

HOUSE BILL NO. 241

INTRODUCED BY J. ETCHART, L. DEMING

A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT; PROVIDING FOR RECOGNITION OF HOME STATE LICENSURE; PROVIDING FOR REQUIREMENTS TO PRACTICE TELEPSYCHOLOGY; PROVIDING FOR TEMPORARY AUTHORIZATION TO PRACTICE PSYCHOLOGY; PROVIDING FOR CONDITIONS TO PRACTICE TELEPSYCHOLOGY IN A RECEIVING STATE; PROVIDING FOR AN ADVERSE ACTION PROCESS; PROVIDING FOR A COORDINATED LICENSURE INFORMATION SYSTEM; RECOGNIZING THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION; PROVIDING RULEMAKING AUTHORITY; PROVIDING FOR CONDITIONS OF DEFAULT AND TERMINATION; PROVIDING DEFINITIONS; AMENDING SECTION 37-17-202, MCA; AND PROVIDING AN EFFECTIVE DATE FOR COMMISSION RULES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Enactment -- provisions.** The Psychology Interjurisdictional Compact is enacted into law and entered into with all other jurisdictions joining in the compact in the form substantially as follows:

ARTICLE I

PURPOSE

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

WHEREAS, this compact is intended to regulate the day-to-day practice of telepsychology, defined in Article II, by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority; and

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

1 is a matter of public record.

2 (B) "Association of state and provincial psychology boards" or "ASPPB" means the recognized
3 membership organization composed of state and provincial psychology regulatory authorities responsible for
4 the licensure and registration of psychologists throughout the United States and Canada.

5 (C) "Authority to practice interjurisdictional telepsychology" means a licensed psychologist's
6 authority to practice telepsychology within the limits authorized under this compact in another compact state.

7 (D) "Bylaws" means those bylaws established by the psychology interjurisdictional compact
8 commission pursuant to Article X for its governance or for directing and controlling its actions and conduct.

9 (E) "Client" or "patient" means the recipient of psychological services, whether psychological
10 services are delivered in the context of health care, corporate, supervision, or consulting services.

11 (F) "Commissioner" means the voting representative appointed by each state psychology
12 regulatory authority pursuant to Article X.

13 (G) "Compact state" means a state, the District of Columbia, or a United States territory that has
14 enacted this compact legislation and that has not withdrawn pursuant to Article XIII, section (C), or been
15 terminated pursuant to Article XII, section (B).

16 (H) "Confidentiality" means the principle that data or information is not made available or disclosed
17 to unauthorized persons or processes.

18 (I) "Coordinated licensure information system" or "coordinated database" means an integrated
19 process for collecting, storing, and sharing information on psychologists' licensure and enforcement activities
20 related to psychology licensure laws that is administered by the recognized membership organization
21 composed of state psychology regulatory authorities.

22 (J) "Day" means any part of a day in which psychological work is performed.

23 (K) "Distant state" means the compact state where a psychologist is physically present, not through
24 the use of telecommunications technologies, to provide temporary in-person, face-to-face psychological
25 services.

26 (L) "E.passport" means a certificate issued by the association of state and provincial psychology
27 boards that promotes the standardization in the criteria of interjurisdictional telepsychology practice and
28 facilitates the process for licensed psychologists to provide telepsychological services across state lines.

1 (M) "Executive board" means a group of directors elected or appointed to act on behalf of and
2 within the powers granted to them by the commission.

3 (N) "Home state" means a compact state where a psychologist is licensed to practice psychology.
4 If the psychologist is licensed in more than one compact state and is practicing under the authorization to
5 practice interjurisdictional telepsychology, the home state is the compact state where the psychologist is
6 physically present when the telepsychological services are delivered. If the psychologist is licensed in more
7 than one compact state and is practicing under the temporary authorization to practice, the home state is any
8 compact state where the psychologist is licensed.

9 (O) "Identity history summary" means a summary of information retained by the federal bureau of
10 investigation, or other designee with similar authority, in connection with arrests and in some instances federal
11 employment, naturalization, or military service.

12 (P) "In-person" or "face-to-face" or "in-person, face-to-face" means interactions in which the
13 psychologist and the client or patient are in the same physical space and does not include interactions that may
14 occur through the use of telecommunication technologies.

15 (Q) "Interjurisdictional practice certificate" or "IPC" means a certificate issued by the association of
16 state and provincial psychology boards that grants temporary authority to practice based on notification to the
17 state psychology regulatory authority of intention to practice temporarily and verification of one's qualifications
18 for such practice.

19 (R) "License" means authorization by a state psychology regulatory authority to engage in the
20 independent practice of psychology, which would be unlawful without the authorization.

