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## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Sen. Gavarone

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### SUMMARY

- Enters Ohio in the multi-jurisdictional psychology compact known as PSYPACT.
- Regulates the practice of telepsychology and temporary in-person psychology across state boundaries for states participating in PSYPACT.
- Establishes the Psychology Interjurisdictional Compact Commission.
- Creates the Coordinated Licensure Information System.
- Outlines the procedure for implementing and withdrawing from PSYPACT.

### DETAILED ANALYSIS

#### PSYPACT – purpose and history

The Psychology Interjurisdictional Compact (PSYPACT) is a multi-jurisdictional psychology contract. It was created in 2015 to regulate the practice of telepsychology and temporary in-person, face-to-face, psychology across state boundaries, including the District of Columbia and United States Territories.<sup>1</sup>

As of February 24, 2020, PSYPACT has been enacted by 12 states. There is pending PSYPACT legislation in 15 states, including Ohio, and in the District of Columbia. The Compact

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<sup>1</sup> Association of State and Provincial Psychology Boards (ASPPB), “PSYPACT,” available at <https://www.asppb.net/page/PSYPACT>.

became operational when seven states had authorizing legislation enacted and in effect.<sup>2</sup> This officially occurred on April 23, 2019.<sup>3</sup>

## **PSYPACT and Ohio**

This bill enters Ohio into PSYPACT, permitting eligible psychologists licensed in Ohio to practice telepsychology and temporary in-person, face-to-face, psychology with patients in other Compact States.<sup>4</sup> The Compact does not invalidate or prevent other cooperative agreements between Ohio and non-Compact States.<sup>5</sup>

Under PSYPACT, telepsychology is described as the provision of psychological services using telecommunication technologies.<sup>6</sup> Temporary in-person, face-to-face, psychology is where a psychologist is physically present with a patient, in a state other than the one in which the psychologist is licensed, for up to 30 days within a calendar year.<sup>7</sup>

PSYPACT specifies that it does not apply to telepsychology services provided by a psychologist who is licensed in both the state where the psychologist is located and the state where the patient is located. In addition, PSYPACT specifies that it does not authorize a psychologist to provide permanent in-person, face-to-face, psychological services in another state.<sup>8</sup>

## **Psychology Interjurisdictional Compact Commission**

All states participating in PSYPACT help establish the Psychology Interjurisdictional Compact Commission, a collective governing agency overseeing the implementation of PSYPACT. The Commission consists of one voting member from each participating state, as selected by each state's Psychology Regulatory Authority, and has all the powers necessary to administer and carry out the business of the Compact.<sup>9</sup>

Under the bill, the State Board of Psychology is responsible for appointing Ohio's member on the Commission. The initial appointment must be made within 30 days after the bill's effective date. The Board must fill any vacancy in this position within 30 days after the vacancy occurs.<sup>10</sup>

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<sup>2</sup> ASPPB, "PSYPACT Legislative Updates," available at <https://www.asppb.net/mpage/legislative>.

<sup>3</sup> ASPPB, "PSYPACT Becomes Operational," available at <https://www.asppb.net/news/448039/PSYPACT-becomes-Operational.htm>.

<sup>4</sup> R.C. 4732.40.

<sup>5</sup> Article XIII(D) (of PSYPACT).

<sup>6</sup> Article II(AA).

<sup>7</sup> Article II(P) and (CC).

<sup>8</sup> Article I.

<sup>9</sup> Article X.

<sup>10</sup> R.C. 4732.41.

## **Rulemaking**

The Commission has power to adopt rules governing PSYPACT. Rules must be approved by a majority vote of Commission members, and any rule rejected by the legislatures of a majority of member states will no longer have any effect. Before adopting a rule, the Commission must post notice of the proposed rule online and allow for both public comments and a public hearing. This requirement may be waived in the case of an emergency including a threat to public health, safety, or welfare; potential loss of Commission or Compact State funds; or to meet a deadline for an administrative rule established by federal law.<sup>11</sup>

## **Oversight, dispute resolution, and enforcement**

PSYPACT operates as statutory law and each Compact State is responsible for enforcing its provisions. If the Commission determines that a state has failed to uphold PSYPACT's obligations, it may take actions to enforce compliance, including remedial training, technical assistance, litigation, or other available remedies. If the state continues to violate the terms of PSYPACT, an affirmative vote by the majority of the Compact States may terminate that state's membership. The Commission is responsible for mediating disputes between member states.<sup>12</sup>

## **Home State licensure**

Under PSYPACT, a "Home State" is the state, or states, where a psychologist is licensed. In the practice of telepsychology, this is in contrast to the "Receiving State" where a remote patient is physically located.<sup>13</sup> (If licensed in more than one state, the psychologist's Home State is the state where the person is physically present when the telepsychology services are administered.<sup>14</sup>) In the practice of temporary in-person psychology, the Home State is contrasted with the "Distant State" where the psychologist and the patient are in the same physical space away from the psychologist's licensing state.<sup>15</sup>

A Home State's license authorizes a psychologist to practice telepsychology and temporary in-person psychology in other Compact States if the Home State meets the following criteria:

- The Home State must require the psychologist to hold an E.Passport or an Interjurisdictional Practice Certificate (IPC) issued by the Association of State and Provincial Psychology Boards (ASPPB). An E.Passport authorizes the practice of

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<sup>11</sup> Article XI.

