CHAPTER 55

Psychologists

ARTICLE 1

General Provisions

**SECTION 40‑55‑20.** State Board of Examiners in Psychology.

 There is hereby created a State Board of Examiners in Psychology to be composed of three clinical psychologists, two counseling psychologists, one school psychologist, one psychologist who is licensed in experimental, social, industrial/organizational or community psychology, and one lay member.

HISTORY: 1962 Code Section 56‑1543.102; 1968 (55) 2412; 1982 Act No. 430, Section 1.

**SECTION 40‑55‑30.** Appointment of members of board; terms; vacancies.

 All members of the board shall be appointed by the Governor. The South Carolina Psychological Association, the South Carolina Academy of Professional Psychologists, the South Carolina Association of School Psychologists and any individual, group, or association may nominate qualified individuals to the Governor for his consideration. The board shall publish widely in the State notice of all pending vacancies to the board.

 Members of the board shall be appointed for terms of five years each and until their successors are appointed and qualify. No member of the board shall be eligible for reappointment for a period of four years following the completion of his term.

 Any vacancy shall be filled for the unexpired term only. The Governor may receive recommendations from any individual, group, or association for any vacancy.

HISTORY: 1962 Code Section 56‑1543.103; 1968 (55) 2412; 1982 Act No. 430, Section 2.

**SECTION 40‑55‑40.** Powers and duties of board.

 The board shall:

 (a) Annually elect a chairman and such other officers as it may deem necessary;

 (b) Hold at least one regular meeting each year and such additional meetings as called by the chairman or upon written request of any two members;

 (c) Adopt a seal which must be affixed to all licenses issued;

 (d) Adopt from time to time such rules and regulations as it may deem necessary for the performance of its duties;

 (e) Make an annual report according to the provisions of Chapter 73 of Title 40, Code of 1976; and

 (f) Prescribe, pursuant to the Administrative Procedures Act, fees for application for examination, initial license, renewal of license, and late renewal.

 Each member of the board may receive for his services and expenses such per diem and mileage as is provided by law for members of state boards, commissions, and committees.

 All revenues and income from licenses, examination fees, other fees, sale of commodities and services, and income derived from any board source or activity shall be remitted to the State Treasurer as collected, when practicable, but at least once each week, and shall be credited to the General Fund of the State. All assessments, fees, or licenses shall be levied in an amount sufficient to at least equal the amount appropriated in the annual general appropriation act for the board, plus any additional funds allocated by the Department of Administration for implementation of the State's Personnel Compensation Plan.

HISTORY: 1962 Code Section 56‑1543.104; 1968 (55) 2412; 1982 Act No. 430, Section 3.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 40‑55‑50.** Acts constituting practice as psychologist.

 (A) A person practices as a psychologist within the meaning of this chapter when that person holds himself or herself out as a psychologist or applies the principles, methods, or procedures of psychology in the conduct of any of the following activities:

 (1) Assessment of individual, family, or group behavioral, emotional, and/or intellectual functioning for the purpose of one or more of the following:

 (a) diagnosing mental disorders;

 (b) identifying psychological or neuropsychological aspects of other dysfunctions, diseases, or disabilities;

 (c) evaluating mental or emotional status including intelligence and aptitude;

 (d) identifying personality characteristics;

 (e) identifying psychological factors influencing well‑being;

 (f) selecting, placing, or referring into treatments, programs, or settings;

 (g) evaluating the effectiveness of treatments, programs, or settings;

 (h) preventing mental disorders or maladaptive behavior related to other dysfunction, disease, or disability.

 For purposes of this section, "assessment" refers to, but is not limited to, one or more of the following practices insofar as they involve the application of psychological principles, methods, or procedures: observation, description, testing, appraisal, evaluation, screening, test interpretation, interviewing, diagnosis of mental disorders, neuropsychological testing, psychological testing or evaluation or psycho‑educational testing or evaluation, or a combination of any of these for any of the purposes identified in this item.

 (2) Engaging in a therapeutic relationship with an individual, family, or group for the purpose of one or more of the following:

 (a) improving the quality of mental health or social adjustment, or both;

 (b) reducing, preventing, modifying, or eliminating maladaptive or undesired behaviors, cognitions, emotions, or psychological or physical characteristics;

 (c) treating diagnosed mental disorders, whether treatment is focused on behavioral manifestations of the disorder, the environmental context of the disorder, or underlying causal processes;

 (d) improving individual performance;

 (e) modifying cognitions, emotions, or behaviors, or a combination of these, in order to influence psychological well‑being;

 (f) psychological research; or

 (g) any combination of subitems (a) through (f).

 For purposes of this section, a "therapeutic relationship", except as provided for in Section 40‑55‑90, refers to, but is not limited to, one or more of the following practices insofar as they involve the application of psychological principles, methods, or procedures: psychotherapy, psychoanalysis, therapy, family therapy, marital therapy, couples therapy, play therapy, counseling, rehabilitation, intervention, hypnotherapy, biofeedback, behavior therapy, behavior modification, psychological counseling, human potential psychology, vocational counseling, school counseling, growth psychology, alcohol or substance abuse counseling, or both, or remediation, or a combination of any of these for any of the purposes identified in this item.