21 (S) "Non-compact state" means any state that is not at the time a compact state.

22 (T) "Psychologist" means an individual licensed for the independent practice of psychology.

23 (U) "Psychology interjurisdictional compact commission" or "commission" means the national
24 administration of which all compact states are members.

25 (V) "Receiving state" means a compact state where the client or patient is physically located when
26 the telepsychological services are delivered.

27 (W) "Rule" means a written statement by the psychology interjurisdictional compact commission
28 promulgated pursuant to Article XI of the compact that is of general applicability, implements, interprets, or

1 prescribes a policy or provision of the compact or an organizational, procedural, or practice requirement of the
2 commission and has the force and effect of statutory law in a compact state, and includes the amendment,
3 repeal, or suspension of an existing rule.

4 (X) "Significant investigatory information" means:

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

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

12 (Y) "State" means a state, commonwealth, territory, or possession of the United States, or the
13 District of Columbia.

14 (Z) "State psychology regulatory authority" means the board, office, or other agency with the
15 legislative mandate to license and regulate the practice of psychology.

16 (AA) "Telepsychology" means the provision of psychological services using telecommunication
17 technologies.

18 (BB) "Temporary authorization to practice" means a licensed psychologist's authority to conduct
19 temporary in-person, face-to-face practice within the limits authorized under this compact, in another compact
20 state.

21 (CC) "Temporary in-person, face-to-face practice" means where a psychologist is physically present,
22 not through the use of telecommunications technologies, in the distant state to provide for the practice of
23 psychology for 30 days within a calendar year and based on notification to the distant state.

24 ARTICLE III

25 HOME STATE LICENSURE

26 (A) The home state must be a compact state where a psychologist is licensed to practice
27 psychology.

28 (B) A psychologist may hold one or more compact state licenses at a time. If the psychologist is

1 licensed in more than one compact state, the home state is the compact state where the psychologist is
2 physically present when the services are delivered as authorized by the authority to practice interjurisdictional
3 telepsychology under the terms of this compact.

4 (C) Any compact state may require a psychologist not previously licensed in a compact state to
5 obtain and retain a license to be authorized to practice in the compact state under circumstances not authorized
6 by the authority to practice interjurisdictional telepsychology under the terms of this compact.

7 (D) Any compact state may require a psychologist to obtain and retain a license to be authorized to
8 practice in a compact state under circumstances not authorized by temporary authorization to practice under
9 the terms of this compact.

10 (E) A home state's license authorizes a psychologist to practice in a receiving state under the
11 authority to practice interjurisdictional telepsychology only if the compact state:

12 (1) currently requires the psychologist to hold an active E.passport;

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

14 (3) notifies the commission, in compliance with the terms herein, of any adverse action or
15 significant investigatory information regarding a licensed individual;

16 (4) requires an identity history summary of all applicants at initial licensure, including the use of the
17 results of fingerprints or other biometric data checks compliant with the requirements of the federal bureau of
18 investigation, or other designee with similar authority, no later than 10 years after activation of the compact; and

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

20 (F) A home state's license grants temporary authorization to practice to a psychologist in a distant
21 state only if the compact state:

22 (1) currently requires the psychologist to hold an active interjurisdictional practice certificate;

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

24 (3) notifies the commission, in compliance with the terms of the compact, of any adverse action or
25 significant investigatory information regarding a licensed individual;

26 (4) requires an identity history summary of all applicants at initial licensure, including the use of the
27 results of fingerprints or other biometric data checks compliant with the requirements of the federal bureau of
28 investigation, or other designee with similar authority, no later than 10 years after activation of the compact; and

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

2 ARTICLE IV

3 COMPACT PRIVILEGE TO PRACTICE

4 TELEPSYCHOLOGY

5 (A) Compact states shall recognize the right of a psychologist, licensed in a compact state in
6 conformance with Article III, to practice telepsychology in other compact states or receiving states in which the
7 psychologist is not licensed, under the authority to practice interjurisdictional telepsychology as provided in the
8 compact.

