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March 27, 2019

A BILL TO BE ENTITLED

AN ACT TO ENACT THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT, ALLOW
LICENSED MARRIAGE AND FAMILY THERAPISTS TO CONDUCT FIRST-LEVEL
COMMITMENT EXAMINATIONS, ELIMINATE REDUNDANCY IN ADULT CARE
HOME INSPECTIONS, ENSURE THE PROPER ADMINISTRATION OF STEP
THERAPY PROTOCOLS, CLARIFY THE USE OF CORONAVIRUS RELIEF FUNDS
ALLOCATED TO THE NORTH CAROLINA COMMUNITY HEALTH CENTER
ASSOCIATION, AND REQUIRE AN ATTORNEY TO REPRESENT THE STATE'S
INTEREST AT MENTAL HEALTH COMMITMENT HEARINGS.

The General Assembly of North Carolina enacts:

PART I. PSYCHOLOGY INTERJURISDICTIONAL LICENSURE COMPACT

SECTION 1.(a) Article 18A of Chapter 90 of the General Statutes, G.S. 90-270.1 through G.S. 90-270.22, is recodified as Article 18G of Chapter 90 of the General Statutes, G.S. 90-270.135 through G.S. 90-270.159.

SECTION 1.(b) Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 18H.

"Psychology Interjurisdictional Licensure Compact.

"§ 90-270.160. Purpose.

This Compact is designed to achieve the following purposes and objectives:

- (1) Increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state which the psychologist is not licensed to practice psychology.
- (2) Enhance the states' ability to protect the public's health and safety, especially client/patient safety.
- (3) Encourage the cooperation of Compact States in the areas of psychology licensure and regulation.
- (4) Facilitate the exchange of information between Compact States regarding psychologist licensure, adverse actions, and disciplinary history.



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- 1 (5) Promote compliance with the laws governing psychological practice in each
2 Compact State.
- 3 (6) Invest all Compact States with the authority to hold licensed psychologists
4 accountable through the mutual recognition of Compact State licenses.

5 **"§ 90-270.161. Definitions.**

- 6 (1) Adverse action. – Any action taken by a State Psychology Regulatory
7 Authority which finds a violation of a statute or regulation that is identified
8 by the State Psychology Regulatory Authority as discipline and is a matter of
9 public record.
- 10 (2) Association of State and Provincial Psychology Boards (ASPPB). – The
11 recognized membership organization composed of State and Provincial
12 Psychology Regulatory Authorities responsible for the licensure and
13 registration of psychologists throughout the United States and Canada.
- 14 (3) Authority to Practice Interjurisdictional Telepsychology. – A licensed
15 psychologist's authority to practice telepsychology, within the limits
16 authorized under this Compact, in another Compact State.
- 17 (4) Bylaws. – Those Bylaws established by the Psychology Interjurisdictional
18 Compact Commission pursuant to G.S. 90-270.169 for its governance or for
19 directing and controlling its actions and conduct.
- 20 (5) Client/patient. – The recipient of psychological services, whether
21 psychological services are delivered in the context of health care, corporate,
22 supervision, and/or consulting services.
- 23 (6) Commissioner. – The voting representative appointed by each State
24 Psychology Regulatory Authority pursuant to G.S. 90-270.169.
- 25 (7) Compact State. – A state, the District of Columbia, or United States territory
26 that has enacted this Compact legislation and which has not withdrawn
27 pursuant to G.S. 90-270.172(c) or been terminated pursuant to
28 G.S. 90-270.171(b).
- 29 (8) Confidentiality. – The principle that data or information is not made available
30 or disclosed to unauthorized persons and/or processes.
- 31 (9) Coordinated Licensure Information System or Coordinated Database. – An
32 integrated process for collecting, storing, and sharing information on
33 psychologists' licensure and enforcement activities related to psychology
34 licensure laws, which is administered by the recognized membership
35 organization composed of State and Provincial Psychology Regulatory
36 Authorities.
- 37 (10) Day. – Any part of a day in which psychological work is performed.
- 38 (11) Distant State. – The Compact State where a psychologist is physically present
39 (not through the use of telecommunications technologies) to provide
40 temporary in-person, face-to-face psychological services.
- 41 (12) E.Passport. – A certificate issued by the Association of State and Provincial
42 Psychology Boards (ASPPB) that promotes the standardization in the criteria
43 of interjurisdictional telepsychology practice and facilitates the process for
44 licensed psychologists to provide telepsychological services across state lines.
- 45 (13) Executive Board. – A group of directors elected or appointed to act on behalf
46 of, and within the powers granted to them by, the Commission.
- 47 (14) Home State. – A Compact State where a psychologist is licensed to practice
48 psychology. If the psychologist is licensed in more than one Compact State
49 and is practicing under the Authority to Practice Interjurisdictional
50 Telepsychology, the Home State is the Compact State where the psychologist
51 is physically present when the telepsychological services are delivered. If the

- 1 psychologist is licensed in more than one Compact State and is practicing
2 under the Temporary Authorization to Practice, the Home State is any
3 Compact State where the psychologist is licensed.
- 4 (15) Identity History Summary. – A summary of information retained by the FBI,
5 or other designee with similar authority, in connection with arrests and, in
6 some instances, federal employment, naturalization, or military service.
- 7 (16) In-person, face-to-face. – Interactions in which the psychologist and the
8 client/patient are in the same physical space and which does not include
9 interactions that may occur through the use of telecommunication
10 technologies.
- 11 (17) Interjurisdictional Practice Certificate (IPC). – A certificate issued by the
12 Association of State and Provincial Psychology Boards (ASPPB) that grants
13 temporary authority to practice based on notification to the State Psychology
14 Regulatory Authority of intention to practice temporarily and verification of
15 one's qualifications for such practice.
- 16 (18) License. – Authorization by a State Psychology Regulatory Authority to
17 engage in the independent practice of psychology, which would be unlawful
18 without the authorization.
- 19 (19) Non-Compact State. – Any State which is not at the time a Compact State.
- 20 (20) Psychologist. – An individual licensed for the independent practice of
21 psychology.
- 22 (21) Psychology Interjurisdictional Compact Commission (Commission). – The
23 national administration of which all Compact States are members.
- 24 (22) Receiving State. – A Compact State where the client/patient is physically
25 located when the telepsychological services are delivered.
- 26 (23) Rule. – A written statement by the Psychology Interjurisdictional Compact
27 Commission promulgated pursuant to G.S. 90-270.170 of the Compact that is
28 of general applicability, implements, interprets, or prescribes a policy or
29 provision of the Compact, or an organizational, procedural, or practice
30 requirement of the Commission and has the force and effect of statutory law
31 in a Compact State, and includes the amendment, repeal, or suspension of an
32 existing rule.
- 33 (24) Significant investigatory information. –
34 a. Investigative information that a State Psychology Regulatory
35 Authority, after a preliminary inquiry that includes notification and an
36 opportunity to respond if required by state law, has reason to believe,
37 if proven true, would indicate more than a violation of state statute or
38 ethics code that would be considered more substantial than minor
39 infraction; or
40 b. Investigative information that indicates that the psychologist
41 represents an immediate threat to public health and safety regardless
42 of whether the psychologist has been notified and/or had an
43 opportunity to respond.
- 44 (25) State. – A state, commonwealth, territory, or possession of the United States
45 or the District of Columbia.
- 46 (26) State Psychology Regulatory Authority. – The Board, office, or other agency
47 with the legislative mandate to license and regulate the practice of psychology.
- 48 (27) Telepsychology. – The provision of psychological services using
49 telecommunication technologies.