 (3) Engaging in a psychological consulting relationship with an individual organization, group or community, or a combination of these, for the purpose of:

 (a) designing or delivering psychological programs or services, or both;

 (b) evaluating psychological programs or services.

 For purposes of this section a "psychological consulting relationship" refers to, but is not limited to, one or more of the following practices insofar as they predominately involve the application of psychological principles, methods, or procedures: consulting, intervention, program evaluation, organizational psychology, environmental psychology, community psychology, and experimental psychology.

 (B) A person not otherwise exempt from this chapter is engaged in the practice of psychology when performing any of the activities enumerated in subsection (A), regardless of whether or not payment is received for the services.

 Specifically excluded from psychological practice within the meaning of this chapter are the physical, chemical, and nonbehavioral aspects of Chapter 47. Nothing in this chapter shall prohibit or limit a licensed physician in the practice of his profession as provided by law.

 (C) A person is deemed to be practicing as a psychologist within the meaning of this chapter if the person engages in any of the activities enumerated in subsection (A) electronically within this State including, but not limited to, by means of the internet, phone lines, and personal computer modems.

HISTORY: 1962 Code Section 56‑1543.105; 1968 (55) 2412; 1998 Act No. 396, Section 4.

**SECTION 40‑55‑55.** Licensure requirement.

 It is unlawful for a person to engage in the practice of psychology in this State without obtaining a license from the board, except as otherwise authorized by this chapter.

HISTORY: 1998 Act No. 396, Section 1.

**SECTION 40‑55‑60.** Code of ethics; limits of psychological practice; list of licensed psychologists.

 The board may adopt the code of ethics for psychologists to govern the practices and conduct of psychologists licensed under this chapter. Whenever important aspects of a case fall outside the boundaries of the psychologist's competence, the psychologist shall consult appropriate specialists. A psychologist may not attempt to diagnose, prescribe for, treat, or advise a client with reference to complaints which are outside the limits of psychological practice as determined by the board. The board shall determine areas of specialization of the applicant to practice psychology and inform the applicant of its decision. The board shall publish a list of licensed psychologists which indicates areas of practice authorized by the board. The board shall have the authority to administer and participate in the "Psychology Interjurisdictional Compact (Psypact)" set forth in Article 3 of this chapter and to recognize and permit the authority to practice interjurisdictional telepsychology and temporary practice in South Carolina as established under such compact.

HISTORY: 1962 Code Section 56‑1543.106; 1968 (55) 2412; 1988 Act No. 484, Section 1; 1994 Act No. 391, Section 1; 2022 Act No. 159 (H.3833), Section 3, eff May 13, 2022.

Effect of Amendment

2022 Act No. 159, Section 3, added the sixth sentence.

**SECTION 40‑55‑70.** Use of titles incorporating word "psychologist," or similar words; activities of unlicensed persons not prohibited.

 It shall be unlawful for any person not licensed under this chapter to present himself or be presented to the public by any title incorporating the name "psychologist," "psychological," or "psychology," except that any psychological scientist employed by a recognized research laboratory, school, college, university, or governmental agency may represent himself by the academic or research title conferred by the administration of such firm, institution or agency; and except that a person may represent himself or have himself represented as a psychologist, providing he is a member of the American Psychological Association or of a regional association affiliated therewith or is eligible for such membership. Provided, nothing in this section shall be construed as permitting such persons to offer their services to the public or to accept remuneration for psychological services rendered to persons or organizations other than those firms, institutions or agencies from which they receive their salaries unless they have been licensed under this chapter. Provided, further, psychologists may receive fees for lectures presented outside their regular employment setting without being licensed.

 Visiting lecturers from other states may also employ their academic or research titles or the designation "psychologist" providing that they are members of or eligible for membership in professional associations as stated in this section. Students of psychology, psychology interns and other persons preparing for the profession of psychologist in recognized training institutions or facilities may be designated by titles such as "psychological trainee," "psychological intern," and other terms clearly indicating their training status. Psychologically trained individuals who do not meet requirements for licensing as provided in Section 40‑55‑80 are permitted to render psychological services when under the direct supervision of a licensed psychologist who assumes professional responsibility for the competence of services rendered and who keeps the board informed of the nature and extent of such services under his supervision.

HISTORY: 1962 Code Section 56‑1543.107; 1968 (55) 2412.