9 (B) To exercise the authority to practice interjurisdictional telepsychology under the terms and
10 provisions of this compact, a psychologist licensed to practice in a compact state:

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

13 (a) regionally accredited by an accrediting body recognized by the United States department of
14 education to grant graduate degrees or authorized by provincial statute or royal charter to grant doctoral
15 degrees; or

16 (b) a foreign college or university deemed to be equivalent to Article IV, subsection (B)(1)(a), by a
17 foreign credential evaluation service that is a member of the national association of credential evaluation
18 services or by a recognized foreign credential evaluation service;

19 (2) must hold a graduate degree in psychology that meets the following criteria:

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

23 (b) the psychology program must stand as a recognizable, coherent, organizational entity within
24 the institution;

25 (c) there must be a clear authority and primary responsibility for the core and specialty areas
26 whether or not the program cuts across administrative lines;

27 (d) the program must consist of an integrated, organized sequence of study;

28 (e) there must be an identifiable psychology faculty sufficient in size and breadth to carry out its

1 responsibilities;

2 (f) the designated director of the program must be a psychologist and a member of the core
3 faculty;

4 (g) the program must have an identifiable body of students who are matriculated in that program
5 for a degree;

6 (h) the program must include supervised practicum, internship, or field training appropriate to the
7 practice of psychology;

8 (i) the curriculum must encompass a minimum of 3 academic years of full-time graduate study for
9 doctoral degree and a minimum of 1 academic year of full-time graduate study for master's degree; and

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

11 (3) must possess a current, full, and unrestricted license to practice psychology in a home state
12 that is a compact state;

13 (4) may not have a history of adverse action that violates the rules of the commission;

14 (5) may not have a criminal record history reported on an identity history summary that violates the
15 rules of the commission;

16 (6) must possess a current, active E.passport;

17 (7) shall provide attestations in regard to areas of intended practice, conformity with standards of
18 practice, competence in telepsychology technology, criminal background, and knowledge and adherence to
19 legal requirements in the home and receiving states, and provide a release of information to allow for primary
20 source verification in a manner specified by the commission; and

21 (8) shall meet other criteria as defined by the rules of the commission.

22 (C) The home state maintains authority over the license of any psychologist practicing into a
23 receiving state under the authority to practice interjurisdictional telepsychology.

24 (D) A psychologist practicing into a receiving state under the authority to practice interjurisdictional
25 telepsychology will be subject to the receiving state's scope of practice. A receiving state may, in accordance
26 with that state's due process law, limit or revoke a psychologist's authority to practice interjurisdictional
27 telepsychology in the receiving state and may take any other necessary actions under the receiving state's
28 applicable law to protect health and safety of the receiving state's citizens. If a receiving state takes action, the

1 state shall promptly notify the home state and the commission.

2 (E) If a psychologist's license in any home state or another compact state or any authority to
3 practice interjurisdictional telepsychology in any receiving state is restricted, suspended, or otherwise limited,
4 the E.passport must be revoked and therefore the psychologist may not be eligible to practice telepsychology in
5 a compact state under the authority to practice interjurisdictional telepsychology.

6 ARTICLE V

7 COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

8 (A) Compact states shall recognize the right of a psychologist, licensed in a compact state in
9 conformance with Article III, to practice temporarily in other compact states or distant states in which the
10 psychologist is not licensed.

11 (B) To exercise the temporary authorization to practice under the terms and provisions of this
12 compact, a psychologist licensed to practice in a compact state:

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

15 (a) regionally accredited by an accrediting body recognized by the United States department of
16 education to grant graduate degrees or authorized by provincial statute or royal charter to grant doctoral
17 degrees; or

18 (b) a foreign college or university deemed to be equivalent to Article V, subsection (B)(1)(a), by a
19 foreign credential evaluation service that is a member of the national association of credential evaluation
20 services or by a recognized foreign credential evaluation service;

21 (2) must hold a graduate degree in psychology that meets the following criteria:

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

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

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

- 1 (d) the program must consist of an integrated, organized sequence of study;
- 2 (e) there must be an identifiable psychology faculty sufficient in size and breadth to carry out its
3 responsibilities;
- 4 (f) the designated director of the program must be a psychologist and a member of the core
5 faculty;
- 6 (g) the program must have an identifiable body of students who are matriculated in that program
7 for a degree;
- 8 (h) the program must include supervised practicum, internship, or field training appropriate to the
9 practice of psychology;
- 10 (i) the curriculum must encompass a minimum of 3 academic years of full-time graduate study for
11 doctoral degree and a minimum of 1 academic year of full-time graduate study for master's degree; and
- 12 (j) the program includes an acceptable residency as defined by the rules of the commission;
- 13 (3) must possess a current, full, and unrestricted license to practice psychology in a home state
14 that is a compact state;
- 15 (4) may not have a history of adverse action that violates the rules of the commission;
- 16 (5) may not have a criminal record history that violates the rules of the commission;
- 17 (6) must possess a current, active interjurisdictional practice certificate.
- 18 (7) shall provide attestations in regard to areas of intended practice and work experience and
19 provide a release of information to allow for primary source verification in a manner specified by the
20 commission; and
- 21 (8) shall meet other criteria as defined by the rules of the commission.
- 22 (C) A psychologist practicing into a distant state under the temporary authorization to practice shall
23 practice within the scope of practice authorized by the distant state.
- 24 (D) A psychologist practicing into a distant state under the temporary authorization to practice will
25 be subject to the distant state's authority and law. A distant state may, in accordance with that state's due
26 process law, limit or revoke a psychologist's temporary authorization to practice in the distant state and may
27 take any other necessary actions under the distant state's applicable law to protect health and safety of the
28 distant state's citizens. If a distant state takes action, the state shall promptly notify the home state and the

1 commission.