1 (28) Temporary Authorization to Practice. – A licensed psychologist's authority to
2 conduct temporary in-person, face-to-face practice, within the limits
3 authorized under this Compact, in another Compact State.

4 (29) Temporary in-person, face-to-face practice. – Where a psychologist is
5 physically present (not through the use of telecommunications technologies)
6 in the Distant State to provide for the practice of psychology for 30 days within
7 a calendar year and based on notification to the Distant State.

8 **"§ 90-270.162. Home State licensure.**

9 (a) The Home State shall be a Compact State where a psychologist is licensed to practice
10 psychology.

11 (b) A psychologist may hold one or more Compact State licenses at a time. If the
12 psychologist is licensed in more than one Compact State, the Home State is the Compact State
13 where the psychologist is physically present when the services are delivered as authorized by the
14 Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.

15 (c) Any Compact State may require a psychologist not previously licensed in a Compact
16 State to obtain and retain a license to be authorized to practice in the Compact State under
17 circumstances not authorized by the Authority to Practice Interjurisdictional Telepsychology
18 under the terms of this Compact.

19 (d) Any Compact State may require a psychologist to obtain and retain a license to be
20 authorized to practice in a Compact State under circumstances not authorized by Temporary
21 Authorization to Practice under the terms of this Compact.

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

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

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

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

29 (4) Requires an Identity History Summary of all applicants at initial licensure,
30 including the use of the results of fingerprints or other biometric data checks
31 compliant with the requirements of the Federal Bureau of Investigation (FBI),
32 or other designee with similar authority, no later than 10 years after activation
33 of the Compact; and

34 (5) Complies with the Bylaws and Rules of the Commission.

35 (f) A Home State's license grants Temporary Authorization to Practice to a psychologist
36 in a Distant State only if the Compact State:

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

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

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

42 (4) Requires an Identity History Summary of all applicants at initial licensure,
43 including the use of the results of fingerprints or other biometric data checks
44 compliant with the requirements of the Federal Bureau of Investigation (FBI),
45 or other designee with similar authority, no later than 10 years after activation
46 of the Compact; and

47 (5) Complies with the Bylaws and Rules of the Commission.

48 **"§ 90-270.163. Compact privilege to practice telepsychology.**

49 (a) Compact States shall recognize the right of a psychologist, licensed in a Compact
50 State in conformance with G.S. 90-270.162, to practice telepsychology in other Compact States

1 (Receiving States) in which the psychologist is not licensed, under the Authority to Practice
2 Interjurisdictional Telepsychology as provided in the Compact.

3 (b) To exercise the Authority to Practice Interjurisdictional Telepsychology under the
4 terms and provisions of this Compact, a psychologist licensed to practice in a Compact State
5 must:

- 6 (1) Hold a graduate degree in psychology from an institute of higher education
7 that was, at the time the degree was awarded:
 - 8 a. Regionally accredited by an accrediting body recognized by the U.S.
9 Department of Education to grant graduate degrees, or authorized by
10 Provincial Statute or Royal Charter to grant doctoral degrees; or
 - 11 b. A foreign college or university deemed to be equivalent to
12 sub-subdivision a. of this subdivision by a foreign credential
13 evaluation service that is a member of the National Association of
14 Credential Evaluation Services (NACES) or by a recognized foreign
15 credential evaluation service; and
- 16 (2) Hold a graduate degree in psychology that meets the following criteria:
 - 17 a. The program, wherever it may be administratively housed, must be
18 clearly identified and labeled as a psychology program. Such a
19 program must specify in pertinent institutional catalogues and
20 brochures its intent to educate and train professional psychologists;
 - 21 b. The psychology program must stand as a recognizable, coherent,
22 organizational entity within the institution;
 - 23 c. There must be a clear authority and primary responsibility for the core
24 and specialty areas whether or not the program cuts across
25 administrative lines;
 - 26 d. The program must consist of an integrated, organized sequence of
27 study;
 - 28 e. There must be an identifiable psychology faculty sufficient in size and
29 breadth to carry out its responsibilities;
 - 30 f. The designated director of the program must be a psychologist and a
31 member of the core faculty;
 - 32 g. The program must have an identifiable body of students who are
33 matriculated in that program for a degree;
 - 34 h. The program must include supervised practicum, internship, or field
35 training appropriate to the practice of psychology;
 - 36 i. The curriculum shall encompass a minimum of three academic years
37 of full-time graduate study for doctoral degree and a minimum of one
38 academic year of full-time graduate study for master's degree;
 - 39 j. The program includes an acceptable residency as defined by the Rules
40 of the Commission.
- 41 (3) Possess a current, full, and unrestricted license to practice psychology in a
42 Home State that is a Compact State;
- 43 (4) Have no history of adverse action that violates the Rules of the Commission;
- 44 (5) Have no criminal record history reported on an Identity History Summary that
45 violates the Rules of the Commission;
- 46 (6) Possess a current, active E.Passport;
- 47 (7) Provide attestations in regard to areas of intended practice, conformity with
48 standards of practice, competence in telepsychology technology, criminal
49 background, and knowledge and adherence to legal requirements in the home
50 and receiving states, and provide a release of information to allow for primary
51 source verification in a manner specified by the Commission; and

1 (8) Meet other criteria as defined by the Rules of the Commission.

2 (c) The Home State maintains authority over the license of any psychologist practicing
3 into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology.

4 (d) A psychologist practicing in a Receiving State under the Authority to Practice
5 Interjurisdictional Telepsychology will be subject to the Receiving State's scope of practice. A
6 Receiving State may, in accordance with that state's due process law, limit or revoke a
7 psychologist's Authority to Practice Interjurisdictional Telepsychology in the Receiving State
8 and may take any other necessary actions under the Receiving State's applicable law to protect
9 the health and safety of the Receiving State's citizens. If a Receiving State takes action, the state
10 shall promptly notify the Home State and the Commission.

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

16 **"§ 90-270.164. Compact Temporary Authorization to Practice.**

17 (a) Compact States shall also recognize the right of a psychologist, licensed in a Compact
18 State in conformance with G.S. 90-270.162, to practice temporarily in other Compact States
19 (Distant States) in which the psychologist is not licensed, as provided in the Compact.