**SECTION 40‑55‑80.** Application for license; qualifications of applicants.

 To be licensed as a psychologist a person shall make application to the Board of Examiners in Psychology upon forms and in such manner as prescribed by the board. A candidate for licensure shall furnish the board with:

 (1) references of individuals having personal knowledge of the candidate's professional experience and competency and the board may not require more than three references unless there are mitigating circumstances;

 (2) satisfactory evidence that the candidate has obtained a doctoral degree in psychology from:

 (a) an institution of higher education that is:

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

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

 (b) a program accredited by the American Psychological Association or the Canadian Psychological Association or designated as a psychology program by the designation committee of the National Register of Health Service Providers in Psychology and the Association of State and Provincial Psychology Boards (ASPPB); or

 (c) an institution of higher education that is:

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

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

 (d) a program that includes at least three years of full‑time graduate study not including predoctoral internship as specified in the ASPPB Agreement of Reciprocity and includes instruction in the scientific and professional subject areas specified by the ASPPB Agreement of Reciprocity. Competence must be demonstrated by appropriate course work in each content area as determined by the Board of Examiners in Psychology;

 (3) satisfactory evidence that the candidate is competent in psychology as shown by passing written and oral examinations as required by the board;

 (4) satisfactory evidence that the candidate has completed two years of supervised experience as approved by the board and specified in the ASPPB Agreement of Reciprocity;

 (5) satisfactory evidence that the candidate has not engaged in unethical practices;

 (6) satisfactory evidence that the candidate has not within the preceding six months failed an examination given by the board;

 (7) submission to a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as may be necessary to support the administrative action. The results of these criminal records checks must not be shared outside the department; and

 (8) documentation of any disciplinary action taken against the applicant while the applicant was participating in a psychology internship program or other psychology‑related training program, or during previous psychology‑related employment.

HISTORY: 1962 Code Section 56‑1543.108; 1968 (55) 2412; 1980 Act No. 499; 1981 Act No. 87 Section 1; 1982 Act No. 430, Section 4; 1994 Act No. 391, Section 2; 1998 Act No. 396, Section 5; 2022 Act No. 159 (H.3833), Section 4, eff May 13, 2022.

Effect of Amendment

2022 Act No. 159, Section 4, rewrote (7).

**SECTION 40‑55‑85.** Board to promulgate regulations for continuing education requirements.

 The board shall promulgate regulations in accordance with the provisions of Chapter 23 of Title 1 (Administrative Procedures Act) implementing the requirements for continuing education which must be met by each person licensed as a psychologist under the provisions of this chapter. Each applicant for license renewal shall present evidence satisfactory to the board that he has met the continuing education requirements as set by the regulations.

HISTORY: 1990 Act No. 441, Section 1.

**SECTION 40‑55‑90.** Exemptions.

 (A) This chapter does not require these persons to obtain a license pursuant to this chapter:

 (1) a licensed member of another profession who is regulated by the Department of Labor, Licensing and Regulation and who is rendering services of a psychological nature, if the person:

 (a) is acting within the scope of practice, as set out by the law regulating the practice;

 (b) acts in a manner consistent with the code of ethics of the respective profession; and

 (c) does not represent himself to be a psychologist or his services to be psychological;

 (2) a member of the clergy of an organized religious society or denomination functioning in a ministerial capacity, if the person does not represent himself to be a psychologist or his services to be psychological;

 (3) a matriculated intern or student, enrolled in a recognized training program engaging in activities defined as the practice of psychology if the intern or student does not represent himself by the title of "psychologist"; however, the intern or student may refer to himself as "psychology‑trainee", "psychology‑intern", or "psychology‑resident", if performing activities under the supervision of a psychologist licensed in this State, in accordance with regulations promulgated by the board;

 (4) an individual pursuing board approved postdoctoral training or experience in professional psychology who is performing appropriately supervised activities;

 (5) a person certified as a school psychologist by the South Carolina Department of Education if the person's practice is restricted to regularly salaried employment within a setting under the purview of the South Carolina Department of Education and as specified by the terms of employment. This person may not describe himself or his services by any title or description which states or implies that the person holds a license as otherwise required by this chapter;

 (6) a person certified as a school psychologist by the South Carolina Department of Education who provides contract services of a psychological nature to public schools or private schools or any federal or state agency as authorized by the certification. This person may not describe himself or his services by any title or description which states or implies that the person holds a license as otherwise required by this chapter;

 (7) a person certified as a school guidance counselor or social worker by the South Carolina Department of Education who provides counseling services or school social work services consistent with the person's certification and training and as specified by the terms of employment. Such practice is restricted to regularly salaried employment within a setting under the purview of the South Carolina Department of Education. This person may not describe himself or his services by any title or description which states or implies that the person holds a license as otherwise required by this chapter;

 (8) a person employed by a private school as a guidance counselor or social worker who provides services consistent with the person's training. This person may not describe himself or his services by any title or description which states or implies that the person holds a license as otherwise required by this chapter;

 (9) a government employee of this State or a federal government employee providing services of a psychological nature within the scope of employment. This person may not describe himself or his services by any title or description which states or implies that the person holds a license as otherwise required by this chapter;

 (10) a South Carolina Department of Alcohol and Other Drug Abuse Services employee who:

 (a) holds a certification credential from the South Carolina Association of Alcohol and Drug Abuse Counselors or is a counselor in the process of obtaining such a credential who is currently under the supervision of a South Carolina Association of Alcohol and Drug Abuse Counselors' certified counselor;

 (b) is employed in a position that is directly or indirectly funded through the South Carolina Department of Alcohol and Other Drug Abuse Services or its local contract providers; and

 (c) provides services of a psychological nature within the scope of his or her employment but does not in any way describe himself or herself or his or her services by any title or description which states or implies that he or she holds a license as otherwise required by this chapter;

 (11) a college student personnel counselor in an accredited college or university performing services consistent with the person's training and occupational role in the institution. This person may not describe himself or his services by any title or description which states or implies that the person holds a license as otherwise required by this chapter;

 (12) an individual including, but not limited to, an educator, day care provider, hospital worker, member of a police or fire department, or other community worker providing, within the person's normal scope of employment, emotional support, guidance, nurturance, or crisis management intervention to persons in need;

 (13) a person employed by any entity whose professional employment is funded through an agency of the State and who provides services of a psychological nature within the scope of employment if the person does not describe himself or his services by any title or description which states or implies that the person holds a license as otherwise required by this chapter;

 (14) a registered nurse.

 (B) Nothing in this chapter is intended to prevent an individual from providing, on a voluntary basis, emotional support, nurturance, or crisis management intervention to persons in need.

 (C) This chapter is for the regulation of the practice of psychology only and does not prevent human resource professionals, business consultants, and other persons from providing advice and counseling in their organizations or affiliated groups or to their companies and employees of their companies or from engaging in activities performed in the course of their employment.

HISTORY: 1962 Code Section 56‑1543.109; 1968 (55) 2412; 1982 Act No. 430, Section 5; 1998 Act No. 396, Section 6.

**SECTION 40‑55‑100.** Examinations.

 Examinations of applicants for a license to practice psychology shall be conducted by the board at least once a year. The examinations shall be written or oral or both. In any written examination such applicant shall be designated by a number instead of his name so that his identity shall not be disclosed to the members of the board until the examination papers have been graded. The board shall establish a passing score for the written examination. A candidate shall be held to have passed the oral examination upon the affirmative vote of a majority of board members currently serving. Any unsuccessful candidate shall receive written evaluation of his performance on the oral examination.

HISTORY: 1962 Code Section 56‑1543.110; 1968 (55) 2412; 1982 Act No. 430, Section 6.

**SECTION 40‑55‑110.** Waiver of examination.

 At its discretion the board may at any time waive the assembled examination and grant the appropriate license upon payment of the required fee to any person who meets the requirement of Section 40‑55‑80 and who is qualified by educational and professional attainments to the satisfaction of the board if it deems such action to be in the public interest. The board may also in its discretion grant a license without an assembled examination to any person residing or employed in the State who at the time of application is licensed or certified by a similar board of another state whose standards, in the opinion of the board, are not lower than those required by this chapter, or who has been practicing psychology in another state and has qualifications not lower than those required by this chapter, and is able to satisfy the board that to grant him a license would be in the public interest, or who has been certified by the American Board of Examiners in Professional Psychology. A person or firm of consultants not licensed in this State and nonresidents of this State who wishes to perform practices under the provisions of this chapter for a period not to exceed sixty days within a calendar year, must petition the board for a temporary permit to perform such practices. If the petitioner is licensed or certified in another state deemed by the board to have standards equivalent to those set forth in this chapter, a permit will be issued for a fee to be fixed by the board.

HISTORY: 1962 Code Section 56‑1543.111; 1968 (55) 2412; 1978 Act No. 644, Part II, Section 4.

**SECTION 40‑55‑120.** Statement of patient rights and procedures for complaints.

 All psychologists subject to this chapter must provide patients with a statement of their rights and procedures to file a complaint as prescribed by the board.

HISTORY: 1998 Act No. 396, Section 2.

**SECTION 40‑55‑130.** Complaint to board against licensed psychologist; investigation; accusation; notice; hearing; confidentiality of proceedings; privileged communications.

 (A) The board shall receive complaints by any person against a licensed psychologist. Upon receipt of a complaint the chairman or the chairman's designee shall investigate the allegations of the complaint and make a report to the board concerning the investigation. If the board proceeds further, it may file a formal accusation charging the psychologist with a violation of a provision of this chapter. The accusation must be signed by the chairman or other officer on behalf of the board. When the accusation is filed, and the board sets a date for a hearing, the chairman shall notify the accused in writing, not less than thirty days before the hearing date, of the date fixed for the hearing and a true copy of the accusation must be attached to the notice. The accused may appear and show cause why his license should not be suspended, revoked, or restricted. The accused has the right to be confronted with and to cross‑examine the witnesses against him and has the right to counsel. In instances where a board member has made the initial investigation of a complaint, the board member shall not sit with the board at the hearing of that complaint.