2 (E) If a psychologist's license in any home state or another compact state or any temporary
3 authorization to practice in any distant state is restricted, suspended, or otherwise limited, the interjurisdictional
4 practice certificate must be revoked and therefore the psychologist may not be eligible to practice in a compact
5 state under the temporary authorization to practice.

6 ARTICLE VI

7 CONDITIONS OF TELEPSYCHOLOGY PRACTICE

8 IN A RECEIVING STATE

9 (A) A psychologist may practice in a receiving state under the authority to practice
10 interjurisdictional telepsychology only in the performance of the scope of practice for psychology as assigned by
11 an appropriate state psychology regulatory authority as defined in the rules of the commission and under the
12 following circumstances:

13 (1) the psychologist initiates a client or patient contact in a home state via telecommunications
14 technologies with a client or patient in a receiving state; and

15 (2) other conditions regarding telepsychology as determined by the rules promulgated by the
16 commission.

17 ARTICLE VII

18 ADVERSE ACTIONS

19 (A) A home state must have the power to impose adverse action against a psychologist's license
20 issued by the home state. A distant state must have the power to take adverse action on a psychologist's
21 temporary authorization to practice in the distant state.

22 (B) A receiving state may take adverse action on a psychologist's authority to practice
23 interjurisdictional telepsychology within that receiving state. A home state may take adverse action against a
24 psychologist based on an adverse action taken by a distant state regarding temporary in-person, face-to-face
25 practice.

26 (C) If a home state takes adverse action against a psychologist's license, that psychologist's
27 authority to practice interjurisdictional telepsychology is terminated and the e.passport is revoked. The
28 psychologist's temporary authorization to practice is also terminated and the interjurisdictional practice

1 certificate is revoked.

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

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

7 (3) Other actions may be imposed as determined by the rules promulgated by the commission.

8 (D) A home state's psychology regulatory authority shall investigate and take appropriate action
9 with respect to reported inappropriate conduct engaged in by a licensee that occurred in a receiving state as it
10 would if such conduct had occurred by a licensee within the home state. In such cases, the home state's law
11 must control in determining any adverse action against a psychologist's license.

12 (E) A distant state's psychology regulatory authority shall investigate and take appropriate action
13 with respect to reported inappropriate conduct engaged in by a psychologist practicing under temporary
14 authorization practice that occurred in that distant state as it would if such conduct had occurred by a licensee
15 within the home state. In such cases, the distant state's law must control in determining any adverse action
16 against a psychologist's temporary authorization to practice.

17 (F) Nothing in this compact may override a compact state's decision that a psychologist's
18 participation in an alternative program may be used in lieu of adverse action and that such participation must
19 remain nonpublic if required by the compact state's law. Compact states shall require psychologists who enter
20 any alternative programs to not provide telepsychology services under the authority to practice
21 interjurisdictional telepsychology or provide temporary psychological services under the temporary authorization
22 to practice in any other compact state during the term of the alternative program.

23 (G) No other judicial or administrative remedies may be available to a psychologist in the event a
24 compact state imposes an adverse action pursuant to Article VII, subsection (C), above.

25 ARTICLE VIII

26 ADDITIONAL AUTHORITIES INVESTED IN A

27 COMPACT STATE'S PSYCHOLOGY REGULATORY AUTHORITY

28 (A) In addition to any other powers granted under state law, a compact state's psychology

1 regulatory authority must have the authority under this compact to:

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

9 (2) issue cease and desist or injunctive relief orders, or both, to revoke a psychologist's authority to
10 practice interjurisdictional telepsychology and temporary authorization to practice.

11 (3) During the course of any investigation, a psychologist may not change the psychologist's home
12 state licensure. A home state psychology regulatory authority is authorized to complete any pending
13 investigations of a psychologist and to take any actions appropriate under its law. The home state psychology
14 regulatory authority shall promptly report the conclusions of such investigations to the commission. Once an
15 investigation has been completed, and pending the outcomes of the investigation, the psychologist may change
16 the psychologist's home state licensure. The commission shall promptly notify the new home state of any such
17 decisions as provided in the rules of the commission. All information provided to the commission or distributed
18 by compact states pursuant to the psychologist must be confidential, filed under seal, and used for investigatory
19 or disciplinary matters. The commission may create additional rules for mandated or discretionary sharing of
20 information by compact states.