20 (b) To exercise the Temporary Authorization to Practice under the terms and provisions
21 of this Compact, a psychologist licensed to practice in a Compact State must:

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

- 24 a. Regionally accredited by an accrediting body recognized by the U.S.
25 Department of Education to grant graduate degrees, or authorized by
26 Provincial Statute or Royal Charter to grant doctoral degrees; or
27 b. A foreign college or university deemed to be equivalent to
28 sub-subdivision a. of this subdivision by a foreign credential
29 evaluation service that is a member of the National Association of
30 Credential Evaluation Services (NACES) or by a recognized foreign
31 credential evaluation service; and

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

- 33 a. The program, wherever it may be administratively housed, must be
34 clearly identified and labeled as a psychology program. Such a
35 program must specify in pertinent institutional catalogues and
36 brochures its intent to educate and train professional psychologists;
37 b. The psychology program must stand as a recognizable, coherent,
38 organizational entity within the institution;
39 c. There must be a clear authority and primary responsibility for the core
40 and specialty areas whether or not the program cuts across
41 administrative lines;
42 d. The program must consist of an integrated, organized sequence of
43 study;
44 e. There must be an identifiable psychology faculty sufficient in size and
45 breadth to carry out its responsibilities;
46 f. The designated director of the program must be a psychologist and a
47 member of the core faculty;
48 g. The program must have an identifiable body of students who are
49 matriculated in that program for a degree;
50 h. The program must include supervised practicum, internship, or field
51 training appropriate to the practice of psychology;

1 i. The curriculum shall encompass a minimum of three academic years
2 of full-time graduate study for doctoral degrees and a minimum of one
3 academic year of full-time graduate study for master's degrees;
4 j. The program includes an acceptable residency as defined by the Rules
5 of the Commission.

6 (3) Possess a current, full, and unrestricted license to practice psychology in a
7 Home State that is a Compact State;

8 (4) No history of adverse action that violates the Rules of the Commission;

9 (5) No criminal record history that violates the Rules of the Commission;

10 (6) Possess a current, active IPC;

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

14 (8) Meet other criteria as defined by the Rules of the Commission.

15 (c) A psychologist practicing into a Distant State under the Temporary Authorization to
16 Practice shall practice within the scope of practice authorized by the Distant State.

17 (d) A psychologist practicing into a Distant State under the Temporary Authorization to
18 Practice will be subject to the Distant State's authority and law. A Distant State may, in
19 accordance with that state's due process law, limit or revoke a psychologist's Temporary
20 Authorization to Practice in the Distant State and may take any other necessary actions under the
21 Distant State's applicable law to protect the health and safety of the Distant State's citizens. If a
22 Distant State takes action, the state shall promptly notify the Home State and the Commission.

23 (e) If a psychologist's license in any Home State, another Compact State, or any
24 Temporary Authorization to Practice in any Distant State is restricted, suspended, or otherwise
25 limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice
26 in a Compact State under the Temporary Authorization to Practice.

27 **"§ 90-270.165. Conditions of telepsychology practice in a Receiving State.**

28 A psychologist may practice in a Receiving State under the Authority to Practice
29 Interjurisdictional Telepsychology only in the performance of the scope of practice for
30 psychology as assigned by an appropriate State Psychology Regulatory Authority, as defined in
31 the Rules of the Commission, and under the following circumstances:

32 (1) The psychologist initiates a client/patient contact in a Home State via
33 telecommunications technologies with a client/patient in a Receiving State.

34 (2) Other conditions regarding telepsychology as determined by Rules
35 promulgated by the Commission.

36 **"§ 90-270.166. Adverse actions.**

37 (a) A Home State shall have the power to impose adverse action against a psychologist's
38 license issued by the Home State. A Distant State shall have the power to take adverse action on
39 a psychologist's Temporary Authorization to Practice within that Distant State.

40 (b) A Receiving State may take adverse action on a psychologist's Authority to Practice
41 Interjurisdictional Telepsychology within that Receiving State. A Home State may take adverse
42 action against a psychologist based on an adverse action taken by a Distant State regarding
43 temporary in-person, face-to-face practice.

44 (c) If a Home State takes adverse action against a psychologist's license, that
45 psychologist's Authority to Practice Interjurisdictional Telepsychology is terminated and the
46 E.Passport is revoked. Furthermore, that psychologist's Temporary Authorization to Practice is
47 terminated and the IPC is revoked.

48 (1) All Home State disciplinary orders which impose adverse action shall be
49 reported to the Commission in accordance with the Rules promulgated by the
50 Commission. A Compact State shall report adverse actions in accordance with
51 the Rules of the Commission.

1 (2) In the event discipline is reported on a psychologist, the psychologist will not
2 be eligible for telepsychology or temporary in-person, face-to-face practice in
3 accordance with the Rules of the Commission.

4 (3) Other actions may be imposed as determined by the Rules promulgated by the
5 Commission.

6 (d) A Home State's Psychology Regulatory Authority shall investigate and take
7 appropriate action with respect to reported inappropriate conduct engaged in by a licensee which
8 occurred in a Receiving State as it would if such conduct had occurred by a licensee within the
9 Home State. In such cases, the Home State's law shall control in determining any adverse action
10 against a psychologist's license.

11 (e) A Distant State's Psychology Regulatory Authority shall investigate and take
12 appropriate action with respect to reported inappropriate conduct engaged in by a psychologist
13 practicing under Temporary Authorization to Practice which occurred in that Distant State as it
14 would if such conduct had occurred by a licensee within the Home State. In such cases, Distant
15 State's law shall control in determining any adverse action against a psychologist's Temporary
16 Authorization to Practice.

17 (f) Nothing in this Compact shall override a Compact State's decision that a
18 psychologist's participation in an alternative program may be used in lieu of adverse action and
19 that such participation shall remain nonpublic if required by the Compact State's law. Compact
20 States must require psychologists who enter any alternative programs to not provide
21 telepsychology services under the Authority to Practice Interjurisdictional Telepsychology or
22 provide temporary psychological services under the Temporary Authorization to Practice in any
23 other Compact State during the term of the alternative program.

24 (g) No other judicial or administrative remedies shall be available to a psychologist in the
25 event a Compact State imposes an adverse action pursuant to subsection (c) of this section.

26 **"§ 90-270.167. Additional authorities invested in a Compact State's Psychology Regulatory**
27 **Authority.**

28 In addition to any other powers granted under state law, a Compact State's Psychology
29 Regulatory Authority shall have the authority under this Compact to:

30 (1) Issue subpoenas, for both hearings and investigations, which require the
31 attendance and testimony of witnesses and the production of evidence.
32 Subpoenas issued by a Compact State's Psychology Regulatory Authority for
33 the attendance and testimony of witnesses and/or the production of evidence
34 from another Compact State shall be enforced in the latter state by any court
35 of competent jurisdiction, according to that court's practice and procedure in
36 considering subpoenas issued in its own proceedings. The issuing State
37 Psychology Regulatory Authority shall pay any witness fees, travel expenses,
38 mileage, and other fees required by the service statutes of the state where the
39 witnesses and/or evidence are located.

40 (2) Issue cease and desist and/or injunctive relief orders to revoke a psychologist's
41 Authority to Practice Interjurisdictional Telepsychology and/or Temporary
42 Authorization to Practice.

43 (3) During the course of any investigation, a psychologist may not change his/her
44 Home State licensure. A Home State Psychology Regulatory Authority is
45 authorized to complete any pending investigations of a psychologist and to
46 take any actions appropriate under its law. The Home State Psychology
47 Regulatory Authority shall promptly report the conclusions of such
48 investigations to the Commission. Once an investigation has been completed,
49 and pending the outcome of said investigation, the psychologist may change
50 his/her Home State licensure. The Commission shall promptly notify the new
51 Home State of any such decisions as provided in the Rules of the Commission.

