

**Draft Meeting Agenda
South Dakota Board of Examiners of Psychologists
Teleconference
May 15, 2020, 9:00AM CDT**

The public is invited to attend the meeting via teleconference. Please call the switchboard at 605-224-1125, key in the access code 0179442#. For assistance please call (605) 773-3011.

Member Listing:

1. Thomas Stanage, Ph.D., President
2. Matthew Christiansen, Ph.D., Vice-President
3. Trisha Miller, Ph.D., Secretary
4. Jeffrey Ellison, Psy.D., Member
5. Charles Sherman, Ph.D., Member
6. Robert Overturf, Lay Member
7. Brian Roegiers, Lay Member

Purpose: The Board protects the health and safety of the consumer public by licensure of qualified persons, enforcement of the statutes, rules and regulations governing the practice of psychology, including the appropriate resolution of complaints.

9:00AM CDT-Oral Examination Discussion Applicants #594, #601

The Business Meeting will convene following the oral examination discussion.

1. Applicant approvals
2. Call to Order/Welcome and Introductions-Stanage
3. Roll Call-Stanage
4. Conflicts to declare
5. Corrections or additions to the agenda
6. Approval of the agenda
7. Public Testimony/Public Comment Period-9:15 a.m.
8. Approval of Minutes from January 10, 2020
9. FY Financial Update
10. ASPPB Mid-year meeting April 23-26, 2020 (Cancelled), Montreal, Annual Meeting 10/14-18, 2020-New York
11. CEU Update/Legislation
12. Complaint procedure update
13. Revisions to website-frequently asked questions
14. Records Retention
15. PSYPACT
16. Online Renewal discussion
17. Executive Session-Pursuant to SDCL 1-25-2
 - a. Complaints/investigations
 - a. #217-I
 - b. #218-I
 - c. #221

b. RFP #1967

18. Any other business coming in between date of mailing and date of meeting

19. Schedule next meeting/Conference Systems

20. Adjourn

Teleconference access information:

Please call the switchboard at 605-224-1125, key in the access code 0179442#. For assistance please call 605-773-3011.

SOUTH DAKOTA BOARD OF EXAMINERS OF PSYCHOLOGISTS
BOARD MEETING MINUTES
Sioux Falls, SD
January 10, 2020
Holiday Inn City Centre, 100 W. 8th St., Sioux Falls, SD

Members Present: Thomas Stanage, Ph.D., (President); Matthew Christiansen, Ph.D. (Vice President); Trisha Miller, Ph.D., (Secretary; via conference call); Jeffrey Ellison, Psy.D., Member; Chuck Sherman, Ph.D., Member; Robert Overturf, Lay Member (via conference call, entered meeting at 9:03am CST)

Members Absent: Brian Roegiers, newly appointed lay member.

Others Present: Carol Tellinghuisen, Executive Administrator; Jill Lesselyoung, Administrative Assistant (via conference call, entered meeting at 9:21am CST); Brooke Tellinghuisen Geddes, Administrative Assistant; Marilyn Kinsman, Senior Policy Analyst for South Dakota DSS (via conference call, entered meeting at 9:22am CST); Trevor Thielen, Legal Counsel for the Board (via conference call; entered meeting at 9:22am CST); Kristin Bennett, Executive Director for South Dakota Psychological Association (via conference call; entered meeting at 9:24am CST).

Stanage called the meeting to order at 8:33am CST.

Executive Session: The Board entered executive session at 8:34 am CST on a unanimous roll call vote based on a motion by Sherman and a second by Christiansen for the purpose of administering Oral Examination to Applicants #590 and #596. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, yes; Sherman, yes. Overturf entered meeting via conference call between the two applicants' oral examinations. The Board exited executive session at 9:20am CST following a unanimous roll call vote based on a motion by Christiansen and a second by Ellison. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, yes; Sherman, yes; Overturf, yes.

Stanage called the meeting back to order at 9:21am CST.

Welcome and Introductions: All were welcomed by Stanage and introductions were made. During this time, Lesselyoung, Kinsman, Thielen, and Bennett joined the meeting via conference call.

Roll Call: Lesselyoung called the roll. A quorum was present.

Conflicts to Declare: None.

Corrections or Additions to the Agenda: None.

Approval of Agenda: Sherman motioned; Christiansen seconded to approve the agenda as written. Motion carried on unanimous roll call vote. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, yes; Sherman, yes; Overturf, yes.

Applicant Approvals: Miller initiated a motion, which was seconded by Sherman, to grant licensure to Applicants #595 and #596; motion carried on unanimous roll call vote. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, yes; Sherman, yes; Overturf, yes.

Election of Officers: Ellison made a motion to retain the current slate of officers with Stanage serving as President, Christiansen as Vice-President and Miller as secretary. Sherman seconded the motion. Motion carried on unanimous roll call vote. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, yes; Sherman, yes; Overturf, yes.

Public Testimony/Public Comment Period (8:30am MDT / 9:30am CST): There were no persons from the public present for comment. Bennett was present but stated she was present to listen but had no desire to comment.

Approval of Minutes from September 27, 2019: Ellison moved, Christiansen seconded, to approve the minutes as written. Motion passed unanimously via roll call vote. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, yes; Sherman, yes; Overturf, yes.

FY Financial Update: Lesselyoung reported on both the fiscal year-to-date as of June 30, 2019 as well as the year-to-date finances as of November 30, 2019. Lesselyoung reported that as of June 30, 2019, revenue was at \$64,536.76, year-to-date expenditures were at \$56,690.31, and Cash Balance was at \$110,945.19. Lesselyoung reported that as of November 30, 2019, revenue was at \$9,493.56, expenditures were at \$29,585.35, and Cash Balance was at \$90,853.40. Lesselyoung also reminded Board members that the bulk of revenue is prior to July due to annual licensure renewal timeframes. Sherman questioned what the line item for "management consultant" was referring to. Tellinghuisen explained that the executive office staff (Tellinghuisen, Lesselyoung, and Tellinghuisen Geddes) are not state employees, but are instead independently contracted by the Board and that is the contract to be discussed later this meeting agenda. Sherman moved and Ellison seconded motion to accept the financial report. Motion carried via unanimous roll call vote. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, yes; Sherman, yes; Overturf, yes.

ASPPB Annual Meeting Summary October 16-20, 2019, Minneapolis: No Board members were able to attend the October 16-20, 2019 ASPPB meeting held in Minneapolis. Miller questioned concept of "uniformity" noted in the meeting summary. All agreed this to signify interest in creating uniformity nationwide with regard to licensure regulation through development of a uniform Model Act. Miller also made the group aware that although PSYPACT was not mentioned in the ASPPB meeting summary, PSYPACT has now been enacted and numerous other states are making legislative proposals to join during the current legislative session and the topic of PSYPACT has resurfaced in South Dakota as well. Miller made Board members aware that new Representative Linda Duba (Sioux Falls) had contacted SDPA to learn more about PSYPACT and where SD stood. Miller was included on communications at that point and Miller made Duba aware of the Board's previous concerns with regard to the high annual cost predicted as well as the issue of there being no requirement of psychologists from other states serving our underserved populations (e.g., those on Medicaid, Medicare). Miller has been made aware by ASPPB representatives that the cost issue may no longer be an issue; Miller will forward the information to the Board office for distribution to Board members at a later date. Stanage requested PSYPACT be put on the next meeting agenda so the new information can be reviewed and discussed.

ASPPB Mid-year Meeting April 23-26, 2020, Montreal and Annual Meeting October 14-18, 2020, New York City: Stanage stated and Tellinghuisen voiced agreement that due to the topics about psychology regulation and the EPPP-2 currently at the forefront, it will be important to have representation at the next meetings. Both Stanage and Miller stated desire to attend as did Tellinghuisen. Tellinghuisen

requested Kinsman to look into whether the state will make the allowance for attendance in Montreal, as in the past the state has declined out-of-country meeting allowances.

CEU Update: Lesselyoung made Board members aware that Teresa Schulte, DSS Administrative Law Judge, had formatted the CEU information into Article 20:60:10 and it will now proceed forward, as the state workgroup examining best practices for Boards and commissions determined they are not going to make all rules the same across Boards. Kinsman explained that although the workgroup's final report has not yet been received, the most recent proposed report from them stated nothing in regard to CEU's. Kinsman explained this means this Spring, the Article 20:60:10 proposal will go before the Interim Rules Committee. Stanage inquired about timeframes. Tellinghuisen and Kinsman together explained that Article 20:60:10 will have to go before the Department of Social Services for approval, then it will be presented to a legislative committee, and if approved, Tellinghuisen stated that because it is a change to Administrative Rules, she believed it would go into effect provisionally twenty days following filing but will not be effective fully until July 1. She asked Kinsman if this was accurate and Kinsman stated she would follow up on the questions and get back to the Board office. Thus, if approved, the current year's licensure renewal will be the last renewal period without needing to follow Article 20:60:10. Sherman inquired, as he was not on the Board while the proposed changes were being discussed, what the changes are from what is in place at present. Tellinghuisen explained the proposed changes specify a required amount of CEU whereas current wording specifies the maximum amount of hours the Board can require but does not state a minimum number of hours. Miller clarified the Board decided upon proposing 15 hours, as this seemed reasonable given some states require 6-10 hours and some states are requiring 20 hours.

Complaint Procedure Update: Overturf provided Board members with reminder of why the complaint procedure is being reviewed and why amendments are being proposed. An initial rough framework draft of proposed steps and wording for a revised complaint procedure was provided, though questions have surfaced. Overturf questioned the number of days to be specified for the executive staff to have a letter mailed out to the complainant, stating the complaint was received and an investigator will be assigned. Overturf initially suggested five days and C. Tellinghuisen suggested fifteen. Upon further discussion, it was realized that the current process involves a letter not being sent until an investigator is assigned. This is because in the current procedure, the assigned investigator reviews the complaint and determines the general subject matter of the complaint and then a letter (stating the complaint about that particular subject matter has been received) is sent to both the complainant and the psychologist in question, signed by the investigator. Stanage voiced feeling it is important that the subject matter of the complaint be determined by the investigator rather than executive staff. It was discussed, however, that the initial letter notifying a complainant that their complaint was received would not need to state that information, however. Tellinghuisen then suggested ten days would suffice; Miller clarified this as "business" days and there was no opposition. Tellinghuisen clarified this would be ten business days from the date the written complaint was actually received in the office, not from when the complaint was mailed. Miller noted that another item in the proposed procedure changes that lies in question is whether Board members agree that the options for response to a complaint should be expanded to include options such as a private letter of reprimand, public letter of reprimand, agreed disposition be sought between the Board and the psychologist (e.g., this could include a supervision requirement, additional specific CEU's, etc.), etc. Stanage voiced his agreement to including these options; no opposition was voiced. Miller had provided Overturf with a visual flow chart of the proposed procedure, but this did not get distributed to the Board so after today's discussion, the flow chart will be amended and then forwarded to the Board office so it may be sent to all Board members and discussed in next meeting. Miller will be creating a draft of a complaint form and do the same. Stanage again voiced his gratitude for the work being done on this and there was unanimous consensus in support of continuing to receive updates on the progress of this.

Revisions to Website – Frequently Asked Questions: Lesselyoung made the group aware that upon reviewing the FAQ's that were on the website, the Board office notified Kinsman and DSS that they recommended to remove the FAQ's for now because so much of the content was outdated. Executive staff provided an initial draft of a limited number of FAQ questions for Board members to review and make suggestions for additions, corrections, or deletions to complete the list desired for placement on the Board website. Stanage stated willingness to be involved in helping with the development of this list. Lesselyoung stated inquiries about qualifications for licensure concerning online university degrees are frequent so this area would certainly be a matter to include. Miller stated messages with these inquiries in them have been saved, so those can be compiled to be included. Miller also suggested that other state Board websites be reviewed as many of them have FAQ's posted that would be relevant for our site as well. Board members will consider this a "work in progress" and continue to review an updated FAQ document at the next meeting.

Enhanced Boards and Commissions Portal: Lesselyoung explained that there is certain information we as a Board are required to be publicly accessible. Our agendas and meeting minutes are required to be posted online for public access. Each of our meeting agendas must be posted at least 72 hours prior to meeting. There is also information for Board members regarding board compensation and the Boards and Commissions Manual. Kinsman explained that making a standardized manual and financial information available on the portal were enhancements made to the Boards and Commissions portal as a result of the Professional and Occupational Licensing Boards and Commissions Review. All licensing and occupational Boards' consumers will have accessibility to the updated, standardized resource of the Boards and Commissions Portal.

Stanage initiated the Board taking a break at 11:15am CST.
Kinsman and Bennett left the conference call at 11:15am CST.