 (B) Notice required by subsection (A) must be sent to the accused by certified mail, return receipt requested, directed to the last mailing address furnished to the board. The post office registration receipt signed by the accused, the accused's agent, or a responsible member of the accused's household or office staff or if not accepted by the person to whom addressed, the postal authority's stamp showing the notice "Refused", is prima facie evidence of service of the notice.

 (C) All investigations and proceedings undertaken under the provisions of this chapter are confidential.

 (D) Every communication, whether oral or written, made by or on behalf of a complainant to the board or its agents, or to a hearing panel or member of a hearing panel, pursuant to this section whether by way of complaint or testimony, is privileged; and no action or proceeding, civil or criminal, may be brought against a person by whom or on whose behalf the communication was made.

HISTORY: 1962 Code Section 56‑1543.113; 1968 (55) 2412; 1982 Act No. 430, Section 7; 1994 Act No. 391, Section 3.

**SECTION 40‑55‑140.** Immunity of board members, officers and employees for official acts; administration of oaths; subpoena power; final orders.

 No member of the board, or its committees, special examiners, agents and employees shall be held liable for acts performed in the course of official duties except where actual malice is shown. For the purpose of any investigation or proceeding under the provisions of this chapter, the board or any person designated by it may administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any documents or records which the board deems relevant to the inquiry. In the case of contumacy by, or refusal to obey a subpoena issued to any person, an administrative law judge as provided under Article 5 of Chapter 23 of Title 1, may issue an order requiring the person to appear before the board or the person designated by it and produce documentary evidence and to give other evidence concerning the matter under inquiry.

 Any final order of the board finding that a psychologist is guilty of any offense charged in a formal accusation shall become public knowledge except for a final order dismissing the accusation or determining that a private reprimand is in order. All final orders which are made public shall be mailed to local and state psychological associations, and all hospitals with which the respondent is associated, states where the psychologist has a license as known to the board, and to any other source that the board wishes to furnish this information.

HISTORY: 1962 Code Section 56‑1543.114; 1968 (55) 2412; 1982 Act No. 430, Section 8; 1993 Act No. 181, Section 927.

**SECTION 40‑55‑150.** Revocation or suspension of license or other disciplinary action; grounds.

 (A) The board may revoke, suspend, or restrict the license or permit of a psychologist or reprimand a psychologist when it is established that the psychologist is guilty of misconduct. Misconduct is a satisfactory showing to the board that a license or permit holder:

 (1) has used a false, fraudulent, or forged statement or document or has practiced a fraudulent, deceitful, or dishonest act in connection with a license requirement;

 (2) has been convicted of a felony or other crime involving moral turpitude. Forfeiture of a bond or a plea of nolo contendere must be considered the equivalent of a conviction;

 (3) practiced psychology while under the influence of alcohol or drugs to such a degree as to adversely affect the license or permit holder's ability to practice psychology;

 (4) uses alcohol or drugs to such a degree as to adversely affect the license or permit holder's ability to practice psychology;

 (5) has knowingly performed an act which in any way assists a person to practice psychology illegally;

 (6) has caused to be published or circulated directly or indirectly a fraudulent, false, or misleading statement as to the skill or methods of practice of a psychologist;

 (7) has sustained physical or mental impairment or disability which renders further practice by the license or permit holder dangerous to the public;

 (8) has violated the principles of ethics as adopted by the board and published in its regulations;

 (9) has engaged in conduct that is deceptive, fraudulent, or harmful to the public;

 (10) is guilty of obtaining fees or assisting in obtaining fees under deceptive, false, or fraudulent circumstances;

 (11) is guilty of the use of an intentionally false or fraudulent statement in a document connected with the practice of psychology;

 (12) has been found by the board to lack the professional competence to practice psychology;

 (13) has violated a provision of this chapter regulating the practice of psychology.

 (B) In addition to all other remedies and actions incorporated in this chapter, the license of a psychologist adjudged mentally incompetent by a court of competent jurisdiction must be automatically suspended by the board until the psychologist is adjudged by a court of competent jurisdiction or in any other manner provided by law as being restored to mental competency.

HISTORY: 1962 Code Section 56‑1543.115; 1968 (55) 2412; 1982 Act No. 430, Section 9; 1994 Act No. 391, Section 4.

**SECTION 40‑55‑160.** Disciplinary action by board; appeal.

 If the board shall be satisfied that the psychologist is guilty of any offense charged in the formal accusation provided for in this chapter, it shall thereupon revoke or suspend his license, reprimand, or otherwise take any other reasonable action short of revocation or suspension, such as requiring the licensee to undertake additional professional training subject to the direction and supervision of the board. The board may also impose such restraint upon the licensee as circumstances warrant until the licensee demonstrates to the board adequate professional competence. In all cases where disciplinary action is taken by the board, written notice of such action shall then be mailed by the secretary of the board to the accused at his last known address as provided to the board.