1 All information provided to the Commission or distributed by Compact States
2 pursuant to the psychologist shall be confidential, filed under seal, and used
3 for investigatory or disciplinary matters. The Commission may create
4 additional rules for mandated or discretionary sharing of information by
5 Compact States.

6 **"§ 90-270.168. Coordinated Licensure Information System.**

7 (a) The Commission shall provide for the development and maintenance of a Coordinated
8 Licensure Information System (Coordinated Database) and reporting system containing licensure
9 and disciplinary action information on all psychologists to whom this Compact is applicable in
10 all Compact States as defined by the Rules of the Commission.

11 (b) Notwithstanding any other provision of state law to the contrary, a Compact State
12 shall submit a uniform data set to the Coordinated Database on all licensees as required by the
13 Rules of the Commission, including:

14 (1) Identifying information;

15 (2) Licensure data;

16 (3) Significant investigatory information;

17 (4) Adverse actions against a psychologist's license;

18 (5) An indicator that a psychologist's Authority to Practice Interjurisdictional
19 Telepsychology and/or Temporary Authorization to Practice is revoked;

20 (6) Nonconfidential information related to alternative program participation
21 information;

22 (7) Any denial of application for licensure and the reasons for such denial; and

23 (8) Other information which may facilitate the administration of this Compact, as
24 determined by the Rules of the Commission.

25 (c) The Coordinated Database administrator shall promptly notify all Compact States of
26 any adverse action taken against, or significant investigative information on, any licensee in a
27 Compact State.

28 (d) Compact States reporting information to the Coordinated Database may designate
29 information that may not be shared with the public without the express permission of the
30 Compact State reporting the information.

31 (e) Any information submitted to the Coordinated Database that is subsequently required
32 to be expunged by the law of the Compact State reporting the information shall be removed from
33 the Coordinated Database.

34 **"§ 90-270.169. Establishment of the Psychology Interjurisdictional Compact Commission.**

35 (a) The Compact States hereby create and establish a joint public agency known as the
36 Psychology Interjurisdictional Compact Commission.

37 (1) The Commission is a body politic and an instrumentality of the Compact
38 States.

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

44 (3) Nothing in this Compact shall be construed to be a waiver of sovereign
45 immunity.

46 (b) Membership, Voting, and Meetings. –

47 (1) The Commission shall consist of one voting representative appointed by each
48 Compact State who shall serve as that state's Commissioner. The State
49 Psychology Regulatory Authority shall appoint its delegate. This delegate
50 shall be empowered to act on behalf of the Compact State. This delegate shall
51 be limited to:

- 1 a. Executive Director, Executive Secretary, or similar executive;
2 b. Current member of the State Psychology Regulatory Authority of a
3 Compact State; or
4 c. Designee empowered with the appropriate delegate authority to act on
5 behalf of the Compact State.
6 (2) Any Commissioner may be removed or suspended from office as provided by
7 the law of the state from which the Commissioner is appointed. Any vacancy
8 occurring in the Commission shall be filled in accordance with the laws of the
9 Compact State in which the vacancy exists.
10 (3) Each Commissioner shall be entitled to one vote with regard to the
11 promulgation of Rules and creation of Bylaws and shall otherwise have an
12 opportunity to participate in the business and affairs of the Commission. A
13 Commissioner shall vote in person or by such other means as provided in the
14 Bylaws. The Bylaws may provide for Commissioners' participation in
15 meetings by telephone or other means of communication.
16 (4) The Commission shall meet at least once during each calendar year.
17 Additional meetings shall be held as set forth in the Bylaws.
18 (5) All meetings shall be open to the public, and public notice of meetings shall
19 be given in the same manner as required under the rule-making provisions in
20 G.S. 90-270.170.
21 (6) The Commission may convene in a closed, nonpublic meeting if the
22 Commission must discuss:
23 a. Noncompliance of a Compact State with its obligations under the
24 Compact;
25 b. The employment, compensation, discipline, or other personnel
26 matters, practices, or procedures related to specific employees or other
27 matters related to the Commission's internal personnel practices and
28 procedures;
29 c. Current, threatened, or reasonably anticipated litigation against the
30 Commission;
31 d. Negotiation of contracts for the purchase or sale of goods, services, or
32 real estate;
33 e. Accusation against any person of a crime or formally censuring any
34 person;
35 f. Disclosure of trade secrets or commercial or financial information
36 which is privileged or confidential;
37 g. Disclosure of information of a personal nature where disclosure would
38 constitute a clearly unwarranted invasion of personal privacy;
39 h. Disclosure of investigatory records compiled for law enforcement
40 purposes;
41 i. Disclosure of information related to any investigatory reports prepared
42 by or on behalf of or for use of the Commission or other committee
43 charged with responsibility for investigation or determination of
44 compliance issues pursuant to the Compact; or
45 j. Matters specifically exempted from disclosure by federal and state
46 statute.
47 (7) If a meeting, or portion of a meeting, is closed pursuant to this provision, the
48 Commission's legal counsel or designee shall certify that the meeting may be
49 closed and shall reference each relevant exempting provision. The
50 Commission shall keep minutes which fully and clearly describe all matters
51 discussed in a meeting and shall provide a full and accurate summary of

1 actions taken, of any person participating in the meeting, and the reasons
2 therefor, including a description of the views expressed. All documents
3 considered in connection with an action shall be identified in such minutes.
4 All minutes and documents of a closed meeting shall remain under seal,
5 subject to release only by a majority vote of the Commission or order of a
6 court of competent jurisdiction.

7 (c) The Commission shall, by a majority vote of the Commissioners, prescribe Bylaws
8 and/or Rules to govern its conduct as may be necessary or appropriate to carry out the purposes
9 and exercise the powers of the Compact, including, but not limited to:

10 (1) Establishing the fiscal year of the Commission;

11 (2) Providing reasonable standards and procedures:

12 a. For the establishment and meetings of other committees; and

13 b. Governing any general or specific delegation of any authority or
14 function of the Commission;

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

25 (4) Establishing the titles, duties, and authority and reasonable procedures for the
26 election of the officers of the Commission;

27 (5) Providing reasonable standards and procedures for the establishment of the
28 personnel policies and programs of the Commission. Notwithstanding any
29 civil service or other similar law of any Compact State, the Bylaws shall
30 exclusively govern the personnel policies and programs of the Commission;

31 (6) Promulgating a Code of Ethics to address permissible and prohibited activities
32 of Commission members and employees;

33 (7) Providing a mechanism for concluding the operations of the Commission and
34 the equitable disposition of any surplus funds that may exist after the
35 termination of the Compact after the payment and/or reserving of all of its
36 debts and obligations;

37 (8) The Commission shall publish its Bylaws in a convenient form and file a copy
38 thereof and a copy of any amendment thereto with the appropriate agency or
39 officer in each of the Compact States;

40 (9) The Commission shall maintain its financial records in accordance with the
41 Bylaws; and

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

44 (d) The Commission shall have the following powers:

45 (1) The authority to promulgate uniform rules to facilitate and coordinate
46 implementation and administration of this Compact. The rules shall have the
47 force and effect of law and shall be binding in all Compact States;