Executive Session- Pursuant to SDCL-1-25-2: Sherman motioned and Christiansen seconded to enter executive session at 11:26am CST for purpose of discussing four complaints/investigations (#217-I, #218-I, #220-I, and #221), Executive Secretary Contract, and Oral Examination/Confidential Questions/EPPP II. Motion carried unanimously via roll call vote. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, yes; Sherman, yes; Overturf, yes.

Sherman moved; Christiansen seconded to exit executive session at 12:02pm CST; motion carried unanimously via roll call vote. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, yes; Sherman, yes; Overturf, yes.

Ellison motioned; Christiansen seconded to approve the Executive Secretary Contract as presented. Motion carried unanimously via roll call vote. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, yes; Sherman, yes; Overturf, yes.

In regard to complaint #220-I, Stanage made a recommendation for the Board to incorporate findings and conclusions from the prior psychological Board involved and add a link to that Board's findings on our website. The licensee will be informed that in order to protect the public it will be noted publicly that he was reprimanded by the state of Colorado. The South Dakota's Board Orders web page will list the applicant as having been reprimanded by Colorado.

Christiansen motioned to accept Stanage's recommendation, Miller seconded. Motion passed via roll call vote. Stanage, abstained; Christiansen, yes; Miller, yes; Ellison, yes; Sherman, yes; Overturf, yes. Stanage reported #217-I, #218-I as pending. Miller reported #221 as pending.

Other Business: There was no other business.

Next Meeting: The next meeting was tentatively set for Friday, May 15, 2020 in Pierre, SD. Any business that needs to be addressed prior to this date will take place via teleconference.

Motion to adjourn was made by Christiansen, seconded by Ellison. Stanage adjourned meeting at 12:10 pm CST following unanimous vote to do so. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, yes; Sherman, yes; Overturf, yes.

Respectfully submitted,

Trisha T. Miller, Ph.D.
Secretary

1-27-1.17. Draft minutes of public meeting to be available--Exceptions--Violation as misdemeanor. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

BOARD OF PSYCHOLOGY EXAMINERS
 REVENUE SUMMARY
 FOR MONTH ENDING 03/31/20

#9

COMP	ACCOUNT	BDGT YEAR	GRANT YEAR	CENTER	FUND SRC	SUB FUND	FISCAL YEAR	FISCAL MONTH	YTD AMOUNT	MTD AMOUNT
6503	4920045			0892000	654		2020	09	\$ 1,743.56	\$ -
6503	4293000	0	0	0892000	654		2020	09	\$ 9,450.00	\$ 400.00
									\$ 11,193.56	\$ 400.00

BOARD OF PSYCHOLOGY EXAMINERS
EXPENDITURE SUMMARY REPORT
FOR MONTH ENDING 03/31/20

COMP	ACCOUNT	BDGT YEAR	GRANT YEAR	ACCOUNT DESCRIPTION	CENTER	FUND SRC	SUB FUND	FISCAL YEAR	FISCAL MONTH	YTD AMOUNT	MTD AMOUNT
6503	5101030	0	0	BOARD & COMM MBRS FEES	0892000	654		2020	09	\$ 1,560.00	\$ -
6503	5102010	0	0	OASI-EMPLOYER'S SHARE	0892000	654		2020	09	\$ 126.22	\$ -
6503	5203030	0	0	AUTO-PRIV (IN-ST.) H/RTE	0892000	654		2020	09	\$ 2,205.42	\$ -
6503	5204020	0	0	DUES & MEMBERSHIP FEES	0892000	654		2020	09	\$ 350.00	\$ -
6503	5204030	0	0	LEGAL DOCUMENT FEES	0892000	654		2020	09	\$ 612.00	\$ -
6503	5204090	0	0	MANAGEMENT CONSULTANT	0892000	654		2020	09	\$ 37,413.62	\$ 3,477.00
6503	5203100	0	0	LODGING/IN-STATE	0892000	654		2020	09	\$ 640.04	\$ -
6503	5203140	0	0	TAXABLE MEALS/IN-STATE	0892000	654		2020	09	\$ 90.00	\$ -
6503	5203150	0	0	NON-TAXABLE MEALS/IN-ST	0892000	654		2020	09	\$ 378.00	\$ -
6503	5204201	0	0	BFM CENTRAL SERVICES	0892000	654		2020	09	\$ 1,037.13	\$ -
6503	5204204	0	0	RECORDS MGMT SERVICES	0892000	654		2020	09	\$ 222.00	\$ -
6503	5204207	0	0	HUMAN RESOURCES SERVICES	0892000	654		2020	09	\$ 356.28	\$ -
6503	5204510	0	0	RENTS-OTHER	0892000	654		2020	09	\$ 2,434.68	\$ 499.88
6503	5204530	0	0	TELECOMMUNICATIONS SRVCS	0892000	654		2020	09	\$ 14.00	\$ -
6503	5204530	0	0	TELECOMMUNICATIONS SRVCS	0892000	654		2020	09	\$ 22.00	\$ -
6503	5205310	0	0	PRINTING-STATE	0892000	654		2020	09	\$ 69.00	\$ -
6503	5205320	0	0	PRINTING-COMMERCIAL	0892000	654		2020	09	\$ 562.10	\$ 159.00
										\$ 48,092.49	\$ 4,135.88

CASH CENTER BALANCE

FOR MONTH ENDING 03/31/20

[illegible]

ARTICLE 20:60
PSYCHOLOGISTS

Chapter

20:60:01 to 20:60:04	Void.
20:60:05	Application procedure.
20:60:06	Eligibility.
20:60:07	Standards of behavior.
20:60:08	Internships.
20:60:09	Special assessment.
<u>20:60:10</u>	<u>Continuing education.</u>

Code Commission Note: Chs 20:60:01 to 20:60:04, inclusive, were voided when the authority of the board of examiners of psychologists to promulgate rules was repealed by SL 1978, ch 4, § 2(3). See SDCL 1-26-8.1.

CHAPTER 20:60:10
CONTINUING EDUCATION

Section

20:60:10:01	Definitions.
20:60:10:02	Courses eligible for continuing education.
20:60:10:03	Amount of continuing education required.
20:60:10:04	Request for exemption.

20:60:10:01 Definitions. Terms used in the chapter mean:

- (1) "Contact hour," one contact hour of continuing education will be granted for each hour of participation in a continuing education activity.
- (2) "Continuing education," quality programs or activities that contribute to their professional knowledge and competence.
- (3) "Continuing education unit," One continuing education unit equals 10 contact hours.
- (4) "Academic credit," one academic credit of psychology relevant coursework equals 15 contact hours of continuing education or 1.5 continuing education units.

Source:

General Authority: SDCL 36-27A-26.

Law Implemented: SDCL 36-27A-26.

20:60:10:02 Courses eligible for continuing education. It is the responsibility of the licensee to select quality programs or activities that contribute to their professional knowledge and competence. The activity must deal primarily with practice relevant psychology issues, psychological skills or laws or rules and ethical standards related to one's role as a psychologist. No more than five contact hours of continuing education can be achieved via independent professional book reading.

Source:

General Authority: SDCL 36-27A-26.

Law Implemented: SDCL 36-27A-26.

20:60:10:03 Amount of continuing education required. As a condition for licensure renewal, every licensed psychologist shall complete a minimum of 15 contact hours of continuing education relevant to the practice of psychology during the 12 months prior to renewal date. Reporting cycles shall coincide with annual re-licensure, wherein the year commences with July first of the year in which the licensee obtained a South Dakota license. No continuing education is required for licensees licensed less than one full calendar year on their first renewal date. They shall begin submission of the full required continuing education upon their second renewal date. The Board may not renew a license for any person who has failed to comply with the requirements of this chapter. The licensee must provide dates, course or activity titles, and number of continuing education credits for a permanent record of individual participation. All licensees submitting application for license renewal must include a copy of the third-party documentation of successful completion.

It is the responsibility of the licensee to establish and maintain detailed records of continuing education compliance following submission of one's annual continuing education. Each licensee is responsible for retaining the original certificate, third-party documentation, or other record of credit from continuing education programs or activities for a minimum of five years

Source:

General Authority: SDCL 36-27A-26.

Law Implemented: SDCL 36-27A-26.

20:60:10:04 Request for exemption. If a licensee is unable to acquire sufficient hours of continuing education to meet the requirements, the licensee may submit a written request for an exemption. All requests for exemptions will be considered by the Board of Examiners of Psychologists and evaluated on an individual basis.

Source:

General Authority: SDCL 36-27A-26.

Law Implemented: SDCL 36-27A-26.

20:60:07:01. Code of ethics. The code of ethics for psychologists licensed in this state is the "ASPPB Code of Conduct," ~~2005~~ 2018.

Source: 8 SDR 92, effective February 3, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 18 SDR 74, effective October 30, 1991; 35 SDR 166, effective December 24, 2008.

General Authority: SDCL 36-27A-25.

Law Implemented: SDCL 36-27A-25.

Reference: "ASPPB Code of Conduct," ~~2005~~ 2018, Association of State and Provincial Psychology Boards. Copies may be obtained free of charge from the Association of State and Provincial Psychology Boards website at <http://www.asppb.org/publications/model/conduct.aspx>
https://cdn.ymaws.com/www.asppb.net/resource/resmgr/guidelines/code_of_conduct_2020.pdf

Code of Conduct



ASPPB

Association of State and
Provincial Psychology Boards

January

2018

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The Association of State and Provincial Psychology Boards (ASPPB)

Code of Conduct

Introduction

- **PURPOSE.** The rules within this Code of Conduct constitute the standards by which the required professional conduct of a psychologist or psychological associate is measured.
- **SCOPE.** The psychologist or psychological associate shall be governed by this code of conduct whenever providing psychological services in any context. This code shall not supersede state, federal or provincial statutes. This code shall apply to the conduct of all licensees and applicants, including the applicant's conduct during the period of education, training, and employment which is required for licensure. The term "psychologist," as used within this code, shall be interpreted to mean any psychologist, psychological associate, or applicant for licensure.
- **RESPONSIBILITY FOR OWN ACTIONS.** The psychologist shall be responsible for his/her own professional decisions and professional actions.
- **VIOLATIONS.** A violation of this code of conduct constitutes unprofessional conduct and is sufficient grounds for disciplinary action or denial of licensure or reinstatement of licensure.
- **AIDS TO INTERPRETATION.** Ethics codes and standards for providers promulgated by the American Psychological Association, the Canadian Psychological Association, and other relevant professional groups shall be used as an aid in resolving ambiguities which may arise in the interpretation of this code of conduct, except that this code of conduct shall prevail whenever any conflict exists between this code and any other professional association standard.

Definitions

A. Client (also known as patient) is:

1. A direct recipient of psychological services within the context of a professional relationship including a child, adolescent, adult, couple, family, group, organization, community, or other populations, or other entities receiving psychological services;
2. The individual or entity requesting the psychological services and not necessarily the recipient of those services (e.g., an evaluation that is court-ordered, requested by an attorney, an agency, other administrative body or organization or business);

3. An organization, such as a business, corporate entity, community or government that receives services directed primarily to the organization, rather than to the individuals associated with the organization; or
4. An individual who has a legal guardian, including minors and legally incompetent adults; the legal guardian shall be the client for decision making purposes, except that the individual receiving services shall be considered to be the client for:
 - a. Issues directly affecting the physical or emotional safety of the individual, such as sexual or any other exploitative dual relationships; or
 - b. Issues specifically reserved to the individual and agreed to by the guardian prior to rendering of services, such as confidential communication in a therapy relationship.

B. Confidential Information

Information revealed by a client or clients or otherwise obtained by a psychologist, where there is reasonable expectation that because of the relationship between the client(s) and the psychologist, or the circumstances under which the information was revealed or obtained, the information shall not be disclosed by the psychologist without the informed written consent of the client(s).

C. Court Order

The written or oral communication of a member of the judiciary, or other judicial or administrative official, when such authority has been lawfully delegated to such official.

D. Licensed

Having a professional license issued by a board of psychology which is statutorily mandated to grant the authority to its licensees to engage in the practice of psychology as permitted by the act and rules and regulations of the board. The terms "licensed," "certified," "registered," or any other term chosen by a jurisdiction when used in the same capacity as licensed are considered equivalent terms. When any such term identifies a licensee, it denotes that the person's professional behavior is subject to regulation by the board.

E. Professional Relationship

A mutually agreed upon relationship between a psychologist and a client(s) for the purpose of the client(s) being provided psychological services and/or obtaining the psychologist's professional expertise.

F. Professional Service

Any action provided by the psychologist in the context of a professional relationship with a client.

G. Supervisee

Any person who functions under the extended authority of the psychologist to provide, or while in training to provide, psychological services.