21 ARTICLE IX

22 COORDINATED LICENSURE INFORMATION SYSTEM

23 (A) The commission shall provide for the development and maintenance of a coordinated licensure
24 information system and reporting system containing licensure and disciplinary action information on all
25 psychologist individuals to whom this compact is applicable in all compact states as defined by the rules of the
26 commission.

27 (B) Notwithstanding any other provision of state law to the contrary, a compact state shall submit a
28 uniform data set to the coordinated database on all licensees as required by the rules of the commission,

1 including:

2 (1) identifying information;

3 (2) licensure data;

4 (3) significant investigatory information;

5 (4) adverse actions against a psychologist's license;

6 (5) an indicator that a psychologist's authority to practice interjurisdictional telepsychology or

7 temporary authorization to practice is revoked;

8 (6) nonconfidential information related to alternative program participation information;

9 (7) any denial of application for licensure, and the reasons for such denial; and

10 (8) other information that may facilitate the administration of this compact, as determined by the

11 rules of the commission.

12 (C) The coordinated database administrator shall promptly notify all compact states of any adverse

13 action taken against or significant investigative information on any licensee in a compact state.

14 (D) Compact states reporting information to the coordinated database may designate information

15 that may not be shared with the public without the express permission of the compact state reporting the

16 information.

17 (E) Any information submitted to the coordinated database that is subsequently required to be

18 expunged by the law of the compact state reporting the information must be removed from the coordinated

19 database.

20 ARTICLE X

21 ESTABLISHMENT OF THE PSYCHOLOGY

22 INTERJURISDICTIONAL COMPACT COMMISSION

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

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

26 (2) Venue is proper and judicial proceedings by or against the commission must be brought solely
27 and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The
28 commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in

1 alternative dispute resolution proceedings.

2 (3) Nothing in this compact may be construed to be a waiver of sovereign immunity.

3 (B) Membership, Voting, and Meetings

4 (1) The commission shall consist of one voting representative appointed by each compact state
5 who shall serve as that state's commissioner. The state psychology regulatory authority shall appoint its
6 delegate. This delegate must be empowered to act on behalf of the compact state. This delegate must be
7 limited to:

8 (a) an executive director, executive secretary, or similar executive;

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

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

12 (2) Any commissioner may be removed or suspended from office as provided by the law of the
13 state from which the commissioner is appointed. Any vacancy occurring in the commission must be filled in
14 accordance with the laws of the compact state in which the vacancy exists.

15 (3) Each commissioner must be entitled to one vote with regard to the promulgation of rules and
16 creation of bylaws and must otherwise have an opportunity to participate in the business and affairs of the
17 commission. A commissioner shall vote in person or by such other means as provided in the bylaws. The
18 bylaws may provide for commissioners' participation in meetings by telephone or other means of
19 communication.

20 (4) The commission shall meet at least once during each calendar year. Additional meetings must
21 be held as set forth in the bylaws.

22 (5) All meetings must be open to the public, and public notices of meetings must be given in the
23 same manner as required under the rulemaking provisions in Article XI.

24 (6) The commission may convene in a closed, nonpublic meeting if the commission must discuss:

25 (a) noncompliance of a compact state with its obligations under the compact;

26 (b) the employment, compensation, discipline, or other personnel matters, practices, or procedures
27 related to specific employees or other matters related to the commission's internal personnel practices and
28 procedures;

- 1 (c) current, threatened, or reasonably anticipated litigation against the commission;
- 2 (d) the negotiation of contracts for the purchase or sale of goods, services, or real estate;
- 3 (e) an accusation against any person of a crime or formally censuring any person;
- 4 (f) disclosure of trade secrets or commercial or financial information that is privileged or
5 confidential;
- 6 (g) disclosure of information of a personal nature in which disclosure would constitute a clearly
7 unwarranted invasion of personal privacy;
- 8 (h) disclosure of investigatory records compiled for law enforcement purposes;
- 9 (i) disclosure of information related to any investigatory reports prepared by or on behalf of or for
10 use of the commission or other committee charged with responsibility for investigation or determination of
11 compliance issues pursuant to the compact; or
- 12 (j) matters specifically exempted from disclosure by federal or state statute.
- 13 (7) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's
14 legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant
15 exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in
16 a meeting and shall provide a full and accurate summary of actions taken, of any person participating in the
17 meeting, and the reasons for each, including a description of the views expressed. All documents considered in
18 connection with an action must be identified in such minutes. All minutes and documents of a closed meeting
19 must remain under seal, subject to release only by a majority vote of the commission or order of a court of
20 competent jurisdiction.
- 21 (C) The commission shall, by a majority vote of the commissioners, prescribe bylaws or rules, or
22 both, to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the
23 powers of the compact, including but not limited to:
- 24 (1) establishing the fiscal year of the commission;
- 25 (2) providing reasonable standards and procedures:
- 26 (a) for the establishment and meetings of other committees; and
- 27 (b) governing any general or specific delegation of any authority or function of the commission;
- 28 (3) providing reasonable procedures for calling and conducting meetings of the commission,