48 (2) To bring and prosecute legal proceedings or actions in the name of the
49 Commission, provided that the standing of any State Psychology Regulatory
50 Authority or other regulatory body responsible for psychology licensure to sue
51 or be sued under applicable law shall not be affected;

- 1 (3) To purchase and maintain insurance and bonds;
2 (4) To borrow, accept, or contract for services of personnel, including, but not
3 limited to, employees of a Compact State;
4 (5) To hire employees, elect or appoint officers, fix compensation, define duties,
5 grant such individuals appropriate authority to carry out the purposes of the
6 Compact, and establish the Commission's personnel policies and programs
7 relating to conflicts of interest, qualifications of personnel, and other related
8 personnel matters;
9 (6) To accept any and all appropriate donations and grants of money, equipment,
10 supplies, materials, and services and to receive, utilize, and dispose of the
11 same, provided that at all times the Commission shall strive to avoid any
12 appearance of impropriety and/or conflict of interest;
13 (7) To lease, purchase, accept appropriate gifts or donations of, or otherwise to
14 own, hold, improve, or use any property, real, personal, or mixed, provided
15 that at all times the Commission shall strive to avoid any appearance of
16 impropriety;
17 (8) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
18 dispose of any property, real, personal, or mixed;
19 (9) To establish a budget and make expenditures;
20 (10) To borrow money;
21 (11) To appoint committees, including advisory committees comprised of
22 members, state regulators, state legislators or their representatives, and
23 consumer representatives, and such other interested persons as may be
24 designated in this Compact and the Bylaws;
25 (12) To provide and receive information from, and to cooperate with, law
26 enforcement agencies;
27 (13) To adopt and use an official seal; and
28 (14) To perform such other functions as may be necessary or appropriate to achieve
29 the purposes of this Compact consistent with the state regulation of
30 psychology licensure, temporary in-person, face-to-face practice, and
31 telepsychology practice.
32 (e) The Executive Board. – The elected officers shall serve as the Executive Board, which
33 shall have the power to act on behalf of the Commission according to the terms of this Compact.
34 (1) The Executive Board shall be comprised of six members:
35 a. Five voting members who are elected from the current membership of
36 the Commission by the Commission.
37 b. One ex officio, nonvoting member from the recognized membership
38 organization composed of State and Provincial Psychology Regulatory
39 Authorities.
40 (2) The ex officio member must have served as staff or member on a State
41 Psychology Regulatory Authority and will be selected by its respective
42 organization.
43 (3) The Commission may remove any member of the Executive Board as
44 provided in Bylaws.
45 (4) The Executive Board shall meet at least annually.
46 (5) The Executive Board shall have the following duties and responsibilities:
47 a. Recommend to the entire Commission changes to the Rules or Bylaws,
48 changes to this Compact legislation, or fees paid by Compact States
49 such as annual dues and any other applicable fees;
50 b. Ensure Compact administration services are appropriately provided,
51 contractual or otherwise;

- 1 c. Prepare and recommend the budget;
2 d. Maintain financial records on behalf of the Commission;
3 e. Monitor Compact compliance of member states and provide
4 compliance reports to the Commission;
5 f. Establish additional committees as necessary; and
6 g. Other duties as provided in Rules or Bylaws.
- 7 (f) Financing of the Commission. –
8 (1) The Commission shall pay or provide for the payment of the reasonable
9 expenses of its establishment, organization, and ongoing activities.
10 (2) The Commission may accept any and all appropriate revenue sources,
11 donations, and grants of money, equipment, supplies, materials, and services.
12 (3) The Commission may levy on and collect an annual assessment from each
13 Compact State or impose fees on other parties to cover the cost of the
14 operations and activities of the Commission and its staff which must be in a
15 total amount sufficient to cover its annual budget as approved each year for
16 which revenue is not provided by other sources. The aggregate annual
17 assessment amount shall be allocated based upon a formula to be determined
18 by the Commission which shall promulgate a rule binding upon all Compact
19 States.
20 (4) The Commission shall not incur obligations of any kind prior to securing the
21 funds adequate to meet the same, nor shall the Commission pledge the credit
22 of any of the Compact States, except by and with the authority of the Compact
23 State.
24 (5) The Commission shall keep accurate accounts of all receipts and
25 disbursements. The receipts and disbursements of the Commission shall be
26 subject to the audit and accounting procedures established under its Bylaws.
27 However, all receipts and disbursements of funds handled by the Commission
28 shall be audited yearly by a certified or licensed public accountant and the
29 report of the audit shall be included in and become part of the annual report
30 of the Commission.
- 31 (g) Qualified Immunity, Defense, and Indemnification. –
32 (1) The members, officers, Executive Director, employees, and representatives of
33 the Commission shall be immune from suit and liability, either personally or
34 in their official capacity, for any claim for damage to or loss of property or
35 personal injury or other civil liability caused by or arising out of any actual or
36 alleged act, error, or omission that occurred, or that the person against whom
37 the claim is made had a reasonable basis for believing occurred within the
38 scope of Commission employment, duties, or responsibilities, provided that
39 nothing in this subdivision shall be construed to protect any such person from
40 suit and/or liability for any damage, loss, injury, or liability caused by the
41 intentional or willful or wanton misconduct of that person.
42 (2) The Commission shall defend any member, officer, Executive Director,
43 employee, or representative of the Commission in any civil action seeking to
44 impose liability arising out of any actual or alleged act, error, or omission that
45 occurred within the scope of Commission employment, duties, or
46 responsibilities, or that the person against whom the claim is made had a
47 reasonable basis for believing occurred within the scope of Commission
48 employment, duties, or responsibilities, provided that nothing herein shall be
49 construed to prohibit that person from retaining his or her own counsel, and
50 provided further that the actual or alleged act, error, or omission did not result
51 from that person's intentional or willful or wanton misconduct.

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

10 **§ 90-270.170. Rule making.**

11 (a) The Commission shall exercise its rule-making powers pursuant to the criteria set
12 forth in this section and the Rules adopted thereunder. Rules and amendments shall become
13 binding as of the date specified in each rule or amendment.

14 (b) If a majority of the legislatures of the Compact States rejects a rule, by enactment of
15 a statute or resolution in the same manner used to adopt the Compact, then such rule shall have
16 no further force and effect in any Compact State.

17 (c) Rules or amendments to the rules shall be adopted at a regular or special meeting of
18 the Commission.

19 (d) Prior to promulgation and adoption of a final rule or Rules by the Commission, and
20 at least 60 days in advance of the meeting at which the rule will be considered and voted upon,
21 the Commission shall file a Notice of Proposed Rule Making:

22 (1) On the Web site of the Commission; and

23 (2) On the Web site of each Compact States' Psychology Regulatory Authority or
24 the publication in which each state would otherwise publish proposed rules.

25 (e) The Notice of Proposed Rule Making shall include:

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

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

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

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

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

35 (g) The Commission shall grant an opportunity for a public hearing before it adopts a rule
36 or amendment if a hearing is requested by:

37 (1) At least 25 persons who submit comments independently of each other;

38 (2) A governmental subdivision or agency; or

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

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

42 (1) All persons wishing to be heard at the hearing shall notify the Executive
43 Director of the Commission or other designated member in writing of their
44 desire to appear and testify at the hearing not less than five business days
45 before the scheduled date of the hearing.