Rules of Conduct

A. COMPETENCE

1. **LIMITS ON PRACTICE.** The psychologist shall limit practice and supervision to the areas of competence in which proficiency has been gained through education, training, and experience.
2. **MAINTAINING COMPETENCY.** The psychologist shall maintain current competency in the areas in which he/she practices, through continuing professional development, consultation, and/or other procedures, in conformance with current standards of scientific and professional knowledge and the rules and regulations of the board.
3. **ACCURATE REPRESENTATION.** A licensee shall accurately represent his/her areas of competence, education, training, experience, and professional affiliations to the board, employers, contractors, the public, and colleagues.
4. **ADDING NEW SERVICES AND TECHNIQUES.** The psychologist, when developing competency in a service or technique that is either new to the psychologist or new to the profession, shall seek appropriate education and training in the new area and engage in ongoing consultation with other psychologists or relevant professionals until such time that competence is established. The psychologist shall inform clients of the innovative nature and the known risks associated with the services, so that the client can exercise freedom of choice concerning such services.
5. **REFERRAL.** The psychologist shall recommend or make referrals to other professional, technical, or administrative resources when such referral is clearly in the best interests of the client.
6. **SUFFICIENT PROFESSIONAL INFORMATION.** A psychologist rendering a formal professional opinion about a person shall not do so without direct and substantial professional contact with or a formal assessment of that person.
7. **MAINTENANCE AND RETENTION OF RECORDS.**
 - a. The psychologist rendering professional services to an individual client (or a dependent), or services billed to a third-party payor, shall maintain professional records that include:

- i. The name of the client and other pertinent identifying information;
 - ii. The presenting problem(s) or reason for providing service(s) or diagnosis;
 - iii. The fee arrangement;
 - iv. The date and substance of each billed or service-count contractor service;
 - v. Any test results or other evaluative results obtained and any basic test data from which test results were derived;
 - vi. Notation and results of formal consults with other providers;
 - vii. Any communications through any medium;
 - viii. A copy of all testing or other evaluative reports prepared as part of the professional relationship;
 - ix. Any releases executed by the client;
 - x. Any records of the court or any other agency directing services by the psychologist; and
 - xi. Health insurance portability and accountability act (HIPAA) authorization or documentation.
- b. The psychologist shall ensure that all data entries in professional records are maintained for a period of not less than five (5) years after the last date that service was rendered or the records were accessed, whichever is later, or for a longer period if required by law. This includes any releases executed by the client to meet the requirements of this rule.
- c. If the psychologist is providing psychological services to minors, the psychologist shall maintain those records at least until the client reaches the age of majority plus five (5) years.
- d. The psychologist shall store and dispose of written, electronic or other records, regardless of the format or media in which they are maintained, in such a manner as to ensure their confidentiality. The psychologist must retain documentation of any records that are destroyed. The psychologist shall

maintain the confidentiality of all records in the psychologist's possession or under the psychologist's control except as otherwise provided by law or pursuant to written or signed authorization of a client specifically requesting or authorizing release or disclosure of the client's record.

- e. The psychologist shall provide for the confidential disposition of records in compliance with the maintenance and retention of records (as noted in b, c, d above) in the event of the psychologist's withdrawal from practice, incapacity or death.
 - f. For a period of not less than five (5) years after the last date of supervision, the psychologist shall maintain a record that shall include, among other information, the type, place, and general content of the supervision sessions for each person professionally supervised.
8. **CONTINUING OF CARE.** The psychologist shall make arrangements for another appropriate professional or professionals to be available for the emergency needs of his/her clients, as appropriate, during periods of the psychologist's foreseeable absence from professional availability.
9. **PROVIDING SUPERVISION.** The psychologist shall exercise appropriate supervision over supervisees, as set forth in the rules and regulations of the board.
10. **DELEGATING PROFESSIONAL RESPONSIBILITY.** The psychologist shall not delegate professional responsibilities to a person not appropriately licensed, credentialed or otherwise qualified to provide such services.

B. MULTIPLE RELATIONSHIPS

1. **DEFINITION OF MULTIPLE RELATIONSHIPS.** Psychologists recognize that multiple relationships may occur because of the psychologist's present or previous familial, social, emotional, financial, supervisory, political, administrative, or legal relationship with the client or relevant person associated with or related to the client. Psychologists take reasonable steps to ensure that if such a multiple relationship occurs, it is not exploitative of the client or a relevant person associated with or related to the client.
2. **PROHIBITED MULTIPLE RELATIONSHIPS.**
- a. A multiple relationship that is exploitative of the client or a relevant person associated with or related to the client is prohibited.
 - b. Psychologists take all reasonable steps to ensure that any multiple relationships do not impair the psychologist's professional judgment or

objectivity or result in a conflict of interest with the client or a relevant person associated with or related to the client.

- c. Multiple relationships that would not reasonably be expected to impair a psychologist's judgment or objectivity or risk harm to the client or relevant person associated with or related to the client are not expressly prohibited.

3. SEXUAL RELATIONSHIPS

- a. Psychologists do not engage in sexual intimacies of any kind with current clients.
- b. Psychologists do not engage in sexual intimacies of any kind with individuals they know to be close relatives of a current client or guardians of a current client or with anyone else who has a significant relationship with a current client. Psychologists also do not engage in sexual intimacies of any kind with individuals they know to be close relatives of a former clients, guardians of a former client, or anyone else who has had a significant relationship with a former client within the previous 24 months of having provided psychological services including, which include, but are not limited to, performing an assessment or rendering counseling, psychotherapeutic, or other professional psychological services. Psychologists do not terminate the professional relationship to circumvent this standard.
- c. Psychologists do not accept as clients persons with whom they have engaged in sexual intimacies of any kind.
- d. Psychologists do not engage in sexual intimacies of any kind with former clients to whom the psychologist has at any time within the previous 24 months provided a psychological service including but limited to performing an assessment or rendering counseling, psychotherapeutic, or other professional psychological services.
- e. The prohibitions set out in (d) above shall not be limited to the 24-month period but shall extend indefinitely if the client is proven to be clearly vulnerable, by reason of an emotional or cognitive disorder, to exploitative influence by the psychologist.
- f. Psychologists do not engage in sexual intimacies of any kind with any student, trainee, intern or resident for whom the psychologist has, or is likely to have, evaluative authority.

C. IMPAIRMENT

IMPAIRED PSYCHOLOGIST. The psychologist shall not undertake or continue a professional relationship with a client when the psychologist is, or could reasonably be expected by the board to be, impaired due to mental, emotional, cognitive, psychological, pharmacological, substance abuse or induced conditions. If such a condition develops after a professional relationship has been initiated, the psychologist shall terminate the relationship in an appropriate manner, shall notify the client in writing of the termination, and shall assist the client in obtaining services from another professional.

D. WELFARE OF CLIENT

- 1. PROVIDING EXPLANATION OF PROCEDURES.** Prior to providing any psychological services, the psychologist shall obtain informed consent from the client for any psychological services that are provided. The psychologist shall give a truthful, understandable, and appropriate account of the client's condition to the client or to those responsible for the care of the client. The psychologist shall keep the client fully informed as to the purpose and nature of any evaluation, treatment, or other procedures, and of the client's right to freedom of choice regarding services provided.
- 2. TERMINATION OF SERVICES.** Whenever professional services are terminated, if feasible, the psychologist shall offer to help locate alternative sources of professional services or assistance when indicated. The psychologist shall terminate a professional relationship when it is reasonably clear that the client is not benefiting from the relationship, or if mutually agreed upon goals have been met, and, if feasible, shall prepare the client appropriately for such termination. A psychologist may terminate a professional relationship when threatened or otherwise endangered by the client or another person associated with or related to the client.
- 3. STEREOTYPING.** The psychologist shall not impose on the client any stereotypes regarding behavior, values, or roles related to age, gender, religion, race, disability, nationality, sexual orientation, or diagnosis which would interfere with the objective provision of psychological services to the client.
- 4. SOLICITATION OF BUSINESS BY CLIENTS.** The psychologist providing services to a client(s) shall not induce, pressure or coerce client(s) to solicit business on behalf of the psychologist.
- 5. REFERRALS ON REQUEST.** The psychologist providing services to a client shall, if feasible, make an appropriate referral of the client to another professional when requested to do so by the client.
- 6. PRESERVING HUMAN RIGHTS.** The psychologist does not engage in any verbal or physical behavior with client(s) which is seductive, demeaning, harassing, or exploitative in any way.

E. WELFARE OF SUPERVISEES, RESEARCH PARTICIPANTS AND STUDENTS

1. **WELFARE OF SUPERVISEES.** The psychologist shall not engage in any verbal or physical behavior with supervisees which is seductive, demeaning, harassing, or exploitative in any way.
2. **WELFARE OF RESEARCH PARTICIPANTS.** The psychologist shall not engage in any verbal or physical behavior with research participants which is seductive, demeaning, harassing or exploitative in any way. The psychologist shall respect the dignity and protect the welfare of his/her research participants and shall comply with all relevant statutes and administrative rules concerning treatment of research participants.
3. **WELFARE OF STUDENTS.** The psychologist shall not engage in any verbal or physical behavior with students which is seductive, demeaning, harassing or exploitative in any way.

F. PROTECTING CONFIDENTIALITY OF CLIENTS

1. **IN GENERAL.** The psychologist shall safeguard the confidential information obtained in the course of practice, teaching, research, or other professional services. The psychologist shall disclose confidential information to others only with the informed consent of the client unless otherwise required or permitted by the law.
2. **DISCLOSURE WITHOUT INFORMED CONSENT.** The psychologist may disclose confidential information without the informed consent of the client when the psychologist determines that disclosure is necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by the client on the client him/herself or on another person. The psychologist shall limit disclosure of the otherwise confidential information to only those persons and only that content which would be permissible under the standards of the profession for addressing such problems. When the client is an organization, business, or similar entity, disclosure shall be made only after the psychologist has made a reasonable but unsuccessful attempt to have any problem arising out of the relationship corrected within the organization.
3. **RELEASE OF CONFIDENTIAL INFORMATION.** The psychologist shall release confidential information to others only with the informed consent of the client unless otherwise required or permitted by law.
4. **SERVICES INVOLVING MORE THAN ONE INTERESTED PARTY.** In a situation in which more than one party has an appropriate interest in the professional services rendered by the psychologist to a client or clients, the psychologist shall, to the extent possible, clarify to all parties involved prior to rendering such services the dimensions of confidentiality and professional responsibility that shall pertain in the rendering of services. Such clarification

is specifically indicated, among other circumstances, when the client is a minor or an organization, business, or other such entity.

5. **MULTIPLE CLIENTS.** When such services are rendered to more than one client during a joint session, the psychologist shall at the beginning of the professional relationship clarify to all parties the manner by which confidentiality will be addressed. All parties shall be given an opportunity to discuss and to accept whatever limitations to confidentiality attach to the professional relationship.
6. **LEGALLY DEPENDENT CLIENTS.** At the beginning of a professional relationship with a legally dependent client the psychologist shall inform the client who is below the age of majority or who has a legal guardian of any limits the law imposes on the right to confidentiality with respect to the client's communications with the psychologist. The psychologist shall provide such information to the extent possible in language that is understandable to the client.
7. **LIMITED ACCESS TO CLIENT RECORDS.** The psychologist shall limit access to client records to preserve their confidentiality and shall ensure that all persons working under the psychologist's authority shall comply with the requirements for confidentiality of any client records.
8. **REPORTING OF ABUSE OF CHILDREN AND VULNERABLE ADULTS.** The psychologist shall comply with any relevant law concerning the reporting of abuse of children and vulnerable adults.
9. **CONSULTATION REGARDING CLIENT INFORMATION AMONG PROFESSIONALS.** When rendering professional services as part of a team or when interacting with other appropriate professional concerning the welfare of the client, the psychologist may share confidential information about the client provided the psychologist takes reasonable steps to ensure that all persons receiving the information are informed about the confidential nature of the information and abide by the rules of confidentiality. Such information shall be disclosed only to the extent necessary to receive the requested consultation.
10. **REDACTING CONFIDENTIAL INFORMATION.** When any information from otherwise confidential records is to be used for teaching, research, professional publication or for any other public or professional purpose the psychologist shall exercise reasonable care to ensure that the disclosed material has been properly redacted to prevent client identification.
11. **OBSERVATION AND ELECTRONIC RECORDING.** The psychologist shall ensure that observation or electronic recording of a client occurs only with the informed written consent of the client.

- 12. CONFIDENTIALITY AFTER TERMINATION OF PROFESSIONAL RELATIONSHIP.** The psychologist shall continue to treat any information regarding a client as confidential after the professional relationship between the psychologist and the client is over. Such information shall continue to be confidential following the death of a client.