 Any decision by the board to revoke, suspend, or otherwise restrict the license shall be by majority vote and shall be subject to review by an administrative law judge as provided under Article 5 of Chapter 23 of Title 1 upon petition filed by the licensee with an administrative law judge thereof served upon the secretary of the board within thirty days from the date of delivery of the board's decision to the licensee. Such review shall be limited to the record established by the board's hearing.

HISTORY: 1962 Code Section 56‑1543.116; 1968 (55) 2412; 1978 Act No. 644, Part II, Section 4; 1982 Act No. 430, Section 10; 1993 Act No. 181, Section 928.

**SECTION 40‑55‑170.** Penalties; injunctions.

 (A) A person who practices or offers to practice psychology without being licensed as required by this chapter is guilty of a felony and, upon conviction, must be fined not more than fifty thousand dollars or imprisoned not more than one year. Upon reasonable investigation, the board shall refer all complaints which involve possible criminal violations of this chapter to the solicitor in the county where the violation occurred. A resident of the county in which a violation occurred may initiate injunction procedures to prevent the violation from continuing.

 (B) Pursuant to Section 40‑1‑210, the board may in its own name maintain a suit for an injunction against a person who violates a provision of this chapter. The suit must be commenced and prosecuted before an administrative law judge as provided under Article 5, Chapter 23, Title 1. An injunction may be issued without proof of actual damage sustained by a person. An injunction may be issued in addition to any other sanctions provided for in this chapter and the injunction does not relieve a person from criminal prosecution as provided for in subsection (A). The South Carolina Department of Labor, Licensing and Regulation shall, if requested by the board, represent the board in connection with legal proceedings undertaken pursuant to this chapter.

HISTORY: 1962 Code Section 56‑1543.117; 1968 (55) 2412; 1982 Act No. 430, Section 11; 1994 Act No. 391, Section 5; 1998 Act No. 396, Section 7.

**SECTION 40‑55‑180.** Areas of specialization.

 The board shall determine areas of specialization of the applicant to practice psychology from one or more of the following areas: (1) clinical, (2) counseling, (3) industrial/organizational, (4) community, (5) school, (6) social, and (7) experimental psychology. The board shall inform the applicant of its decision and instruct the applicant to limit his professional activity and advertisement to the area assigned him.

HISTORY: 1982 Act No. 430, Section 12.

**SECTION 40‑55‑190.** Health insurer not required to provide or pay for services.

 Nothing in this chapter may be construed to require a health maintenance organization, a self‑funded plan, an accident and health insurer, or any other third party payor to provide services or to pay for services provided for in this chapter. If payment or reimbursement for these services is provided by a health maintenance organization, a self‑funded plan, an accident and health insurer, or any other third party payor, the provisions of Section 38‑71‑200 apply.

HISTORY: 1998 Act No. 396, Section 3.

ARTICLE 3

Psychology Interjurisdictional Compact

Editor's Note

2022 Act No. 159, Section 1, provides as follows:

"SECTION 1. This article shall be known and may be cited as the 'Psychology Interjurisdictional Compact (Psypact)'."

**SECTION 40‑55‑310.** Purpose.

 (A) The Psychology Interjurisdictional Compact (Psypact) is enacted into law and entered into by the State of South Carolina with any and all other states legally joining therein in the form substantially as follows.

 (B) The following principles form the basis for Psypact:

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

 (2) This compact is intended to regulate the day‑to‑day practice of telepsychology, i.e., the provision of psychological services using telecommunication technologies, by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority.

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

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

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

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

 (7) While this compact does not apply to permanent in‑person, face‑to‑face practice, it does allow for authorization of temporary psychological practice.

 (C) Consistent with the principles set forth in subsection (B), this compact is designed to achieve the following purposes and objectives:

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

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

 (3) encourage the cooperation of compact states in the areas of psychology licensure and regulation;

 (4) facilitate the exchange of information between compact states regarding psychologist licensure, adverse actions, and disciplinary history;

 (5) promote compliance with the laws governing psychological practice in each compact state; and

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

HISTORY: 2022 Act No. 159 (H.3833), Section 2.A, eff May 13, 2022.

**SECTION 40‑55‑320.** Definitions.

 As used in this article:

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

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

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

 (4) "Bylaws" means those bylaws established by the Psychology Interjurisdictional Compact Commission pursuant to Section 40‑55‑400 for its governance, or for directing and controlling its actions and conduct.

 (5) "Client/patient" means the recipient of psychological services, whether psychological services are delivered in the context of health care, corporate, supervision, or consulting services or any combination thereof.

 (6) "Commissioner" means the voting representative appointed by each state psychology regulatory authority pursuant to Section 40‑55‑400.

 (7) "Compact state" means a state, the District of Columbia, or United States territory that has enacted this compact legislation and which has not withdrawn pursuant to Section 40‑55‑430(C) or been terminated pursuant to Section 40‑55‑420(B).