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

48 (3) No transcript of the hearing is required, unless a written request for a transcript
49 is made, in which case the person requesting the transcript shall bear the cost
50 of producing the transcript. A recording may be made in lieu of a transcript
51 under the same terms and conditions as a transcript. This subsection shall not

1 preclude the Commission from making a transcript or recording of the hearing
2 if it so chooses.

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

6 (i) Following the scheduled hearing date, or by the close of business on the scheduled
7 hearing date if the hearing was not held, the Commission shall consider all written and oral
8 comments received.

9 (j) The Commission shall, by majority vote of all members, take final action on the
10 proposed rule and shall determine the effective date of the rule, if any, based on the rule-making
11 record and the full text of the rule.

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

15 (l) Upon determination that an emergency exists, the Commission may consider and
16 adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that
17 the usual rule-making procedures provided in the Compact and in this section shall be
18 retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days
19 after the effective date of the rule. For the purposes of this provision, an emergency rule is one
20 that must be adopted immediately in order to:

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

22 (2) Prevent a loss of Commission or Compact State funds;

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

25 (4) Protect public health and safety.

26 (m) The Commission or an authorized committee of the Commission may direct revisions
27 to a previously adopted rule or amendment for purposes of correcting typographical errors, errors
28 in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be
29 posted on the Web site of the Commission. The revision shall be subject to challenge by any
30 person for a period of 30 days after posting. The revision may be challenged only on grounds
31 that the revision results in a material change to a rule. A challenge shall be made in writing and
32 delivered to the Chair of the Commission prior to the end of the notice period. If no challenge is
33 made, the revision will take effect without further action. If the revision is challenged, the
34 revision may not take effect without the approval of the Commission.

35 **"§ 90-270.171. Oversight, dispute resolution, and enforcement.**

36 (a) Oversight. –

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

42 (2) All courts shall take judicial notice of the Compact and the rules in any judicial
43 or administrative proceeding in a Compact State pertaining to the subject
44 matter of this Compact which may affect the powers, responsibilities, or
45 actions of the Commission.

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

51 (b) Default, Technical Assistance, and Termination. –

- 1 (1) If the Commission determines that a Compact State has defaulted in the
2 performance of its obligations or responsibilities under this Compact or the
3 promulgated rules, the Commission shall:
4 a. Provide written notice to the defaulting state and other Compact States
5 of the nature of the default, the proposed means of remedying the
6 default, and/or any other action to be taken by the Commission; and
7 b. Provide remedial training and specific technical assistance regarding
8 the default.
9 (2) If a state in default fails to remedy the default, the defaulting state may be
10 terminated from the Compact upon an affirmative vote of a majority of the
11 Compact States and all rights, privileges, and benefits conferred by this
12 Compact shall be terminated on the effective date of termination. A remedy
13 of the default does not relieve the offending state of obligations or liabilities
14 incurred during the period of default.
15 (3) Termination of membership in the Compact shall be imposed only after all
16 other means of securing compliance have been exhausted. Notice of intent to
17 suspend or terminate shall be submitted by the Commission to the Governor,
18 the majority and minority leaders of the defaulting state's legislature, and each
19 of the Compact States.
20 (4) A Compact State which has been terminated is responsible for all assessments,
21 obligations, and liabilities incurred through the effective date of termination,
22 including obligations which extend beyond the effective date of termination.
23 (5) The Commission shall not bear any costs incurred by the state which is found
24 to be in default or which has been terminated from the Compact, unless agreed
25 upon in writing between the Commission and the defaulting state.
26 (6) The defaulting state may appeal the action of the Commission by petitioning
27 the United States District Court for the State of Georgia or the federal district
28 where the Compact has its principal offices. The prevailing member shall be
29 awarded all costs of such litigation, including reasonable attorneys' fees.
30 (c) Dispute Resolution. –
31 (1) Upon request by a Compact State, the Commission shall attempt to resolve
32 disputes related to the Compact which arise among Compact States and
33 between Compact and Non-Compact States.
34 (2) The Commission shall promulgate a rule providing for both mediation and
35 binding dispute resolution for disputes that arise before the Commission.
36 (d) Enforcement. –
37 (1) The Commission, in the reasonable exercise of its discretion, shall enforce the
38 provisions and Rules of this Compact.
39 (2) By majority vote, the Commission may initiate legal action in the United
40 States District Court for the State of Georgia or the federal district where the
41 Compact has its principal offices against a Compact State in default to enforce
42 compliance with the provisions of the Compact and its promulgated Rules and
43 Bylaws. The relief sought may include both injunctive relief and damages. In
44 the event judicial enforcement is necessary, the prevailing member shall be
45 awarded all costs of such litigation, including reasonable attorneys' fees.
46 (3) The remedies herein shall not be the exclusive remedies of the Commission.
47 The Commission may pursue any other remedies available under federal or
48 state law.

49 **§ 90-270.172. Date of implementation of the Psychology Interjurisdictional Compact**
50 **Commission and associated rules, withdrawal, and amendments.**

1 (a) The Compact shall come into effect on the date on which the Compact is enacted into
 2 law in the seventh Compact State. The provisions which become effective at that time shall be
 3 limited to the powers granted to the Commission relating to assembly and the promulgation of
 4 rules. Thereafter, the Commission shall meet and exercise rule-making powers necessary to the
 5 implementation and administration of the Compact.

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

10 (c) Any Compact State may withdraw from this Compact by enacting a statute repealing
 11 the same.

12 (1) A Compact State's withdrawal shall not take effect until six months after
 13 enactment of the repealing statute.

14 (2) Withdrawal shall not affect the continuing requirement of the withdrawing
 15 State's Psychology Regulatory Authority to comply with the investigative and
 16 adverse action reporting requirements of this act prior to the effective date of
 17 withdrawal.

18 (d) Nothing contained in this Compact shall be construed to invalidate or prevent any
 19 psychology licensure agreement or other cooperative arrangement between a Compact State and
 20 a Non-Compact State which does not conflict with the provisions of this Compact.

21 (e) This Compact may be amended by the Compact States. No amendment to this
 22 Compact shall become effective and binding upon any Compact State until it is enacted into the
 23 law of all Compact States.

24 **"§ 90-270.173. Construction and severability.**

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

28 **SECTION 1.(c)** This section becomes effective March 1, 2021.

29
 30 **PART II. ALLOW LICENSED MARRIAGE AND FAMILY THERAPISTS TO**
 31 **CONDUCT FIRST-LEVEL EXAMINATIONS FOR INVOLUNTARY COMMITMENT**

32 **SECTION 2.(a)** G.S. 122C-263.1(a) reads as rewritten:

33 **"§ 122C-263.1. Secretary's authority to certify commitment examiners; training of certified**
 34 **commitment examiners performing first examinations; LME/MCO**
 35 **responsibilities.**

36 (a) Physicians and eligible psychologists are qualified to perform the commitment
 37 examinations required under G.S. 122C-263(c) and G.S. 122C-283(c). The Secretary of Health
 38 and Human Services may individually certify to perform the first commitment examinations
 39 required by G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283
 40 other health, mental health, and substance abuse professionals whose scope of practice includes
 41 diagnosing and documenting psychiatric or substance use disorders and conducting mental status
 42 examinations to determine capacity to give informed consent to treatment as follows:

43 (1) The Secretary has received a request:

44 a. To certify a licensed clinical social worker, a master's or higher level
 45 degree nurse practitioner, a licensed professional counsellor, a
 46 licensed marriage and family therapist, or a physician's assistant to
 47 conduct the first examinations described in G.S. 122C-263(c) and
 48 G.S. 122C-283(c).