G. REPRESENTATION OF SERVICES

- 1. DISPLAY OF LICENSE.** The psychologist shall display his/her current (name of jurisdiction) license to practice psychology, on the premises of his/her professional practice site.
- 2. MISREPRESENTATION OF QUALIFICATIONS.** The psychologist shall not misrepresent directly or by implication his/her professional qualifications such as education, experience, or areas of competence.
- 3. MISREPRESENTATION OF AFFILIATIONS.** The psychologist shall not misrepresent directly or by implication his/her affiliations, or the purposes or characteristics of institutions and organizations with which the psychologist is associated.
- 4. FALSE OR MISLEADING INFORMATION.** The psychologist shall not include false or misleading information in public statements about professional services offered.
- 5. MISREPRESENTATION OF SERVICES OR PRODUCTS.** The psychologist shall not associate with or permit his/her name to be used in connection with any services or products in such a way as to misrepresent (A) the services or products, (B) the degree of his/her responsibility for the services or products, or (C) the nature of his/her association with the services or products.
- 6. CORRECTION OF MISREPRESENTATION BY OTHERS.** The psychologist shall correct others who misrepresent the psychologist's professional qualifications or affiliations. The psychologist shall, when he/she becomes aware, make all reasonable attempts to correct any public information about the psychologist, his/her credentials, qualifications, or services displayed in a public medium.

H. FEES AND STATEMENTS

- 1. DISCLOSURE OF COST OF SERVICES.** As early as feasible in a professional relationship, the psychologist shall inform the recipient of psychological services of all compensation and billing arrangements. The psychologist shall not mislead or withhold from the client, a prospective client, or third-party payor, information about the cost of his/her professional services.
- 2. REASONABLENESS OF FEE.** The psychologist shall not exploit the client or responsible payor by charging a fee that is excessive for the services performed or by entering into an exploitive bartering arrangement in lieu of a fee.

I. ASSESSMENT PROCEDURES

- 1. CONFIDENTIAL INFORMATION.** The psychologist shall treat the result or interpretation of any assessment of an individual as confidential information.
- 2. COMMUNICATION OF RESULTS.** When communicating the results of any assessment to the client, parents, legal guardians or other agents of the client, the psychologist shall also provide adequate interpretive aids or explanations necessary to permit the party to understand and make decisions based on those results.
- 3. RESERVATIONS CONCERNING RESULTS.** The psychologist shall include in his/her report of the results of a formal assessment procedure, for which norms are available, any limitations in the assessment norms for the individual assessed and any relevant reservations or qualifications which affect the validity, reliability, or interpretation of results.
- 4. PROTECTION OF INTEGRITY OF ASSESSMENT PROCEDURES.** The psychologist shall not reproduce or describe in publications, lectures, presentations or any other public disclosures any psychological tests or other assessment measures or devices in ways that might compromise their security or violate their copyright.
- 5. INFORMATION FOR PROFESSIONAL USERS.** The psychologist offering an assessment procedure or automated interpretation service to other professionals shall accompany such offering by a manual or other printed material that fully describe the development of the assessment procedure or service, the rationale, evidence of validity and reliability, and characteristics of the normative population. The psychologist shall explicitly state the purpose and application for which the procedure is recommended and identify special qualifications required to administer and interpret it properly. The psychologist shall ensure that the advertisement for the assessment procedure or interpretive service is factual and descriptive.

J. VIOLATIONS OF LAW

- 1. VIOLATION OF APPLICABLE STATUTES.** The psychologist shall not violate any applicable statute or administrative rule regulating the practice of psychology.
- 2. USE OF FRAUD, MISREPRESENTATION, OR DECEPTION.** The psychologist shall not use fraud, misrepresentation, or deception in obtaining a psychology license, in taking a psychology licensing examination, in assisting any other individual to obtain a psychology license or to take a psychology licensing examination, in billing clients or third-party payors, in providing psychological services, in reporting the results of psychological evaluations or services, or in conducting any other activity related to the practice of psychology.

K. AIDING UNAUTHORIZED PRACTICE

1. **AIDING UNAUTHORIZED PRACTICE.** The psychologist shall not aid or abet another person in misrepresenting his/her professional credentials or in illegally engaging in the practice of psychology.
2. **DELEGATING PROFESSIONAL RESPONSIBILITY.** The psychologist shall not delegate professional responsibilities to a person not appropriately licensed, credentialed or otherwise qualified to provide such services.

L. REPORTING SUSPECTED VIOLATIONS

1. **REPORTING OF VIOLATIONS TO BOARD.** The psychologist who has reason to believe that there has been a violation of the statutes or rules of the board, that might reasonably be expected to harm a client, may report such a violation to the board, or if required by statute shall report to the board. Unless otherwise required by statute, the client's name may be provided only with the written consent of the client.
2. **PROVIDING INFORMATION TO CLIENT.** When a psychologist learns from a client of a possible violation of the statutes or rules of the board, or when a psychologist receives a request from a client for information on how to file a complaint with the board, the psychologist is obligated to inform the client of the standards of practice of psychology and how to file a complaint with the board.



2020 South Dakota Legislature

House Bill 1276

Introduced by: **Representative Latterell**

1 **An Act to provide for a review of occupational regulation.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1.** That a NEW SECTION be added:

4 **36-39-1. Definitions.**

5 Terms as used in this chapter mean:

6 (1) "Agency," any state governmental agency, board, commission, committee, council,
7 or department;

8 (2) "Certification," a voluntary, nontransferable recognition granted by this state to a
9 person for the purpose of acknowledging that the person evidences qualifications
10 related to a lawful occupation. The term does not extend to occupational licensure
11 and does not include credentials that are prerequisites to working lawfully in an
12 occupation;

13 (3) "Lawful occupation," a course of conduct, a pursuit, or a profession, that includes
14 the sale of goods or services that are not themselves illegal to sell, irrespective of
15 whether the person selling the goods or services is subject to an occupational
16 regulation;

17 (4) "Private certification," a voluntary program in which a private organization grants
18 nontransferable recognition to a person who evidences qualifications and meets
19 standards relevant to performing the occupation, as determined by the private
20 organization;

21 (5) "Occupational licensure," a nontransferable legal authorization for a person to
22 engage in a lawful occupation, for compensation, based on the person evidencing
23 the qualifications established by law;

24 (6) "Occupational regulation," a rule, practice, or policy, that allows a person to use
25 an occupational title or to work in a lawful occupation. The term includes
26 registration, certification, and occupational licensure but not a business license.

1 facility license, building permit, or a zoning and land use regulation, except to the
2 extent that state law regulates a person's qualifications to perform a lawful
3 occupation;

4 (7) "Personal qualifications," the criteria related to a person's background and
5 characteristics. The term includes the completion of an approved educational
6 program, satisfactory performance on an examination, work experience, an
7 apprenticeship, other evidence of having attained requisite knowledge and skills,
8 passing a review of the person's criminal record, and the completion of continuing
9 education; and

10 (8) "Registration," a process by which a person provides to this state information that
11 includes the person's name and address, the person's agent for service of process,
12 a description of the service that the person intends to provide, and the location at
13 which the service is to be performed, if:

14 (a) Registration does not include personal qualifications;

15 (b) Registration is not transferable;

16 (c) Registration may require a bond or insurance;

17 (d) Only a person who has engaged in registration may use the title registered;

18 (e) A person who has not engaged in registration may not perform the
19 occupation for compensation;

20 (f) Registration does not mean occupational licensure; and

21 (g) Registration does not include credentials that are prerequisites to working
22 lawfully in an occupation.

23 **Section 2.** That a NEW SECTION be added:

24 **36-39-2. Department of Labor and Regulation--Review of occupational**
25 **regulation.**

26 Before an agency may be authorized to regulate entry into an occupation and
27 before an agency's regulation of entry into an occupation may be modified, the
28 Department of Labor and Regulation shall conduct a review to ensure that the regulation
29 or modification being proposed is the least restrictive option for ensuring that consumers
30 are protected from present, significant, and substantiated harms. The department may
31 require that proponents submit to the department evidence of present, significant, and
32 substantiated harms to consumers in the state, and may request information from state
33 agencies that contract with persons in regulated occupations and from others who are

1 knowledgeable about the occupation, labor-market economics, and other factors including
2 costs and benefits.

3 For purposes of this chapter, the rank order of options for ensuring consumer
4 protection, from the least restrictive to the most restrictive, are as follows:

5 (1) Market competition;

6 (2) Third-party or consumer-created ratings and reviews;

7 (3) Private certification;

8 (4) Voluntary bonding or insurance;

9 (5) Specific private civil cause of action to remedy consumer harm;

10 (6) Deceptive trade practices act;

11 (7) Mandatory disclosure regarding attributes of the specific good or service;

12 (8) Regulation regarding the process of providing the specific good or service;

13 (9) Regulation of the facility in which the specific good or service is sold;

14 (10) Inspection;

15 (11) Bonding;

16 (12) Insurance;

17 (13) Registration;

18 (14) Certification;

19 (15) Specialty occupational certification solely for medical reimbursement; and

20 (16) Occupational licensure.

21 **Section 3.** That a NEW SECTION be added:

22 **36-39-3. Review of occupational regulation--Scope--Recommendations--**

23 **Report.**

24 In conducting the review required by § 36-16-02, the Department of Labor and
25 Regulation shall presume that consumers are sufficiently protected by market competition
26 and by private remedies. The department shall consider the existence of private
27 certification programs that allow consumers to obtain information about a provider's
28 knowledge and skills.

29 The presumption set forth in this section is rebuttable if the department
30 determines, through the use of credible, empirical evidence that significant and
31 substantiated harm to consumers is occurring and determines that consumers do not have
32 the information or the means to protect themselves against such harm.

1 If the department finds evidence of such harm, the department shall recommend
2 the least restrictive option for occupational regulation in order to address the harm. The
3 department shall use the following guidelines in forming a recommendation:

4 (1) If the department determines that the harm arises from contractual disputes,
5 including pricing disputes, the department shall consider recommending the
6 enactment of a specific civil cause of action to remedy the consumer harm and
7 may also recommend providing for the reimbursement of attorney's fees and court
8 costs;

9 (2) If the department determines that the harm arises from fraud, the department
10 shall consider recommending that the state's deceptive trade practices act, as set
11 forth in chapter 37-24, be amended or that additional provisions be instituted to
12 reduce the dissemination of misleading information regarding the attributes of a
13 specific good or service;

14 (3) If the department determines that the harm involves health or safety, the
15 department shall consider recommending regulation of the production or service
16 process, or licensure of a facility;

17 (4) If the department determines that the harm arises from unclean facilities, the
18 department shall consider recommending periodic facility inspections;

19 (5) If the department determines that the harm arises from a provider's failure to
20 complete a contract or to meet the terms of a contract, the department shall
21 consider recommending that the provider be bonded;

22 (6) If the department determines that the harm arises from a lack of protection for a
23 person who is not a party to a contract that is entered into by a provider and a
24 consumer, the department shall consider recommending that the provider be
25 insured;

26 (7) If the department determines that the harm arises from transactions with
27 transient, out-of-state, or fly-by-night providers, the department shall consider
28 recommending a registration procedure for the provider;

29 (8) If the department determines that the harm arises from a shortfall or imbalance in
30 the consumer's knowledge about the good or service relative to the provider's
31 knowledge, the department shall consider recommending certification;

32 (9) If the department determines that the harm arises from an inability to qualify
33 providers of new or highly-specialized medical services for reimbursement by the
34 state, the department shall consider recommending the enactment of a specialty
35 occupational certification solely for the purpose of medical reimbursement, which;

(a) Means a nontransferable legal authorization for a person to qualify for payment or reimbursement from a governmental agency for the nonexclusive provision of new or niche-medical services, based on the person meeting personal qualifications established in law; and

(b) May be recognized by a private health insurance company or other private company;

(10) If the department determines that the harm arises from a systematic shortage of information necessary for a reasonable consumer to distinguish between the quality of providers, and if the department determines that there is an absence of institutions able and willing to provide guidance to consumers, the department shall consider recommending occupational licensure; and

(11) If the department determines that there are multiple types of harm, the department shall consider recommending a combination of responses.

The department shall include information regarding the potential impact of each recommendation made under this section on opportunities for workers, consumer choice and costs, general employment, market competition, and governmental costs, and information regarding the manner in which other states regulate the occupation.

The department shall report its findings and recommendations to the Executive Board of the Legislative Research Council, at the time and in the manner requested by the board.

Section 4. That a NEW SECTION be added:

36-39-4. Department of Labor and Regulation--Review of existing occupational regulation.