 (8) "Coordinated licensure information system" also referred to as "coordinated database" means an integrated process for collecting, storing, and sharing information on psychologists' licensure and enforcement activities related to psychology licensure laws, which is administered by the recognized membership organization composed of state and provincial psychology regulatory authorities.

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

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

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

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

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

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

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

 (16) "In‑person, face‑to‑face" means interactions in which the psychologist and the client/patient are in the same physical space and which does not include interactions that may occur through the use of telecommunication technologies.

 (17) "Interjurisdictional practice certificate" also referred to as "(IPC)" means a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that grants temporary authority to practice based on notification to the state psychology regulatory authority of intention to practice temporarily, and verification of one's qualifications for such practice.

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

 (19) "Noncompact state" means any state which is not at the time a compact state.

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

 (21) "Psychology Interjurisdictional Compact Commission" also referred to as "commission" means the national administration of which all compact states are members.

 (22) "Receiving state" means a compact state where the client/patient is physically located when the telepsychological services are delivered.

 (23) "Rule" means a written statement by the Psychology Interjurisdictional Compact Commission promulgated pursuant to Section 40‑55‑410 of the compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the commission and has the force and effect of statutory law in a compact state, and includes the amendment, repeal, or suspension of an existing rule.

 (24) "Significant investigatory information" means:

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

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

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

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

 (27) "Telepsychology" means the provision of psychological services using telecommunication technologies.

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

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

HISTORY: 2022 Act No. 159 (H.3833), Section 2.A, eff May 13, 2022.

**SECTION 40‑55‑330.** Home state licensure.

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

 (B) A psychologist may hold one or more compact state licenses at a time. If the psychologist is licensed in more than one compact state, the home state is the compact state where the psychologist is physically present when the services are delivered as authorized by the authority to practice interjurisdictional telepsychology under the terms of this compact.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HISTORY: 2022 Act No. 159 (H.3833), Section 2.A, eff May 13, 2022.

**SECTION 40‑55‑340.** Compact privilege to practice telepsychology.

 (A) Compact states shall recognize the right of a psychologist, licensed in a compact state in conformance with Section 40‑55‑330, to practice telepsychology in other compact states (receiving states) in which the psychologist is not licensed, under the authority to practice interjurisdictional telepsychology as provided in the compact.

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

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

 (a) regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, or authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

 (b) a foreign college or university deemed to be equivalent to item (1)(a) by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

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

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

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

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

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

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

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

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

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

 (i) the curriculum shall encompass a minimum of three academic years of full‑time graduate study for a doctoral degree and a minimum of one academic year of full‑time graduate study for a master's degree; and

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

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

 (4) have no history of adverse action that violates the rules of the commission;

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

 (6) possess a current, active E. Passport;

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

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

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

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

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

HISTORY: 2022 Act No. 159 (H.3833), Section 2.A, eff May 13, 2022.

**SECTION 40‑55‑350.** Compact temporary authorization to practice.

 (A) Compact states also shall recognize the right of a psychologist, licensed in a compact state in conformance with Section 40‑55‑330, to practice temporarily in other compact states (distant states) in which the psychologist is not licensed, as provided in the compact.

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

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

 (a) regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, or authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

 (b) a foreign college or university deemed to be equivalent to subitem (a) by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

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

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

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

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

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

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

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

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

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

 (i) the curriculum shall encompass a minimum of three academic years of full‑time graduate study for a doctoral degree and a minimum of one academic year of full‑time graduate study for a master's degree; and

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

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

 (4) have no history of adverse action that violates the rules of the commission;

 (5) have no criminal record history that violates the rules of the commission;

 (6) possess a current, active IPC;

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

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

 (C) A psychologist practicing in a distant state under the temporary authorization to practice shall practice within the scope of practice authorized by the distant state.

 (D) A psychologist practicing in a distant state under the temporary authorization to practice will be subject to the distant state's authority and law. A distant state may, in accordance with that state's due process law, limit or revoke a psychologist's temporary authorization to practice in the distant state and may take any other necessary actions under the distant state's applicable law to protect the health and safety of the distant state's citizens. If a distant state takes action, the state promptly shall notify the home state and the commission.

 (E) If a psychologist's license in any home state, another compact state, or any temporary authorization to practice in any distant state, is restricted, suspended, or otherwise limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice in a compact state under the temporary authorization to practice.

HISTORY: 2022 Act No. 159 (H.3833), Section 2.A, eff May 13, 2022.

**SECTION 40‑55‑360.** Conditions of telepsychology practice in a receiving state.

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

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

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

HISTORY: 2022 Act No. 159 (H.3833), Section 2.A, eff May 13, 2022.

**SECTION 40‑55‑370.** Adverse actions.

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

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

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

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

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

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

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

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

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

 (G) No other judicial or administrative remedies shall be available to a psychologist in the event a compact state imposes an adverse action pursuant to subsection (C).

HISTORY: 2022 Act No. 159 (H.3833), Section 2.A, eff May 13, 2022.