1 ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such
2 meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy
3 of individuals of such proceedings, and proprietary information, including trade secrets. The commission may
4 meet in a closed session only after a majority of the commissioners vote to close a meeting to the public in
5 whole or in part. As soon as practicable, the commission shall make public a copy of the vote to close the
6 meeting revealing the vote of each commissioner with no proxy votes allowed.

7 (4) establishing the titles, duties, and authority and reasonable procedures for the election of the
8 officers of the commission;

9 (5) providing reasonable standards and procedures for the establishment of the personnel policies
10 and programs of the commission. Notwithstanding any civil service or other similar law of any compact state,
11 the bylaws must exclusively govern the personnel policies and programs of the commission.

12 (6) promulgating a code of ethics to address permissible and prohibited activities of commission
13 members and employees; and

14 (7) providing a mechanism for concluding the operations of the commission and the equitable
15 disposition of any surplus funds that may exist after the termination of the compact after the payment or
16 reserving of all its debts and obligations.

17 (8) The commission shall publish its bylaws in a convenient form and file a copy of the bylaws and
18 a copy of any amendments with the appropriate agency or officer in each of the compact states.

19 (9) The commission shall maintain its financial records in accordance with the bylaws.

20 (10) The commission shall meet and take such actions as are consistent with the provisions of this
21 compact and the bylaws.

22 (D) The commission must have the following powers:

23 (1) the authority to promulgate uniform rules to facilitate and coordinate implementation and
24 administration of this compact. The rule must have the force and effect of law and must be binding in all
25 compact states.

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

1 (3) to purchase and maintain insurance and bonds;

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

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

8 (6) to accept any and all appropriate donations and grants of money, equipment, supplies,
9 materials, and services, and to receive, utilize, and dispose of the same provided that at all times the
10 commission shall strive to avoid any appearance of impropriety or conflict of interest;

11 (7) to lease, purchase, and accept appropriate gifts or donations of, or otherwise to own, hold,
12 improve, or use, any real, personal, or mixed property provided that at all times the commission shall strive to
13 avoid any appearance of impropriety;

14 (8) to sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any real,
15 personal, or mixed property;

16 (9) to establish a budget and make expenditures;

17 (10) to borrow money;

18 (11) to appoint committees, including advisory committees comprised of members, state regulators,
19 state legislators or their representatives, and consumer representatives and such other interested persons as
20 may be designated in this compact and the bylaws;

21 (12) to provide and receive information from, and to cooperate with, law enforcement agencies;

22 (13) to adopt and use an official seal; and

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

26 (E) The elected officers shall serve as the executive board, which must have the power to act on
27 behalf of the commission according to the terms of this compact.

28 (1) The executive board must be comprised of six members:

1 (a) five voting members who are elected from the current members of the commission by the
2 commission; and

3 (b) one ex-officio, nonvoting member from the recognized membership organization composed of
4 state and provincial psychology regulatory authorities.

5 (2) The ex-officio member must have served as staff or member on a state psychology regulatory
6 authority and will be selected by its respective organization.

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

8 (4) The executive board shall meet at least annually.

9 (5) The executive board must have the following duties and responsibilities:

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

12 (b) ensure compact administration services are appropriately provided, contractual or otherwise;

13 (c) prepare and recommend the budget;

14 (d) maintain financial records on behalf of the commission;

15 (e) monitor compact compliance of member states and provide compliance reports to the
16 commission;

17 (f) establish additional committees as necessary; and

18 (g) other duties as provided in rules or bylaws.

19 (F) Financing the Commission

20 (1) The commission shall pay or provide for the payment of the reasonable expenses of its
21 establishment, organization, and ongoing activities.

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

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

1 (4) The commission may not incur obligations of any kind prior to securing the funds adequate to
2 meet the same. Nor shall the commission pledge the credit of any of the compact states, except by and with the
3 authority of the compact state.

