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S.B. 258*
133rd General Assembly

Bill Analysis

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Version: As Reported by Senate Finance Subcommittee on Health and Medicaid

Primary Sponsor: Sen. Gavarone

Emma Carroll, Research Analyst

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 participating states.
- 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.¹

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

* This analysis was prepared before the report of the Senate Finance Subcommittee on Health and Medicaid appeared in the Senate Journal. Note that the legislative history may be incomplete.

¹ Association of State and Provincial Psychology Boards, "PSYPACT," available at <https://www.asppb.net/page/PSYPACT>.

became operational when seven states officially enacted legislation.² Georgia was the seventh state to do so on April 23, 2019.³

PSYPACT and Ohio

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

Under PSYPACT, telepsychology is described as the provision of psychological services using telecommunication technologies.⁶ 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.⁷

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.⁸

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.⁹

Rulemaking

The Commission has power to make rules for 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

² Association of State and Provincial Psychology Boards, "PSYPACT Legislative Updates," available at <https://www.asppb.net/mpage/legislative>.

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

⁴ R.C. 4732.40.

⁵ Article XIII (of PSYPACT).

⁶ Article II(AA).

⁷ Article II(CC).

⁸ Article X.

⁹ R.C. 4732.41.

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.¹⁰ PSYPACT itself may be amended only if changes to the Compact are enacted into law in all Compact States.¹¹

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, they 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 the Compact, 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.¹²

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.¹³ The Compact does not apply when a psychologist is licensed in both the Home and Receiving States.¹⁴

If a psychologist is licensed in more than one state, for the purposes of telepsychology, the person's Home State is the state where the person is physically present when the services are administered.¹⁵ 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.¹⁶

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). An E.Passport is a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) authorizing

¹⁰ Article XI.

¹¹ Article XIII(E).

¹² Article XII.

¹³ Article II(V).

¹⁴ Article I.

¹⁵ Article III(B).

¹⁶ Article II(K).

telepsychology practice.¹⁷ An IPC is a certificate issued by the ASPPB that grants Temporary Authority to Practice in a Distant State.¹⁸

- 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 an Identity History Summary of license applicants. 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.¹⁹

Requirements to practice telepsychology and temporary face-to-face psychology

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 equivalent to the former accreditation by a recognized foreign credential evaluation service such as members of the National Association of Credential Evaluation.²⁰

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

¹⁷ Article II(L).

¹⁸ Article II(Q).

¹⁹ Article III.

²⁰ Article IV(B)(1).

for primary source verification. Finally, the psychologist must meet other criteria as defined by the Rules of the Commission.²¹

Scope of practice

A psychologist practicing telepsychology 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.²² A psychologist practicing under the Temporary Authorization to Practice in-person psychology is subject to the scope of practice, authority, and law of the state where the psychologist is practicing.²³

Disciplinary actions

Regarding telepsychology, a Receiving State's Psychology Regulatory Authority may take adverse action against a psychologist's Authority to Practice Interjurisdictional 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 Temporary Authorization to Practice within that Distant State.²⁴

A Home State retains the power to impose adverse action against a psychologist's license. 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 non-public if required by the Compact State's law.²⁵

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 to whom PSYPACT applies. 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.²⁶

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,

²¹ Article IV(B)(3) to (8) and Article V.

²² Article IV(C) and (D).

²³ Article V(C) and (D).

²⁴ Article VII.

²⁵ Article VII.

²⁶ Article IX.

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.²⁷ 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.²⁸

HISTORY

Action	Date
Introduced	01-08-20
Reported, S. Finance Subcommittee on Health and Medicaid	---

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²⁷ Article XIII.

²⁸ Article XIV.