49 b. To certify a master's level licensed clinical addictions specialist to
 50 conduct the first examination described in G.S. 122C-283(c).

51 ...

(5) In no event shall the certification of a licensed clinical social worker, master's or higher level degree nurse practitioner, licensed professional counsellor, a licensed marriage and family therapist, physician assistant, or master's level certified clinical addictions specialist under this section be construed as authorization to expand the scope of practice of the licensed clinical social worker, the master's level nurse practitioner, licensed professional counsellor, a licensed marriage and family therapist, physician assistant, or the master's level certified clinical addictions specialist.

...
 (9) A licensed marriage and family therapist shall not be authorized to conduct the initial examination of an individual married to a patient of the licensed marriage and family therapist."

SECTION 2.(b) This section becomes effective October 1, 2020.

PART III. ELIMINATE REDUNDANCY IN ADULT CARE HOME INSPECTIONS

SECTION 3. G.S. 131D-2.11(a) reads as rewritten:

"(a) State Inspection and Monitoring. – The Department shall ensure that adult care homes required to be licensed by this Article are monitored for licensure compliance on a regular basis. All facilities licensed under this Article and adult care units in nursing homes are subject to inspections at all times by the Secretary. Except as provided in subsection (a1) of this section, the Division of Health Service Regulation shall inspect all adult care homes and adult care units in nursing homes on an annual basis. Beginning July 1, 2012, the Division of Health Service Regulation shall include as part of its inspection of all adult care homes a review of the facility's compliance with G.S. 131D-4.4A(b) and safe practices for injections and any other procedures during which bleeding typically occurs. In addition, the Department shall ensure that adult care homes are inspected every two years to determine compliance with physical plant and life-safety requirements.

If the annual or biennial licensure inspection of an adult care home is conducted separately from the inspection required every two years to determine compliance with physical plant and life-safety requirements, then the Division of Health Service Regulation shall not cite, as part of the annual or biennial licensure inspection, any noncompliance with any law or regulation that was cited during a physical plant and life-safety inspection, unless, in consultation with the section within the Division of Health Service Regulation that conducts physical plant and life-safety inspections, any of the following conditions are met:

- (1) The noncompliance with the law or regulation continues and the noncompliance constitutes a Type A1 Violation, a Type A2 Violation, or a Type B Violation, as defined in G.S. 131D-34.
- (2) The facility has not submitted a plan of correction for the physical plant or life-safety citation that has been accepted by the section within the Division of Health Service Regulation that conducts physical plant and life-safety inspections.
- (3) The noncompliance with the physical plant or life-safety law and regulation cited by the section within the Division of Health Service Regulation that conducts physical plant and life-safety inspections has not been corrected within the time frame allowed for correction or has increased in severity.

Nothing in this subsection prevents a licensing inspector from referring a concern about physical plant and life-safety requirements to the section within the Division of Health Service Regulation that conducts physical plant and life-safety inspections."

PART IV. STEP THERAPY PROTOCOLS

SECTION 4.(a) G.S. 58-3-221 reads as rewritten:

1 **"§ 58-3-221. Access to nonformulary and restricted access prescription drugs.**

2 (a) If an insurer (i) maintains one or more closed formularies for or restricts access to
3 covered prescription drugs or ~~devices, devices~~ or (ii) requires an enrollee in a plan with an open
4 or closed formulary to use a prescription drug or sequence of prescription drugs, other than the
5 drug the enrollee's health care provider recommends, before the insurer provides coverage for
6 the recommended prescription drug, then the insurer shall do all of the following:

7 (1) Develop the ~~formulary or formularies~~ or protocols and any restrictions on
8 access to covered prescription drugs or devices in consultation with and with
9 the approval of a pharmacy and therapeutics ~~committee, which shall include~~
10 ~~participating physicians who are licensed to practice medicine in this~~
11 ~~State committee.~~

12 (2) Make available to participating providers, pharmacists, and enrollees the
13 complete drugs or devices formulary or formularies maintained by the insurer
14 including a list of the devices and prescription drugs on the formulary by
15 major therapeutic category that specifies whether a particular drug or device
16 is preferred over other drugs or ~~devices, devices~~, as well as any utilization
17 management program indicators.

18 (3) ~~Establish and maintain an expeditious process or procedure that allows an~~
19 ~~enrollee or the enrollee's physician acting on behalf of the enrollee to obtain,~~
20 ~~without penalty or additional cost sharing beyond that provided for in the~~
21 ~~health benefit plan, coverage for a specific nonformulary drug or device~~
22 ~~determined to be medically necessary and appropriate by the enrollee's~~
23 ~~participating physician without prior approval from the insurer, after the~~
24 ~~enrollee's participating physician notifies the insurer that:~~

25 a. ~~Either (i) the formulary alternatives have been ineffective in the~~
26 ~~treatment of the enrollee's disease or condition, or (ii) the formulary~~
27 ~~alternatives cause or are reasonably expected by the physician to cause~~
28 ~~a harmful or adverse clinical reaction in the enrollee; and~~

29 b. ~~Either (i) the drug is prescribed in accordance with any applicable~~
30 ~~clinical protocol of the insurer for the prescribing of the drug, or (ii)~~
31 ~~the drug has been approved as an exception to the clinical protocol~~
32 ~~pursuant to the insurer's exception procedure.~~ Update protocols based
33 on a review of new evidence, research, and newly developed
34 treatments.

35 (4) ~~Provide coverage for a restricted access drug or device to an enrollee without~~
36 ~~requiring prior approval or use of a nonrestricted formulary drug if an~~
37 ~~enrollee's physician certifies in writing that the enrollee has previously used~~
38 ~~an alternative nonrestricted access drug or device and the alternative drug or~~
39 ~~device has been detrimental to the enrollee's health or has been ineffective in~~
40 ~~treating the same condition and, in the opinion of the prescribing physician, is~~
41 ~~likely to be detrimental to the enrollee's health or ineffective in treating the~~
42 ~~condition again.~~ An insurer, or a pharmacy benefits manager under contract
43 with an insurer, shall require that its pharmacy and therapeutics committee
44 either meet the requirements for conflict of interest set by the Center for
45 Medicare and Medicaid Services or meet the accreditation standards of the
46 National Committee for Quality Assurance or another independent accrediting
47 organization.

48 (b) An insurer may not void a contract or refuse to renew a contract between the insurer
49 and a prescribing provider because the prescribing provider has prescribed a medically necessary
50 and appropriate nonformulary or restricted access drug or device as provided in this section.