4 (5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts
5 and disbursements of the commission must be subject to the audit and accounting procedures established
6 under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited
7 yearly by a certified or licensed public accountant and the report of the audit must be included in and become
8 part of the annual report to the commission.

9 (G) Qualified Immunity, Defense, and Indemnification

10 (1) The members, officers, executive director, employees, and representatives of the commission
11 must be immune from suit and liability, either personally or in their official capacity, for any claim for damage to
12 or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act,
13 error, or omission that occurred or that the person against whom the claim is made had a reasonable basis for
14 believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing
15 in this paragraph may be construed to protect any such person from suit or liability for any damage, loss, injury,
16 or liability caused by the intentional or willful or wanton misconduct of that person.

17 (2) The commission shall defend any member, officer, executive director, employee, or
18 representative of the commission in any civil action seeking to impose liability arising out of any actual or
19 alleged act, error, or omission that occurred within the scope of commission employment, duties, or
20 responsibilities, or that the person against whom the claim is made had a reasonable basis for believing
21 occurred within the scope of commission employment, duties, or responsibilities, provided that nothing herein
22 may be construed to prohibit that person from retaining his or her own counsel and provided, further, that the
23 actual or alleged act, error, or omission did not result from the person's intentional or willful or wanton
24 misconduct.

25 (3) The commission shall indemnify and hold harmless any member, officer, executive director,
26 employee, or representative of the commission for the amount of any settlement or judgment obtained against
27 that person arising out of any actual or alleged act, error, or omission that occurred within the scope of
28 commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing

1 occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or
2 alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

3 ARTICLE XI

4 RULEMAKING

5 (A) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this
6 article and the rules adopted pursuant to this article. Rules and amendments must become binding as of the
7 date specified in each rule or amendment.

8 (B) If a majority of the legislature of the compact states rejects a rule, by enactment of a statute or
9 resolution in the same manner used to adopt the compact, then such rule may not have further force and effect
10 in any compact state.

11 (C) Rules or amendments to the rules must be adopted at a regular or special meeting of the
12 commission.

13 (D) Prior to promulgation and adoption of a final rule or rules by the commission, and at least 60
14 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a
15 notice of proposed rulemaking:

16 (1) on the website of the commission; and

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

19 (E) The notice of proposed rulemaking must include:

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

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

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

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

26 (F) Prior to adoption of a proposed rule, the commission shall allow a person to submit written
27 data, facts, opinions, and arguments that must be made available to the public.

28 (G) The commission shall grant an opportunity for a public hearing before it adopts a rule or

1 amendment if a hearing is requested by:

2 (1) at least 25 persons who submit comments independently of each other;

3 (2) a governmental subdivision or agency; or

4 (3) a duly appointed person in an association that has at least 25 members.

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

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

10 (2) Hearings must be conducted in a manner providing each person who wishes to comment a fair
11 and reasonable opportunity to comment orally or in writing.

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

16 (4) Nothing in this article may be construed as requiring a separate hearing on each rule. Rules
17 may be grouped for the convenience of the commission at hearings required by this article.

18 (I) Following the scheduled hearing date, or by the close of business on the scheduled hearing
19 date if the hearing was not held, the commission shall consider all written and oral comments received.

20 (J) The commission shall, by majority vote of all members, take final action on the proposed rule
21 and shall determine the effective date of the rule, if any, based on the rulemaking records and the full text of the
22 rule.

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

25 (L) Upon determination that an emergency exists, the commission may consider and adopt an
26 emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking
27 procedures provided in the compact and in this article must be retroactively applied to the rule as soon as
28 reasonably possible, and in no event later than 90 days after the effective date of the rule. For the purposes of

1 this provision, an emergency rule is one that must be adopted immediately in order to:

2 (1) meet an imminent threat to public health, safety, or welfare;

3 (2) prevent a loss of commission or compact state funds;

4 (3) meet a deadline for the promulgation of an administrative rule that is established by federal law
5 or rule; or

6 (4) protect public health and safety.

7 (M) The commission or an authorized committee of the commission may direct revisions to a
8 previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in
9 consistency, or grammatical errors. Public notice of any revisions must be posted on the website of the
10 commission. The revision must be subject to challenge only on grounds that the revision results in a material
11 change to a rule. A challenge must be made in writing and delivered to the chair of the commission prior to the
12 end of the notice period. If no challenge is made, the revision will take effect without further action. If the
13 revision is challenged, the revision may not take effect without the approval of the commission.