On or about May first of each year, the Executive Board of the Legislative Research Council shall designate various occupations to be reviewed and analyzed by the Department of Labor and Regulation, with respect to the manner in which admissions into the occupations are regulated. The department shall consider:

(1) The justification for occupational licensure;

(2) Less restrictive alternatives to occupational licensure;

(3) Personal qualifications necessary for occupational licensure; and

(5) The scope of practice.

The department shall provide its findings and recommendations to the board on or about December first of each year.

1 **Section 5.** That a NEW SECTION be added:

2 **36-39-5. Review of Criminal Record--Exclusions.**

3 No agency may automatically bar a person from obtaining or retaining an
4 occupational license, certification, or registration, because of a criminal conviction. The
5 agency shall provide personalized consideration for each application and in so-doing may
6 consider only a conviction of a crime that is a felony or a violent misdemeanor and that is
7 not excluded by this section.

8 In reviewing the application for an occupational license, certification, or
9 registration, submitted by a person having a criminal conviction, an agency may not
10 consider:

- 11 (1) Nonconviction information from the criminal justice system, including information
12 related to a deferred adjudication, participation in a diversion program, or an arrest
13 not followed by a conviction;
14 (2) A conviction for which no sentence of incarceration may be imposed;
15 (3) A conviction that has been sealed, dismissed, expunged, or pardoned;
16 (4) A juvenile adjudication;
17 (5) A nonviolent misdemeanor; or
18 (6) A conviction that occurred more than three years before the date of the agency's
19 consideration, unless the conviction pertained to a felony crime of violence, a felony
20 related to a criminal sexual act, or a felony related to criminal fraud or
21 embezzlement.

22 **Section 6.** That a NEW SECTION be added:

23 **36-39-6. Review of criminal record--Permissible considerations.**

24 In reviewing the application for an occupational license, certification, or
25 registration, submitted by a person having a criminal conviction, an agency may consider:

- 26 (1) The age of the person at the time the person committed the offense;
27 (2) The length of time since the offense;
28 (3) The completion of the criminal sentence;
29 (4) The attainment of a certificate of rehabilitation or good conduct;
30 (5) The completion of, or active participation in, rehabilitative drug or alcohol
31 treatment;
32 (6) A testimonial or recommendation, including a progress report, from the person's
33 probation or parole officer;

(7) Evidence of rehabilitation;

(8) Education and training;

(9) Employment history;

(10) Employment aspirations;

(11) The person's current family responsibilities; and

(12) Any other relevant information submitted by the person.

An agency may deny, revoke, suspend, or limit a person's state recognition only if the agency determines that the state's interest in regulating a lawful occupation would be directly, substantially, and adversely impaired by the person's nonexcluded criminal record, as mitigated by the person's current circumstances.

Section 7. That a NEW SECTION be added:

36-39-7. Petition--Advisory determination--Personal Qualifications.

A person with a criminal record may, at any time, including before the person obtains any required personal qualifications, petition an agency for an advisory determination regarding the person's ability to receive state recognition in light of the person's criminal record. A petition under this section must include the person's criminal record or an authorization for the agency to obtain the person's criminal record.

The agency's determination shall be based on the criteria set forth in § 36-16-06 and issued no later than sixty days after the agency receives the petition. If the agency determines that the person is eligible to receive state recognition or that the person is eligible to receive state recognition under certain prescribed conditions, the determination is binding on the agency, unless there is a relevant, material, and adverse change in the person's criminal record.

If the agency determines that the person does not meet the requirements for state recognition, the agency may advise the person of actions that the person may take to remedy the disqualification. Upon taking the actions, the person may petition the agency for a re-determination.

An agency may charge a fee in an amount not exceeding one hundred dollars for an initial advisory determination under this section.

Section 8. That a NEW SECTION be added:

36-39-8. Annual report--Compilation--Publication.

Each agency that provides for the issuance of an occupational license, certification, or registration shall provide an annual report to the Department of Labor and Regulation

1 at the time and in the manner directed by the department. The agency shall include in the
2 report:

3 (1) The number of times that the agency denied, suspended, or revoked a state
4 recognition because of a criminal conviction;

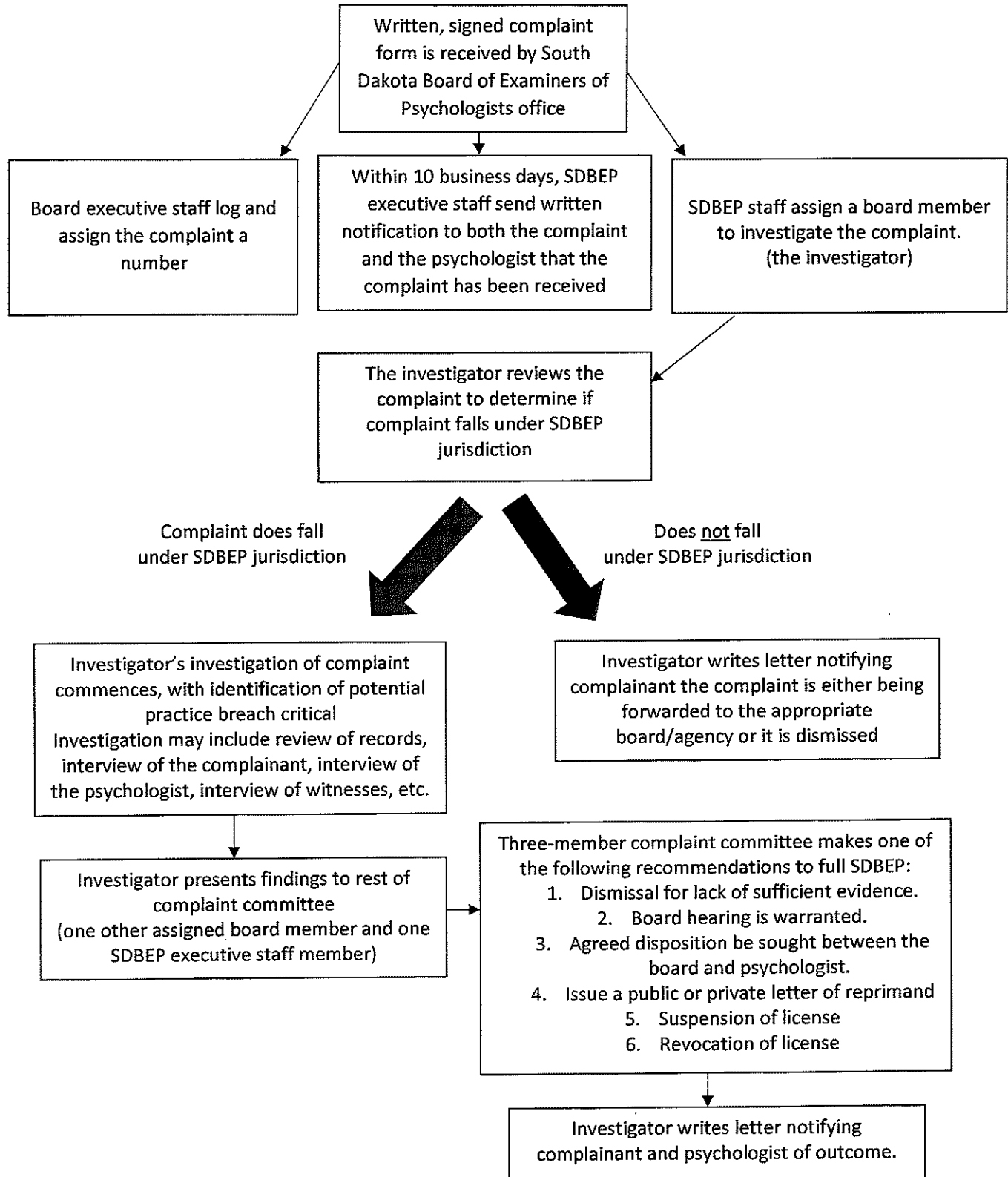
5 (2) The nature of the criminal offense that resulted in the denial, suspension, or
6 revocation; and

7 (3) The number of persons who petitioned the agency under § 36-16-07 for an
8 advisory determination and the agency's response.

9 The department shall annually compile and publish the information on the
10 searchable internet website provided for by § 1-27-45.

South Dakota Board of Examiners of Psychologists

Complaint Procedure Flow Chart



South Dakota Board of Examiners of Psychologists

801 N. Main Street #298

Spearfish, SD 57783

605.642.1600 (ph)

605.722.1006 (fax)

proflic@rushmore.com

COMPLAINT FORM		
PERSON SUBMITTING COMPLAINT (please print):		
Last Name:	First Name:	Middle Initial:
Street Address:		City/State/Zip Code:
Phone Number: ()	Email Address:	
COMPLAINT SUBMITTED AGAINST (if multiple practitioners, please submit separate forms for each):		
Last Name or Office/Facility Name:	First Name:	Middle Initial:
Street Address:		City/State/Zip Code:
Phone Number: ()	Email Address (if known):	
STATEMENT OF COMPLAINT: Please describe your complaint in detail. Please provide details including dates, places, persons involved, frequency of occurrences, etc. If additional space is needed, please use additional sheet(s) of paper as necessary. Please send in or attach any documents in support of the complaint to the SD Board of Examiners of Psychologists as well.		
(continued on back)		

OTHER INFORMATION ABOUT THE COMPLAINT:

1. Have you had contact with other psychologists, law enforcement, or any other agency regarding this complaint? ☐ No ☐ Yes...if yes, please explain:

2. Have you communicated your concern to the psychologist involved in the complaint? ☐ No ☐ Yes...if yes, please explain what the psychologist's response was:

SIGNATURE OF PERSON SUBMITTING COMPLAINT:

Signature:

Date of Signature:

Draft Document – Proposed Frequently Asked Questions – Complaints

24. Who May File a Complaint?

Anyone who thinks a SD-licensed psychologist, psychological assistant, or trainee/resident working under a SD psychologist's license has acted illegally, unprofessionally, or unethically may file a complaint with the SD Board of Examiners of Psychologists.

25. QUESTION: What Types of Complaints Does the Board Handle?

Complaints under the SD Board of Examiners of Psychologist's jurisdiction include the following behavior by a psychologist, psychological assistant, etc.:

- sexual contact with a patient, even if consensual
- violating the patient's confidentiality
- providing services for which the individual has not been trained or licensed
- drug abuse
- fraud or other crimes
- false advertising
- paying or accepting payment for patient referral
- serving in multiple roles; for example, having social relationships with patients, lending them money, employing them, etc.
- unprofessional, illegal, unethical, or negligent acts

26. What Types of Complaints Are Outside the Board's Jurisdiction?

RESPONSE: The Board has no authority over the following:

- fee or billing disputes
- general business practices
- personality conflicts
- persons who are licensed by other boards (for example, physicians, nurses, dentists, clinical social workers; marriage, family, and child counselors; educational psychologists; psychiatrists; or psychiatric technicians)
- Complaints that fall within another SD Board's jurisdiction will be referred to the appropriate board and you will be notified.

27. Can I File an Anonymous Complaint?

An anonymous complaint can certainly be submitted to the SD Board of Examiners of Psychologists and any complaint received will be reviewed; however, follow-up to anonymous complaints may be impossible unless the submission contains adequate documented evidence of the allegations made. Thus, anonymous complaints likely limit the Board's ability to fully investigate and respond to the complaint in the same manner as a complaint by an identified individual. The Board could also not guarantee that the psychologist will not be able to identify you from the nature of the complaint.

28. Should I Report Unlicensed Practice to the Board?

Yes. If you have evidence that an unlicensed person is participating in activities that require a license (e.g., claiming to be a psychologist but do not have a license to practice as a psychologist in SD), you should report the individual to the Board. The Board will investigate the allegations and, if sufficient evidence is found, will forward the information to the local District Attorney for criminal prosecution.

29. How Will My Complaint Be Processed?

The board has a set complaint procedure it follows in response to receipt of a complaint. That complaint procedure is outlined in this chart. [insert flow chart]
The board office will notify complainants of receipt of the complaint. There is no set timeframe of how long a complaint investigation will take, as this largely depends on the nature of the complaint and the responsiveness of those involved in the complaint. If you have questions regarding the complaint process or wish to discuss the possibility of filing a complaint, you may call the Board office at (605) 642-1600. Note: Everyone has the right to file a complaint without fear of harassment. If you feel you are being harassed by the licensee/ registrant you have complained about, you should notify the Board immediately.