<sup>12</sup> Article XII.

<sup>13</sup> Article II(N) and (V).

<sup>14</sup> Article III(B).

<sup>15</sup> Article II(K).

telepsychology.<sup>16</sup> An IPC grants temporary authority to practice in-person psychology in a Distant State.<sup>17</sup>

- The Home State must have a mechanism in place for receiving and investigating complaints about licensed individuals.
- The Home State must notify the Commission of any adverse action or significant investigatory information regarding license holders.
- Within ten years of activating the Compact, the Home State must require each license applicant to undergo an identity history summary. This includes the use of fingerprints or other biometric data checks consistent with the requirements of the FBI.
- The Home State must comply with the bylaws and rules of the Commission.<sup>18</sup>

## **Requirements to practice under PSYPACT**

### **Educational requirements**

To practice telepsychology and temporary in-person, face-to-face, psychology in other Compact States, a psychologist must hold a graduate degree from an institute of higher learning that was appropriately accredited at the time the degree was awarded. This includes regional accreditation by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, or regional accreditation by an accrediting body authorized by Provincial Statute or Royal Charter to grant doctoral degrees. Alternatively, a foreign college or university can be deemed to have equivalent accreditation.<sup>19</sup>

### **Other requirements**

To practice telepsychology or temporary in-person, face-to-face, psychology in Receiving and Distant States, a psychologist must possess a current, full, and unrestricted license to practice psychology in the psychologist's Home State. In addition to a license, the psychologist must also possess a current and active E.Passport or IPC. The psychologist must have no history of adverse action that violates the Rules of the Commission and have no criminal record. The psychologist must attest to criminal record, areas of intended practice, conformity with standards of practice, technological competence, knowledge and adherence to legal requirements in both home and receiving states, and provide a release of information to allow for primary source verification. Finally, the psychologist must meet other criteria as defined by the rules of the Commission.<sup>20</sup>

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<sup>16</sup> Article II(L).

<sup>17</sup> Article II(Q).

<sup>18</sup> Article III.

<sup>19</sup> Article IV(B)(1).

<sup>20</sup> Article IV(B)(3) to (8) and Article V.

## Scope of practice

A psychologist practicing telepsychology under PSYPACT with a patient in a Receiving State is subject to the Receiving State's scope of practice, although the Home State maintains authority over the psychologist's license.<sup>21</sup> A psychologist providing the temporary in-person psychology under PSYPACT is subject to the scope of practice, authority, and law of the state where the psychologist is practicing.<sup>22</sup>

## Disciplinary actions

Regarding telepsychology, a Receiving State's psychology regulatory authority may take adverse action against a psychologist's authority to practice telepsychology, and the Home State must investigate reported inappropriate conduct by a licensee in a Receiving State. Regarding temporary in-person, face-to-face, psychology, a Distant State's psychology regulatory authority is responsible for conducting investigations of inappropriate conduct that occurred in that state and may take adverse action against a psychologist's authority to practice within that Distant State.<sup>23</sup>

Each Compact State has the right to require a psychologist's participation in an alternative program in lieu of adverse action, and may keep that participation nonpublic if required by the Compact State's law.<sup>24</sup>

## Coordinated Licensure Information System

The Commission is responsible for developing and maintaining a Coordinated Licensure Information System to record licensure and disciplinary action information for all psychologists practicing under PSYPACT. All Compact States must submit uniform data and promptly notify all other Compact States of any adverse action taken against, or any significant investigative information on, any licensee. Compact States may designate information that may not be shared with the public.<sup>25</sup>

## Implementation and withdrawal

As noted above, enactment by at least seven states is required to make PSYPACT effective, which has already occurred. Any states that join after this benchmark, such as Ohio, are subject to the rules already created by the Commission. A Compact State may withdraw from the agreement by enacting a repeal statute that must take effect at least six months after enactment.<sup>26</sup>

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<sup>21</sup> Article IV(C) and (D).

<sup>22</sup> Article V(C) and (D).

<sup>23</sup> Article VII.

<sup>24</sup> Article VII(F).

<sup>25</sup> Article IX.

<sup>26</sup> Article XIII.

PSYPACT may be amended by the Compact States, but the changes are not binding until they have been enacted into law by all of the member states. If PSYPACT is found to be contrary to the constitution of any member states, it will still be in effect for the remaining Compact States.<sup>27</sup>

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## HISTORY

Action	Date
Introduced	01-08-20

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S0258-I-133/ar

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<sup>27</sup> Article XIII(E) and XIV.