14 ARTICLE XII

15 OVERSIGHT, DISPUTE RESOLUTION,

16 AND ENFORCEMENT

17 (A) Oversight

18 (1) The executive, legislative, and judicial branches of state government in each compact state
19 shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes
20 and intent. The provisions of this compact and the rules promulgated pursuant to the compact must have
21 standing as statutory law.

22 (2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative
23 proceeding in a compact state pertaining to the subject matter of this compact that may affect the powers,
24 responsibilities, or actions of the commission.

25 (3) The commission must be entitled to receive service of process in any such proceeding and
26 must have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to
27 the commission must render a judgment or order void as to the commission, this compact, or promulgated
28 rules.

1 (B) Default, Technical Assistance, and Termination

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

4 (a) provide written notice to the defaulting state and other compact states of the nature of the
5 default, the proposed means of remedying the default, and any other action to be taken by the commission; and

6 (b) provide remedial training and specific technical assistance regarding the default.

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

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

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

18 (5) The commission may not bear any costs incurred by the state that is found to be in default or
19 that has been terminated from the compact, unless agreed upon in writing between the commission and the
20 defaulting state.

21 (6) The defaulting state may appeal the action of the commission by petitioning the United States
22 district court for the northern, middle, or southern districts of Georgia or the federal district where the
23 commission has its principal offices. The prevailing member must be awarded all costs of such litigation,
24 including reasonable attorney fees.

25 (C) Dispute Resolution

26 (1) Upon request by a compact state, the commission shall attempt to resolve disputes related to
27 the compact that arise among compact states and between compact and non-compact states.

28 (2) The commission shall promulgate a rule providing for both mediation and binding dispute

1 resolution for disputes that arise before the commission.

2 (D) Enforcement

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

5 (2) By majority vote, the commission may initiate legal action in the United States district court for
6 the northern, middle, or southern districts of Georgia or the federal district where the commission has its
7 principal offices against a compact state in default to enforce compliance with the provisions of the compact
8 and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the
9 event judicial enforcement is necessary, the prevailing member must be awarded all costs of such litigation,
10 including reasonable attorney fees.

11 (3) The remedies identified in the compact may not be the exclusive remedies of the commission.
12 The commission may pursue any other remedies available under federal or state law.

13 ARTICLE XIII

14 DATE OF IMPLEMENTATION OF THE PSYCHOLOGY

15 INTERJURISDICTIONAL COMPACT COMMISSION AND

16 ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENTS

17 (A) The compact must come into effect on the date on which the compact is enacted into law in the
18 seventh compact state. The provisions which become effective at that time must be limited to the powers
19 granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall
20 meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

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

25 (C) Any compact state may withdraw from this compact by enacting a statute repealing the same.

26 (1) A compact state's withdrawal may not take effect until six months after enactment of the
27 repealing statute.

28 (2) Withdrawal may not affect the continuing requirement of the withdrawing state's psychology

1 regulatory authority to comply with the investigative and adverse action reporting requirements of this act prior
2 to the effective date of withdrawal.

3 (D) Nothing contained in this compact may be construed to invalidate or prevent any psychology
4 licensure agreement or other cooperative arrangement between a compact state and a non-compact state that
5 does not conflict with the provisions of this compact.

6 (E) This compact may be amended by the compact states. No amendment to this compact may
7 become effective and binding upon any compact state until it is enacted into the law of all compact states.

8 ARTICLE XIV

9 CONSTRUCTION AND SEVERABILITY

10 This compact must be liberally construed as to effectuate the purposes of the compact. If this compact
11 must be held contrary to the constitution of any state member to the compact, the compact must remain in full
12 force and effect as to the remaining compact states.

13

14 **Section 2.** Section 37-17-202, MCA, is amended to read:

15 **"37-17-202. Powers.** (1) The board may make reasonable and necessary rules for the proper
16 performance of its duties and for the regulation of proceedings before it.

17 (2) In addition to the other powers and duties set forth, the board may:

18 (a) revoke and suspend licenses;

19 (b) conduct hearings upon complaints concerning persons licensed under this chapter;

20 (c) cause the prosecution and joinder of all persons violating this chapter, by the complaint of its
21 secretary signed with the county attorney, in the county where the violation took place and incur necessary
22 expenses for the prosecution; and

23 (d) study and review new developments in research, training, and the practice of psychology and
24 make recommendations to the governor and other state officials regarding new and revised programs and
25 legislation related to psychology which could be beneficial to the citizens of the state of Montana.

26 (3) (a) The board shall require each applicant for licensure as a psychologist to submit a full set of
27 the applicant's fingerprints to the board for the purpose of obtaining a state and federal criminal history
28 background check.