**SECTION 40‑55‑380.** Additional authorities invested in a compact state's psychology regulatory authority.

 (A) In addition to any other powers granted under state law, a compact state's psychology regulatory authority shall have the authority under this compact to:

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

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

 (B) During the course of any investigation, a psychologist may not change his/her home state licensure. A home state psychology regulatory authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The home state psychology regulatory authority shall promptly report the conclusions of such investigations to the commission. Once an investigation has been completed, and pending the outcome of said investigation, the psychologist may change his/her home state licensure. The commission shall promptly notify the new home state of any such decisions as provided in the rules of the commission. All information provided to the commission or distributed by compact states pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters. The commission may create additional rules for mandated or discretionary sharing of information by compact states.

HISTORY: 2022 Act No. 159 (H.3833), Section 2.A, eff May 13, 2022.

**SECTION 40‑55‑390.** Coordinated licensure information system.

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

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

 (1) identifying information;

 (2) licensure data;

 (3) significant investigatory information;

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

 (5) an indicator that a psychologist's authority to practice interjurisdictional telepsychology, temporary authorization to practice, or both, is revoked;

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

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

 (8) other information which may facilitate the administration of this compact, as determined by the rules of the commission.

 (C) The coordinated database administrator promptly shall notify all compact states of any adverse action taken against, or significant investigative information on, any licensee in a compact state.

 (D) Compact states reporting information to the coordinated database may designate information that may not be shared with the public without the express permission of the compact state reporting the information.

 (E) Any information submitted to the coordinated database that is subsequently required to be expunged by the law of the compact state reporting the information shall be removed from the coordinated database.

HISTORY: 2022 Act No. 159 (H.3833), Section 2.A, eff May 13, 2022.

**SECTION 40‑55‑400.** Establishment of the Psychology Interjurisdictional Compact Commission.

 (A)(1) The compact states hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission.

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

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

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

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

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

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

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

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

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

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

 (5) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 40‑55‑410.

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

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

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

 (c) current, threatened, or reasonably anticipated litigation against the commission;

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

 (e) accusation against any person of a crime or formally censuring any person;

 (f) disclosure of trade secrets or commercial or financial information which is privileged or confidential;

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

 (h) disclosure of investigatory records compiled for law enforcement purposes;

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

 (j) matters specifically exempted from disclosure by federal and state statute.

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

 (C) The commission shall, by a majority vote of the commissioners, prescribe bylaws, rules, or both, to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact including, but not limited to:

 (1) establishing the fiscal year of the commission;

 (2) providing reasonable standards and procedures:

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

 (b) governing any general or specific delegation of any authority or function of the commission;

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

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

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

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

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

 (8) publishing its bylaws in a convenient form and filing a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the compact states;

 (9) maintaining its financial records in accordance with the bylaws; and

 (10) meeting and taking such actions as are consistent with the provisions of this compact and the bylaws.

 (D) The commission shall have the following powers:

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

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

 (3) to purchase and maintain insurance and bonds;

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

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

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

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

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

 (9) to establish a budget and make expenditures;

 (10) to borrow money;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

 (c) prepare and recommend the budget;

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

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

 (f) establish additional committees as necessary; and

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

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

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

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

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

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

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

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

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

HISTORY: 2022 Act No. 159 (H.3833), Section 2.A, eff May 13, 2022.

**SECTION 40‑55‑410.** Rulemaking.

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

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

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

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

 (1) on the website of the commission; and

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

 (E) The notice of proposed rulemaking shall include:

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

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

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

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

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

 (G) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

 (1) at least twenty‑five persons who submit comments independently of each other;

 (2) a governmental subdivision or agency; or

 (3) a duly appointed person in an association that has at least twenty‑five members.

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

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

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

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

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

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

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

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

 (L) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

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

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

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

 (4) protect public health and safety.

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

HISTORY: 2022 Act No. 159 (H.3833), Section 2.A, eff May 13, 2022.

**SECTION 40‑55‑420.** Oversight; dispute resolution; enforcement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HISTORY: 2022 Act No. 159 (H.3833), Section 2.A, eff May 13, 2022; 2023 Act No. 35 (H.3204), Section 1, eff May 16, 2023.

Effect of Amendment

2023 Act No. 35, Section 1, in (B)(6), in the first sentence, substituted "Georgia" for "South Carolina"; and in (D)(2), in the first sentence, substituted "Georgia" for "South Carolina".

**SECTION 40‑55‑430.** Date of implementation; associated rules; withdrawal; amendments.

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

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

 (C)(1) Any compact state may withdraw from this compact by enacting a statute repealing the same.

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

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

 (D) Nothing contained in this compact shall be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a compact state and a noncompact state which does not conflict with the provisions of this compact.

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

HISTORY: 2022 Act No. 159 (H.3833), Section 2.A, eff May 13, 2022.

**SECTION 40‑55‑440.** Construction and severability.

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

HISTORY: 2022 Act No. 159 (H.3833), Section 2.A, eff May 13, 2022.