Draft Document-Proposed Frequently Asked Questions:

LICENSURE:

1. Who does the South Dakota Board of Examiners of Psychologists regulate?

The primary purpose of the South Dakota Board of Examiners of Psychologists is protection of the public. The Board protects the health and safety of the consumer public by licensure of qualified persons, enforcement of the statutes, rules and regulations governing the practice of psychology, including the appropriate resolution of complaints. Per SDCL 36-27A-1(4), the definition of a "Psychologist," a person licensed under this chapter in the practice of psychology who holds himself or herself out to the public by any title or description of services which uses the words psychological, psychology, psychologist, psychometrist, or any derivations thereof. The South Dakota Board of Examiners of Psychologists regulates psychologists only and not persons who are licensed by other boards; physicians/psychiatrists, psychiatric technicians, counselors, marital therapists, child counselors, educational psychologists, applied behavior analysts or addiction and prevention professionals.

2. Does the South Dakota Board of Examiners of Psychologists license school psychologists?

No, not unless an applicant meets the requirements of SDCL 36-27A and ARSD 20:60 to qualify as a licensed psychologist. South Dakota school psychologists are certified by the South Dakota Department of Education. Please contact the South Dakota Department of Education if you need further information on school psychologists.

3. Does South Dakota offer reciprocity if I am already licensed in another State?

South Dakota does not offer reciprocity. You must meet our licensure requirements. Please reference the section on How do I "Become Licensed" on our website for detailed information on the licensure process. The "Find Forms" section includes the applicable forms along with a Required Coursework Example Sheet.

4. If I am registered with CPQ or the National Register, do I still need to complete a licensure application to become licensed as a psychologist in South Dakota?

The Board does now recognize the CPQ and has accepted the National Register to help expedite the paperwork process involved, but an application must still be submitted.

5. For my licensure application, do I need to send transcripts for my undergraduate and master's level degrees as well as my doctorate degree?

Official transcripts from all graduate programs must be sent from the institution directly to the Board office.

6. What fees are associated with being licensed to practice in South Dakota as a psychologist?

Please reference the section on How do I "Find the Fee Schedule" on our website for information on application and renewal fees.

7. Am I eligible for licensure in South Dakota if I have attended an online program?

An all-inclusive online program does not meet South Dakota licensure requirements. State licensure requirements dictate the curriculum must encompass a minimum of 3 academic years of full-time graduate study and completion of a psychology internship prior to awarding the doctoral degree. At least 2 of the 3 academic training years must be with the institution from which the doctoral degree is granted and at least 1 year of which must be in full time residence at that same institution. Fielding Graduate University's doctoral program in Clinical Psychology is accredited by the American Psychological Association. It is the only distributed learning program recognized by the APA.

8. Does South Dakota require APA accreditation?

We do not require APA accreditation of either the academic program OR the national internship. If the program and/or internship is not APA accredited it must satisfy the licensing act, which is South Dakota Codified Law SDCL 36-27A, and which is consistent with APA accreditation requirements.

9. Am I exempt from the licensure requirements if I hold the American Board of Professional Psychology diploma?

Per SDCL 36-27A-17: At the discretion of the board, an applicant for licensure as a psychologist is exempt from the requirements of § 36-27A-12, and any other examination requirements, if the applicant holds a diploma issued by the American Board of Professional Psychology, a current license to practice psychology in another state, and is not otherwise disqualified under the provisions of this chapter. Applicants should note that the Board determines whether or not to deem an applicant exempt on a case-by-case basis.

10. I have a doctoral degree from another country. Are foreign degrees acceptable to the Board?

Foreign degrees may be considered. An applicant trained in an educational institution outside of the United States or Canada shall demonstrate that they possess a doctoral degree in psychology that meets the requirements of SDCL 36-27A and ARSD 20:60. The applicant shall also provide the Board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) and any other documentation the Board deems necessary. For more information about NACES please visit www.naces.org.

11. When am I able to take the EPPP?

Upon receipt of a completed application including a transcript directly from the registrar, and the verification forms for the pre-doctoral internship, the Board review officer will determine if the applicant's academic and experiential background satisfy the licensing act and the administrative rules. Upon approval by the education review officer, the applicant can be authorized to register for the EPPP exam.

12. Does South Dakota require the EPPP II?

No, South Dakota does not currently require the EPPP II but will continue to review examination requirements in the future.

13. I have been licensed for many years elsewhere – do I still need to complete an oral examination for South Dakota licensure?

Yes.

14. What does the oral examination consist of?

The oral examination will consist of questions regarding your practice, an in-depth knowledge of the April 2005 ASPPB Code of Conduct, mandatory reporting and South Dakota law governing psychology licensure (e.g., SDCL 36-27A). In addition, the memorandums issued by the Board and included with the laws and rules in your original application packet may be covered. A score of seventy five percent is required for passing.

15. Can I conduct a forensic evaluation in South Dakota if I hold a license in another state?

Per SDCL 36-27A-2(4) Exempt persons include: Persons who are not residents of this state, and who have not established offices in this state, who render psychological services in this state for a period which does not exceed an aggregate of more than twenty days during any one year, if they are authorized under the laws of the state or country of their residence to perform these activities and services. If a provider exceeds ten consecutive days of practice in this state in any calendar year the provider shall report to the board, in writing, the nature and extent of the provider's practice in this state.

16. Is telehealth allowed in South Dakota?

Telehealth/telepsychology are not currently addressed in Statutes and Rules for the South Dakota Board of Examiners of Psychologists. However, Psychologists could reasonably be considered a "Health Care Professional" pursuant to 34-52-1(1) as defined in 58-17F-1. Therefore, we are directing Psychologists to the following chapter that addresses telehealth for health care professionals. Please see this link:

http://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=StatuteChapter&Statute=34-52

Beyond this information, the Board cannot provide any further advice or guidance on providing teletherapy or telehealth services. All Psychologists are entrusted to practice within their areas of competence in compliance with the AASPB Code of Conduct, as specified in Administrative Rules Section 20:60:07:01.

17. When will my license expire?

All licenses expire on the 30th day of June each calendar year. The failure of a licensee to renew the license by the first day of July each year constitutes a forfeiture. However, a person who forfeits his license may have it restored by making written application and payment of the required renewal fee prior to the first day of January of the next year, following notification from the board.

18. Does South Dakota have an inactive license status?

No, all licenses expire on June 30 of each calendar year. If a person does not make application to have the license restored prior to the first day of January of the next year, they must complete the initial application process including re-taking the oral examination.

19. How do I get a duplicate license?

Send your request in writing to the Board office. There is no fee for a duplicate license.

20. How do I get a new license if my name changes?

Send your request in writing to the Board office along with a copy of a legal document showing the new name, i.e., copy of a marriage license or divorce decree. There is no fee.

21. How do I submit an address change?

Please call or email the Board office with your updated information.

22. How do I verify a license for a licensed psychologist in South Dakota?

Please reference the section on How do I “Find License Verifications” on our website for the current roster of licensees. You may also email or call the Board office for license verifications.

CONTINUING EDUCATION:

23. What is required for continuing education for South Dakota licensed psychologists?

Currently there is no minimum number of continuing education units required, although we state the maximum hours the Board can require. However, you must obtain some continuing education and report annually on your renewal application.

DRAFT



BOARD OF
EXAMINERS OF
PSYCHOLOGISTS

RECORDS RETENTION AND
DESTRUCTION SCHEDULE

State of South Dakota

Bureau of Administration

Records Management Program

(605) 773-3589



DEPARTMENT OF
EXECUTIVE MANAGEMENT

BUREAU OF
ADMINISTRATION

PMB 01234

RECORDS MANAGEMENT PROGRAM
104 S Garfield Avenue; Bldg E
c/o 500 East Capitol Avenue
Pierre, SD 57501-5070
Phone: (605) 773-3589
Fax: (605) 773-5955

MEMORANDUM

TO: State Agencies

FROM: Dana Hoffer
State Records Manager

SUBJECT: **Records Retention and Destruction Schedule Manual**

DATE:

In 1967, the South Dakota Legislature established the Records Management Program and the Records Destruction Board. In the same act, the Legislature required every State agency to develop a records retention and destruction schedule and declared that "No record shall be destroyed or otherwise disposed of by any agency of the State unless it is determined by majority vote of such board (Records Destruction Board) that the record has no further administrative, legal, fiscal, research or historical value."

According to Administrative Rule 24:52:11:01, any State government agency planning to destroy agency records shall notify the State Archivist 30 days before the date of the proposed destruction. The request shall include the name or title of the records, inclusive dates, information content of the records, and quantity. This rule applies to all records, including those granted exclusive or continuous disposal authorization by the Records Destruction Board, with the following exceptions: vouchers and supporting documents; warrants; personnel and payroll records; client/case files; capital asset inventories; cash receipts; and duplicate copies of state publications.

The State Archivist has 30 days to certify that the records have no permanent value and may be destroyed, or to make arrangements to transfer the records to the archives. If the Archivist fails to make a recommendation within this time, the records may be destroyed, provided that the agency has received authorization from the Records Destruction Board.

Finally, if you have any questions about implementing this manual or about your records in general, please contact Records Management at 773-3589. We will welcome an opportunity to discuss the proper implementation of sound records management practices.

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RECORDS OFFICER:	<u>Jessica Tyler</u>
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PS-1. ADMINISTRATIVE REFERENCE MATERIAL:

03-003

This series is arranged alphabetically by subject matter and contains information used in the daily administration of the Board by the Executive Secretary. Information may include: correspondence, vendor information, mailing lists, file management, administrative rules, codified laws, license ledgers, and other information of interest or benefit to the Executive Secretary or staff. This record series is maintained for reference, decision making, and to maintain consistency with administrative policies.

RETENTION: Retain current in office. Destroy superseded or obsolete.

(NOTE: Cull files at least once a year to avoid build-up of superseded or obsolete material.)

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PS-2.

ADMINISTRATIVE RULES PROMULGATION FILES:

03-003

This series is arranged by subject matter and contains administrative rules promulgation files. Information may include: notices of public hearings, affidavits of publication of notices, written comment from the public, transcripts of hearings, and final decisions. Files have little reference activity once the hearing has been held unless someone requests a copy of the transcript. This record series is maintained for documenting the proper promulgation of administrative rules pursuant to SDCL 1-26.

RETENTION: FINAL DECISIONS: Retain permanently in office.

ALL OTHER DOCUMENTATION: Retain in office for as long as rules are in effect, then destroy.

(NOTE: SDCL 1-26-7 states in part that "each agency shall keep the original records, documents, and instruments required by the chapter." There is no time frame included for these records. Since SDCL 1-26-6.8 provides that "No rule is enforceable in the Courts unless properly adopted," the records must be maintained at least until a curative statute has been adopted by the Legislature similar to SDCL 1-26A-2, which cures all defects in the adoption of rules appearing in the 1974 printed ARSD.)

(Consider maintaining on microfilm instead of paper and destroying paper after microfilm has been inspected and verified to meet quality standards.)

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PS-3. AGENDAS, BOARD MEETINGS:

03-003

This series is arranged chronologically by meeting date and contains agenda items to be discussed at the next Board meeting. Information may include: date, time and location of the meeting, items under old business, items under new business, financial information, and any licensure related issues. This record series is used to determine the course of the board meetings.

RETENTION: Retain current in office. Destroy any superseded or obsolete agendas once the meeting minutes have been approved.

PS-4. ANNUAL REPORTS:

03-003

This series is arranged chronologically and contains the originals of all annual reports written by the Board to summarize their activities for the previous year. Information may include: number of licenses issued, number of inspections conducted (if applicable), number of violations noted, man hours, time reports, and other related information. A copy of this report is filed with the South Dakota Department of Commerce and Regulation annually. This record series is used for reference to compare activities from year to year.

RETENTION: Retain 5 years in office, then transfer to State Archives.

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PS-5.

APPLICATION FILES:

03-003

This series is arranged alphabetically by applicant's last name and documents the personal data of individuals applying for licensure. Information (if relevant to their level of licensure) may include: original application, college grade transcripts, references, internship verification, examination scores, and any other information requested by the Board. This record series is used to determine eligibility for licensure.

RETENTION: SUCCESSFUL APPLICANTS: Transfer to the Licensee Files to be retained 5 years in office after expiration, then microfilm and maintain film for 70 years or for the life of the licensee.

UNSUCCESSFUL APPLICANTS: Transfer to the Applicant Files, Deficient to be retained 5 years in office, then destroy.

(NOTE: Within 5 years of application date, Deficient Files may become Licensee Files if the applicant has provided all necessary documentation, has met all licensure requirements, and has been approved by the Board.)

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PS-6. APPLICANT FILES, DEFICIENT:

03-003

This series is arranged alphabetically and documents personal data of individuals applying for licensure and is a deficient application file. Information (if relevant to their level of licensure) may include: original application, college grade transcripts, references, internship verification, experience verification, and any other information requested by the Board. Applicant has five years to attain licensure approval from the Board before this file is destroyed, then the applicant must start the entire application process over again.