1 (b1) Exception Process. – Each insurer shall establish and maintain an expeditious process
2 or procedure, published on either the insurer's Web site or in policies provided to health care
3 providers, that allows an enrollee or the enrollee's prescribing provider acting on behalf of the
4 enrollee to obtain, without penalty or additional cost-sharing beyond that provided for in the
5 health benefit plan, coverage for a specific nonformulary drug or device or the drug requested by
6 the prescribing provider, if it is determined to be medically necessary and appropriate by the
7 enrollee's prescribing provider and the prescription drug is covered under the current health
8 benefit plan.

9 (1) An insurer shall grant an exception request if the prescribing provider's
10 submitted justification and supporting clinical documentation are sufficient to
11 demonstrate any of the following:

12 a. The enrollee has tried the alternate drug or drugs while covered by the
13 current or the previous health benefit plan.

14 b. The formulary or alternate drug or drugs has been ineffective in the
15 treatment of the enrollee's disease or condition.

16 c. The formulary or alternate drug or drugs causes or is reasonably
17 expected by the prescribing provider to cause a harmful or adverse
18 clinical reaction in the enrollee.

19 d. Either (i) the drug is prescribed in accordance with any applicable
20 clinical protocol of the insurer for the prescribing of the drug or (ii) the
21 drug has been approved as an exception to the clinical protocol
22 pursuant to the insurer's exception procedure.

23 e. The enrollee's prescribing provider certifies in writing that the enrollee
24 has previously used an alternative nonrestricted access drug or device
25 and the alternative drug or device has been detrimental to the enrollee's
26 health or has been ineffective in treating the same condition and, in the
27 opinion of the prescribing health care provider, is likely to be
28 detrimental to the enrollee's health or ineffective in treating the
29 condition again.

30 (2) Nothing in this section shall preclude an insurer from requiring prior
31 authorization for the coverage of a prescribed drug that was covered by the
32 enrollee's previous health benefit plan.

33 (b2) Pharmaceutical drug samples or patient incentive programs, including coupons or
34 debit cards, shall not be considered trial and failure of a preferred prescription drug in lieu of
35 trying the formulary-preferred prescription drug.

36 (b3) Exception process requirements:

37 (1) The insurer, health benefit plan, or utilization review organization may request
38 relevant documentation from the patient or health care provider to support the
39 exception request. Relevant information includes the results of any patient
40 examination, clinical evaluation, or second opinion that may be required.

41 (2) A licensed physician or licensed pharmacist shall evaluate the clinical
42 appropriateness of the exception request.

43 (3) For nonurgent exception requests for a prospective or concurrent review:

44 a. The insurer shall communicate to the enrollee's health care provider if
45 additional information is required within 72 hours after the insurer
46 receives the exception request.

47 b. The insurer shall communicate an exception request determination to
48 the enrollee's providers within 72 hours after receiving all relevant
49 information.

50 (4) In the case of an urgent review:

- 1 a. The insurer shall communicate to the enrollee's health care provider if
 2 additional information is required within 24 hours after the insurer
 3 receives the exception request.
 4 b. The insurer shall communicate an exception request determination to
 5 the enrollee's providers within 24 hours after receiving all relevant
 6 information.
- 7 (c) As used in this section:
- 8 (1) "Closed formulary" means a list of prescription drugs and devices reimbursed
 9 by the insurer that excludes coverage for drugs and devices not listed.
- 10 (1a) "Health benefit plan" has definition provided in G.S. 58-3-167.
- 11 (2) "Insurer" has the meaning provided in G.S. 58-3-167.
- 12 (3) "Restricted access drug or device" means those covered prescription drugs or
 13 devices for which reimbursement by the insurer is conditioned on the insurer's
 14 prior approval to prescribe the drug or device or on the provider prescribing
 15 one or more alternative drugs or devices before prescribing the drug or device
 16 in question.
- 17 (d) Nothing in this section requires an insurer to pay for drugs or devices or classes of
 18 drugs or devices related to a benefit that is specifically excluded from coverage by the insurer.
- 19 (e) This section shall not be construed to prevent the health benefit plan from requiring
 20 an enrollee to try an A-rated generic equivalent drug, or a biosimilar, as defined under 42 U.S.C.
 21 § 262(i)(2), prior to providing coverage for the equivalent branded prescription drug."
- 22 **SECTION 4.(b)** This section becomes effective October 1, 2020, and applies to
 23 insurance contracts issued, renewed, or amended on or after that date.

25 **PART V. CLARIFY THE USE OF CORONAVIRUS RELIEF FUNDS**

26 **SECTION 5.** Section 3.3(34) of S.L. 2020-4 reads as rewritten:

- 27 "(34) \$5,000,000 to OSBM to allocate to the North Carolina Community Health
 28 Centers ~~Center~~ Association (~~NCHCA~~), (~~NCCHCA~~), a nonprofit organization,
 29 to be used for distribution to its member health centers to cover the cost of
 30 eligible health services provided during the COVID-19 ~~emergency~~-~~emergency~~
 31 and to offset the following costs incurred by NCCCHA member health centers
 32 related to the provision of patient care within the State to respond to the
 33 COVID-19 pandemic:
- 34 a. Supplies and equipment purchased in accordance with Centers for
 35 Disease Control and Prevention Guidelines.
- 36 b. Rapidly ramping up infection control and triage training for health care
 37 professionals.
- 38 c. Retrofitting separate areas to screen and treat patients with suspected
 39 COVID-19 infections.
- 40 d. Transporting patients with confirmed or suspected COVID-19
 41 infections safely to or from health care facilities.
- 42 e. Planning, training, and implementing expanded telehealth capabilities.
 43 By August 1, 2020, ~~NCHCA~~-~~the NCCHCA~~ shall report to the Joint Legislative
 44 Oversight Committee on Health and Human Services and the Fiscal Research
 45 Division on a plan for allocating the funds received under this section, and by
 46 February 1, 2021, on the use of these funds by recipients."

48 **PART VI. MANDATORY DESIGNATION OF ATTORNEY TO REPRESENT THE** 49 **STATE'S INTEREST AT CERTAIN MENTAL HEALTH COMMITMENT HEARINGS**

50 **SECTION 6.** G.S. 122C-268(b) reads as rewritten:

1 "(b) The attorney, who is a member of the staff of the Attorney General assigned to one
2 of the State's facilities for ~~the mentally ill individuals with mental illness~~ or the psychiatric service
3 of the University of North Carolina Hospitals at Chapel Hill, shall represent the State's interest
4 at commitment hearings, rehearings, and supplemental hearings held for respondents admitted
5 pursuant to this Part or G.S. 15A-1321 at the facility to which he is assigned.

6 In addition, the Attorney General ~~may, in his discretion,~~ shall designate an attorney who is a
7 member of ~~his~~ the Attorney General's staff to represent the State's interest at any commitment
8 hearing, rehearing, or supplemental hearing held in a place other than at one of the State's
9 facilities for ~~the mentally ill individuals with mental illness~~ or the psychiatric service of the
10 University of North Carolina Hospitals at Chapel Hill."

11
12 **PART VII. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

13 **SECTION 7.(a)** If any section or provision of this act is declared unconstitutional or
14 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
15 the part declared to be unconstitutional or invalid.

16 **SECTION 7.(b)** Except as otherwise provided, this act is effective when it becomes
17 law.