (17) **"Psychiatric advanced practice registered nurse", a**
86 **registered nurse who is currently recognized by the board of nursing**
87 **as an advanced practice registered nurse, who has at least two years of**
88 **experience in providing psychiatric treatment to individuals suffering**
89 **from mental disorders;**

90 (18) "Psychiatric assistant physician", a licensed assistant
91 physician under chapter 334 and who has had at least two years of

92 **experience as an assistant physician in providing psychiatric treatment**
93 **to individuals suffering from mental health disorders;**

94 (19) "Psychiatric nurse", a registered professional nurse who is licensed
95 under chapter 335 and who has had at least two years of experience as a
96 registered professional nurse in providing psychiatric nursing treatment to
97 individuals suffering from mental disorders;

98 (20) "Psychiatric physician assistant", a licensed physician
99 assistant under chapter 334 and who has had at least two years of
100 experience as a physician assistant in providing psychiatric treatment
101 to individuals suffering from mental health disorders or a graduate of
102 a postgraduate residency or fellowship for physician assistants in
103 psychiatry;

104 [(18)] (21) "Psychiatric social worker", a person with a master's or
105 further advanced degree from an accredited school of social work, practicing
106 pursuant to chapter 337, and with a minimum of one year training or experience
107 in providing psychiatric care, treatment or services in a psychiatric setting to
108 individuals suffering from a mental disorder;

109 [(19)] (22) "Psychiatrist", a licensed physician who in addition has
110 successfully completed a training program in psychiatry approved by the
111 American Medical Association, the American Osteopathic Association or other
112 training program certified as equivalent by the department;

113 [(20)] (23) "Psychologist", a person licensed to practice psychology under
114 chapter 337 with a minimum of one year training or experience in providing
115 treatment or services to mentally disordered or mentally ill individuals;

116 [(21)] (24) "Resident in psychiatry", a licensed physician who is in a
117 training program in psychiatry approved by the American Medical Association,
118 the American Osteopathic Association or other training program certified as
119 equivalent by the department;

120 [(22)] (25) "Respondent", an individual against whom involuntary civil
121 detention proceedings are instituted pursuant to this chapter;

122 [(23)] (26) "Treatment", any effort to accomplish a significant change in
123 the mental or emotional conditions or the behavior of the patient consistent with
124 generally recognized principles or standards in the mental health professions.

Section B. The enactment of sections 337.100, 337.105, 337.110, 337.115,
2 337.120, 337.125, 337.130, 337.135, 337.140, 337.145, 337.150, 337.155, 337.160,
3 and 337.165 of this act shall become effective upon notification by the commission

4 to the revisor of statutes that seven states have adopted the psychology
5 interjurisdictional compact.

✓

Unofficial

Bill

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