RETENTION: Retain 5 years in office, then destroy.

(NOTE: Within 5 years of application date, Deficient Files may become Licensee Files if the applicant has provided all necessary documentation, has met all licensure requirements, and has been approved by the Board.)

PS-7. ASSOCIATION FILES:

03-003

This series is arranged alphabetically and contains the current correspondence and newsletters from professional associations to which the Psychologist Examiners Board belongs. Information may include: minutes of association meetings, conference agendas, and expense reports. This record series is used for reference purposes concerning ideas and policies suggested and used by these associations.

RETENTION: Retain 1 year in office, then destroy.

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PS-8. ATTORNEY GENERAL OPINIONS:

03-003

This series contains official opinions handed down by the State Attorney General's Office concerning questions pertaining to the Psychologist Examiners Board. This record series is used for occasional reference and as support for the administrative decisions made and actions taken.

RETENTION: Retain 3 years in office, then destroy.

(NOTE: All Attorney General's Opinions are printed in the Biennial Report of the Attorney General.)

PS-9. BOARD APPOINTMENT FILES:

03-003

This series is arranged alphabetically and contains information regarding individual Board members. Information may include: letters of appointment, terms, expiration dates, correspondence, and any related information pertaining to each Board member. This record series is maintained to document member appointments to the Psychologists Examiners Board.

RETENTION: Retain 3 years in office after termination, then destroy.

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PS-10. BUDGETARY ACCOUNTING/MSA REPORTS:

03-003

These daily, weekly, monthly, and year-end computer printout reports are used to monitor and reconcile fiscal year receipts and expenditures for the Board. Reports may include: Daily and/or Monthly Revenue and Journal Voucher Reports, Daily Transaction Progress Reports, Account Receivable Reports, General Ledger Reports, Warrant or Payment Registers, Monthly Expenditure Reports, and Annual Budget Reports. This record series is maintained for audit purposes.

RETENTION: Retain 2 years in office, then transfer to storage for 2 years. Destroy after 4 years provided all litigation, claims, and audit findings involving the records have been resolved and final action has been taken.

PS-11. CASH RECEIPT TRANSMITTALS:

03-003

This series is arranged chronologically and contains the standard forms used to deposit funds into the State Treasury. Information may include: date, agency name, agency number, accounting codes, memorandums, dollar amounts, total deposits, and authorized signatures. This record series is maintained for documenting and crediting each account with the amount deposited.

RETENTION: Retain 2 years in office, then transfer to storage for 2 years. Destroy after 4 years provided all litigation, claims, and audit findings involving the records have been resolved and final action has been taken.

(NOTE: The State Treasurer's Office maintains the originals.)

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PS-12. COMPLAINT FILES:

03-003

This series is arranged alphabetically by licensee name and contains all related correspondence either received from the general public or initiated by the Board concerning problems which have occurred with psychologists. Information may include: nature of complaint, related correspondence, investigation of the allegation, conclusion of the investigation, final determination, stipulations and agreements, and other related material. This record series is used by the Board to determine if a complaint is substantiated and, if so, to take corrective action against the licensee. If a complaint is substantiated, a copy of the final determination is placed into the respective "Licensee File, Active."

RETENTION: UNSUBSTANTIATED: Retain 5 years in office after final determination, then destroy.

(NOTE: If like complaint exists within this 5 years, then retain like complaints for 10 years, then destroy.)

SUBSTANTIATED: Retain 5 years in office, place a copy of the final determination into the respective "Licensee File, Active," then microfilm all related documentation and maintain film for 70 years or for the life of the licensee.

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PS-13. COMPLAINT, NON-JURISDICTIONAL:

03-003

This series is arranged alphabetically by name of the person or facility named in the complaint and contains correspondence regarding allegations about persons or facilities not licensed by the Board, not licensed by the Board at the time of allegation, or other matters the Board cannot take any remedial action to investigate or rectify. Information may include: name of complainant, date and circumstances surrounding alleged activity, and related correspondence between the complainant and the Board. This record series is used to document consumer complaints or allegations about individuals or issues over which the Board has no jurisdiction.

RETENTION: Retain 3 years in office, then destroy.

PS-14. CONTRACTS AND AGREEMENTS:

03-003

This series is arranged chronologically, then by name of contractor and contains reference copies of contracts and agreements in which the Board may have interest. It also contains the Board's copy of contracts and agreements between the Board and other parties. Information may include: terms and conditions, effective dates, costs and funding sources. This record series is maintained for reference and audit purposes.

RETENTION: Retain originals (copies of record) current in office. Destroy 6 years after terminated.

Retain reference copies current in office. Destroy terminated.

(NOTE: SDCL 1-24A-1 requires consulting contracts be filed with the State Auditor.)

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PS-15. CORRESPONDENCE, GENERAL:

03-003

This series is arranged chronologically and contains both copies of letters and memorandums sent, and originals of letters and memorandums received. This record series is used for occasional reference and documentation.

RETENTION: Retain 2 years in office, then destroy.

PS-16. EXAMINATION FILES (GRANDFATHERED):

03-003

This microfilm series is arranged chronologically and contains information on individuals who have taken the psychologist examination. Information may include: name, testing firm scores, raw scores, national cut scores, test ID numbers, test location, and test date. This record series is used to document examination results.

RETENTION: Microfilm and maintain film for the life of licensee.

(NOTE: Examination Files no longer accumulate. A one-time destruction authorization is being requested.)

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PS-17. LEGISLATION FILES:

03-003

This series is arranged chronologically and constitutes the Psychologist Examiners Board's central file of all proposed legislation, and legislation from previous years. Information may include: resource material, correspondence, Bill Tracking Printouts, copies of House and Senate bills, national legislation, preliminary bill drafts, and the final drafts of proposed legislation. This record series is used for bill drafting, submission, and tracking during the legislative session.

RETENTION: Retain 2 years in office, then destroy.

PS-18. LICENSEE FILES, ACTIVE:

03-003

This series is arranged alphabetically by last name of licensee and documents personal data for licensed psychologists. Information may include: original application, college grade transcripts, examination scores and related information, references, internship verification, verification of experience, requests for name changes, most current renewal application, and renewal date. This record series is used to document the licensure and renewal process of all psychologists.

RETENTION: Retain 5 years in office after expiration, then microfilm and maintain film for 70 years or for the life of the licensee.

STATE OF SOUTH DAKOTA
RECORDS RETENTION &
DESTRUCTION SCHEDULE
AUTHORIZATION FORM
(Std Form RM-1 Rev 1/03)

DEPARTMENT:	<u>Social Services</u>
DIVISION:	<u>Community Behavioral Health</u>
OFFICE:	<u>Licensing Boards</u>
PROGRAM:	<u>Psychologist Examiners Board</u>
RECORDS OFFICER:	<u>Jessica Tyler</u>
RM CUSTOMER #:	<u>1197</u>

RECORD SERIES NO.	<u>TITLE--DESCRIPTION--RETENTION AND DESTRUCTION SCHEDULE</u>	R.D.B. AUTHORITY NUMBER
----------------------	---	-------------------------------

PS-19. LICENSEE FILES, INACTIVE:

03-003

This series is arranged alphabetically by last name of licensee and documents personal data for licensed but inactive psychologists. Information may include: original application, college grade transcripts, examination scores and related information, references, internship verification, verification of experience, requests for name changes, most current renewal application, and renewal date. This record series is used to document the licensure and renewal process of all psychologists.

RETENTION: Retain 5 years in office after expiration, then microfilm and maintain film for 70 years or for the life of the licensee.

(NOTE: Whenever an Active Licensee does not renew within the timeframe prescribed by law, the Active Licensee file becomes an Inactive Licensee file, until such time the licensee either reactivates his license or allows his license to expire completely.)

PS-20. LICENSE NUMBER LISTS:

03-003

This database series is arranged alphabetically by last name of licensee for each license type issued by the Psychologist Examiners Board. Information may include: license number, licensee name and address, level of licensure, and expiration/renewal date. This record series is used for licensure verification.

RETENTION: Retain current information. Delete superseded or obsolete.

STATE OF SOUTH DAKOTA
RECORDS RETENTION &
DESTRUCTION SCHEDULE
AUTHORIZATION FORM
(Std Form RM-1 Rev 1/03)

DEPARTMENT:	<u>Social Services</u>
DIVISION:	<u>Community Behavioral Health</u>
OFFICE:	<u>Licensing Boards</u>
PROGRAM:	<u>Psychologist Examiners Board</u>
RECORDS OFFICER:	<u>Jessica Tyler</u>
RM CUSTOMER #:	<u>1197</u>

RECORD SERIES NO.	<u>TITLE--DESCRIPTION--RETENTION AND DESTRUCTION SCHEDULE</u>	R.D.B. AUTHORITY NUMBER
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PS-21. MINUTES, PSYCHOLOGIST EXAMINERS BOARD:

03-003

This series is arranged chronologically and contains the official minutes of the Psychologist Examiners Board meetings. Information may include: date of meeting, members present, topics discussed, and actions taken. This record series is used for occasional reference and to document action taken by the Board.

RETENTION: Retain 5 years in office, then microfilm and maintain film permanently.

PS-22. POLICIES AND PROCEDURES:

03-003

This series is arranged by topic and contains the current procedures or policies implemented by the Board. Information may include the Board's position or interpretation on issues and policies, and date of implementation or adoption. This record series is used to determine the proper course of action to take in certain situations.

RETENTION: Retain current in office. Destroy superseded or obsolete.

STATE OF SOUTH DAKOTA
RECORDS RETENTION &
DESTRUCTION SCHEDULE
AUTHORIZATION FORM
(Std Form RM-1 Rev 1/03)

DEPARTMENT:	Social Services
DIVISION:	Community Behavioral Health
OFFICE:	Licensing Boards
PROGRAM:	Psychologist Examiners Board
RECORDS OFFICER:	Jessica Tyler
RM CUSTOMER #:	1197

RECORD SERIES NO.	<u>TITLE--DESCRIPTION--RETENTION AND DESTRUCTION SCHEDULE</u>	R.D.B. AUTHORITY NUMBER
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PS-23. SURVEYS:

03-003

This series is arranged chronologically and contains surveys conducted by membership associations throughout the country. Information may include: date survey was conducted, issues, legislation, licensure numbers, degrees, application process, and any relative information obtained via survey from sources and licensees. This record series is used mainly for reference purposes and may be used to develop new policies or legislation to address various national issues.

RETENTION: Retain 3 years in office, then destroy.

PS-24. VOUCHERS AND PAYROLL INFORMATION:

03-003

This series is arranged chronologically and may contain copies of travel, non-cash, direct, receiving, and journal vouchers and Board payroll information. Each voucher may include: nature of expense, fund expended from, date, who the funds went to or what account they were transferred to, and authorized signatures. Board member payroll information may include: name, social security number, time worked, and authorized signatures. This record series is used for reference to determine quantities and descriptions of supplies and services ordered, for vendor information, for Board member payroll information, and for audit purposes.

RETENTION: Retain 2 years in office, then transfer to storage for 2 years. Destroy after 4 years provided all litigation, claims, and audit findings involving the records have been resolved and final action has been taken.

Psychology Interjurisdictional Compact (PSYPACT)

Psychology Interjurisdictional Compact Commission

Title of Rule: Additional Authority Vested in State Psychology Regulatory Authorities
Drafted: November 21, 2019
Effective: TBD
Amended:
History for Rule: Introduced at public meeting on November 21-22, 2019

Section 8: Additional Authority Vested in State Psychology Regulatory Authorities

Authority: Article VIII: Additional Authorities Invested in a Compact States
Psychology Regulatory Authority
Article II: Definitions

8.0 Purpose: In addition to other powers granted under state law, a Compact State's Psychology Regulatory Authority shall have additional authority under the Compact.

8.1 Definition(s): (A) **"Authority to Practice Interjurisdictional Telepsychology"** means: a licensed psychologist's Authority to Practice Telepsychology, within the limits authorized under this Compact, in another Compact State. This Authority to Practice Interjurisdictional Telepsychology is deemed valid until the psychologist is no longer eligible under the Compact Statute and/or the Rules and/or Policies established by the Commission.
(B) **"Commission"** means: the national administrative body of which all states that have enacted the Compact are members.
(C) **"Compact"** means: Psychology Interjurisdictional Compact (PSYPACT).
(D) **"Compact State"** means: a state, the District of Columbia, or United States territory that has enacted this Compact legislation and which has not withdrawn pursuant to Article XIII, Section C or has been terminated pursuant to Article XII, Section B. For the purposes of this Compact, Compact State and member State may be used interchangeably.
(E) **"Home State"** means: a Compact State where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one Compact State and is practicing under the Authorization to Practice Interjurisdictional Telepsychology, the Home State is the Compact State where the psychologist is physically present when the

telepsychological services are delivered. If the psychologist is licensed in more than one Compact State and is practicing under the Temporary Authorization to Practice, the Home State is any Compact State where the psychologist is licensed.

(F) **"License"** means: authorization by a State and Psychology Regulatory Authority to engage in the independent practice of psychology, which would be unlawful without the authorization.

(G) **"Rule"** means: a written statement by the Psychology Interjurisdictional Compact Commission promulgated pursuant to Article XI of this Compact that is of general applicability; implements, interprets, or prescribes a policy or provision of the Compact; or is an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a member state and includes the amendment, repeal, or suspension of an existing rule.

(H) **"State"** means: any state, commonwealth, territory, or possession of the United States, the District of Columbia.

(I) **"State Psychology Regulatory Authority"** means: the Board, office or agency with the legislative mandate to license and regulate the practice of psychology.

(J) **"Temporary Authorization to Practice"** means: a licensed psychologist's authority to conduct temporary in-person, face-to-face practice, within the limits authorized under this Compact, in another Compact State. This Temporary Authorization to Practice is deemed valid until the psychologist is no longer eligible under the Compact Statute and/or the Rules and/or Policies established by the Commission.

8.2 Subpoena:

- A. A subpoena issued by a Compact State's Psychology Regulatory Authority shall be enforceable in other Compact States.
- B. Should an individual or entity refuse to comply with an enforceable subpoena, the Compact State's Psychology Regulatory Authority that issued the subpoena may request the Compact State's Psychology Regulatory Authority where the individual or entity is located to issue a subpoena on the investigating Compact State's behalf. That Compact State shall issue the subpoena and shall share the resulting information with the investigating Compact State's Psychology Regulatory Authority.

8.3 Home State during Investigations: A psychologist with an Authority to Practice Interjurisdictional Telepsychology may not change their Home State as designated in Rule 4.4 during an investigation. A psychologist with a Temporary Authorization to Practice may not change their Home State as designated in Rule 5.4 during an investigation.

8.4 Home State Status upon Investigation Completion:

- A. A Home State Psychology Regulatory Authority shall notify and promptly report the conclusions of any investigations to the Commission.

85 B. If the psychologist changes their Home State within 30 days after the conclusion of any
86 investigation, the Commission will notify the new Home State of the decisions associated
87 with the investigation via electronic means.
88

89
90 *Italicized definitions are mirrored directly from the PSYPACT Compact Language.*

1 **Psychology Interjurisdictional Compact (PSYPACT)**

2 **Psychology Interjurisdictional Compact Commission**

3
4 **Title of Rule:** Adverse Actions

5 **Drafted:** November 21, 2019

6 **Effective:** TBD

7 **Amended:**

8 **History for Rule:** Introduced at public meeting on November 21-22, 2019

10
11 **Section 7:** Adverse Actions

12 **Authority:** Article VII: Adverse Actions
13 Article II: Definitions

14
15 **7.0 Purpose:** **Pursuant to Article VII,** the Home State shall have the power to impose
16 adverse action against a psychologist's license issued by the Home State.
17 A Distant and/or Receiving State shall have the power to take adverse
18 action on a psychologist's authority to practice under the Psychology
19 Interjurisdictional Compact (PSYPACT).
20

21 **7.1 Definition(s):** (A) **"Adverse Action"** means: any action taken by a State Psychology
22 Regulatory Authority which finds a violation of a statute or regulation that
23 is identified by the State Psychology Regulatory Authority as discipline
24 and is a matter of public record.
25 (B) **"Alternative Program"** means: any non-disciplinary monitoring
26 program intended to remediate the licensee that is not a matter of public
27 record and to which a State Psychology Regulatory Authority refers a
28 licensee, or of which the State Psychology Regulatory Authority is aware
29 of the licensee's participation.
30 (C) **"Authority to Practice Interjurisdictional Telepsychology"** means:
31 a licensed psychologist's Authority to Practice Telepsychology, within the
32 limits authorized under this Compact, in another Compact State. This
33 Authority to Practice Interjurisdictional Telepsychology is deemed valid
34 until the psychologist is no longer eligible under the Compact Statute
35 and/or the Rules and/or Policies established by the Commission.
36 (D) **"Authorization Holder"** means: a licensed psychologist who has
37 been granted Authority to Practice Interjurisdictional Telepsychology or
38 Temporary Authorization to Practice under this Compact.

- 39
40
41 (E) **"Commission"** means: the national administrative body of which all
42 states that have enacted the Compact are members.
43 (F) **"Compact"** means: Psychology Interjurisdictional Compact
44 (PSYPACT).
45 (G) **"Compact State"** means: a state, the District of Columbia, or United
46 States territory that has enacted this Compact legislation and which has
47 not withdrawn pursuant to Article XIII, Section C or has been terminated
48 pursuant to Article XII, Section B. For the purpose of this compact,
49 Compact State and Member State may be used interchangeably.
50 (H) **"Distant State"** means: the Compact State where a psychologist is
51 physically present (not through the use of telecommunications
52 technologies), to provide temporary in-person, face-to-face psychological
53 services.
54 (I) **"Encumbrance"** means: any action taken by the State Psychology
55 Regulatory Authority that limits the practice or work of a psychologist.
56 An encumbrance may be disciplinary or non-disciplinary in nature.
57 (J) **"E.Passport"** means: a certificate issued by the Association of State
58 and Provincial Psychology Boards (ASPPB) that promotes the
59 standardization in the criteria of interjurisdictional telepsychology
60 practice and facilitates the process for licensed psychologists to provide
61 telepsychological services across state lines.
62 (K) **"Home State"** means: a Compact State where a psychologist is
63 licensed to practice psychology. If the psychologist is licensed in more
64 than one Compact State and is practicing under the Authorization to
65 Practice Interjurisdictional Telepsychology, the Home State is the
66 Compact State where the psychologist is physically present when the
67 telepsychological services are delivered. If the psychologist is licensed in
68 more than one Compact State and is practicing under the Temporary
69 Authorization to Practice, the Home State is any Compact State where the
70 psychologist is licensed.
71 (L) **"License"** means: authorization by a State and Psychology Regulatory
72 Authority to engage in the independent practice of psychology, which
73 would be unlawful without the authorization.
74 (M) **"Receiving State"** means: a Compact State where the client/patient is
75 physically located when the telepsychological services are delivered.
76 (N) **"Rule"** means: a written statement by the Psychology
77 Interjurisdictional Compact Commission promulgated pursuant to Article
78 XI of this Compact that is of general applicability; implements, interprets,
79 or prescribes a policy or provision of the Compact; or is an
80 organizational, procedural, or practice requirement of the Commission
81 and has the force and effect of statutory law in a member state and
82 includes the amendment, repeal, or suspension of an existing rule.
83 (O) **"Significant Investigatory Information"** means:
84 1. Investigative information that a State Psychology Regulatory
Authority, after a preliminary inquiry that includes notification and

85 an opportunity to respond if required by state law, has reason to
86 believe, if proven true, would indicate more than a violation of
87 state statute or ethics code that would be considered more
88 substantial than minor infraction; or

89 2. Investigate information that indicates that the psychologist
90 represents an immediate threat to public health and safety
91 regardless of whether the psychologist has been notified and/or
92 had an opportunity to respond.

93 (P) "State" means: any state, commonwealth, territory, or possession of
94 the United States, the District of Columbia.

95 (Q) "State Psychology Regulatory Authority" means: the Board, office or
96 agency with the legislative mandate to license and regulate the practice of
97 psychology.

98 (R) "Temporary Authorization to Practice" means: a licensed
99 psychologist's authority to conduct temporary in-person, face-to-face
100 practice, within the limits authorized under this Compact, in another
101 Compact State. This Temporary Authorization to Practice is deemed valid
102 until the psychologist is no longer eligible under the Compact Statute
103 and/or the Rules and/or Policies established by the Commission.
104

105 7.2 Investigations:

- 106 A. In cases where a psychologist holds a license in more than one Compact State, the
107 Compact State identified as the Home State shall have the responsibility for the
108 investigation(s).
109 B. Upon discovery that the psychologist is under investigation in another Compact State, the
110 other Compact States may contact the investigating Compact State and request
111 investigative documents and information.
112 C. This section shall not be construed as limiting any Compact State's authority to
113 investigate any conduct within that state or to investigate any licensee.
114

115 7.3 Joint Investigations: Compact States may collaborate in investigating alleged misconduct.
116 When participating with other Compact States in joint investigations, the Compact State that the
117 psychologist has declared as their home state will take the lead on any investigation.
118

119 7.4 Availability of Significant Investigatory Information: A Compact State shall notify the
120 Commission that investigatory information is available to other Compact States when it has
121 determined that probable cause exists that the allegations against the psychologist may constitute
122 a violation of that Compact State's statute or regulations. The actual investigatory information
123 shall be shared directly with the other Compact State and not through the Commission.
124

125 7.5 Reporting:

- 126 A. Reporting of adverse actions by Compact States shall be made in compliance with the
127 law, rules and policies of this Commission.
128 B. A psychologist holding an Authority to Practice Interjurisdictional Telepsychology and/or
129 a Temporary Authorization to Practice must report to the Commission any encumbrance

or adverse action placed upon any license held in a non-Compact State within 30 days of the effective date.

7.6 Eligibility after an Adverse Action:

- A. A psychologist immediately loses the Authority to Practice Interjurisdictional Telepsychology and Temporary Authorization to Practice upon the effective date of either of the following actions taken by the State Psychology Regulatory Authority:
 - 1. Adverse action taken against a license or Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice; or
 - 2. Encumbrance placed upon the psychologist's license or Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice.
- B. A psychologist regains eligibility for the Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice immediately after the removal of all non-disciplinary encumbrance(s), provided there are no current adverse actions against the license or the Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice and reporting to the Commission of the same.
- C. An adverse action against a psychologist's license that is disciplinary in nature shall result in the psychologist no longer being eligible for the Authority for Interjurisdictional Telepsychology and/or Temporary Authorization to Practice.

7.7 Alternative Program Participation: A Home State entering into an agreement with a psychologist to participate in an Alternative Program must:

- A. Add language to any alternative program agreement(s) with a licensee or an Authorization Holder prohibiting practice or work in any Member State during participation;
- B. State that the provision of psychological services under the Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice shall cease until the Compact State as ascertained the psychologist has met the requirements of the agreement and notified the Commission of the satisfactory completion; and
- C. Report information to the Coordinated Database as stated in Rule 9.8.

Italicized definitions are mirrored directly from the PSYPACT Compact Language.

1 **Psychology Interjurisdictional Compact (PSYPACT)**

2 **Psychology Interjurisdictional Compact Commission**

3
4 **Title of Rule:** Coordinated Licensure Information System

5 **Drafted:** July 22, 2019

6 **Effective:** October 9, 2019

7 **Amended:**

8 **History for Rule:** Introduced at public meeting on July 22, 2019

9 Public hearing October 9, 2019

10 Amendments introduced at public meeting on November 21-22, 2019

12
13 **Section 9** Coordinated Licensure Information System

14 **Authority:** Article IX: Coordinated Licensure Information System
15 Article II: Definitions

16
17 **9.0 Purpose:** **Pursuant to Article IX**, the Commission shall provide for the
18 development and maintenance of a Coordinated Licensure Information
19 System and reporting system containing licensure and disciplinary action
20 information on all psychologists to whom the Compact is applicable in all
21 Compact States.

22
23 **9.1 Definition(s):** (A) **“Alternative Program”** means: any non-disciplinary monitoring
24 program intended to remediate the licensee that is not a matter of public
25 record and to which a State Psychology Regulatory Authority refers a
26 licensee, or of which the State Psychology Regulatory Authority is aware
27 of the licensee’s participation.
28 (B) **“Association of State and Provincial Psychology Boards ASPPB”**
29 *means: the recognized membership organization composed of State and*
30 *Provincial Psychology Regulatory Authorities responsible for the*
31 *licensure and registration of psychologists throughout the United States*
32 *and Canada.*
33 (C) **“Authority to Practice Interjurisdictional Telepsychology”** means:
34 a licensed psychologist’s Authority to Practice Telepsychology, within the
35 limits authorized under this Compact, in another Compact State. This
36 Authority to Practice Interjurisdictional Telepsychology is deemed valid
37 until the psychologist is no longer eligible under the Compact Statute
38 and/or the Rules and/or Policies established by the Commission.
39 (D) **“Authorization Holder”** means: a licensed psychologist who has
40 been granted Authority to Practice Interjurisdictional Telepsychology or

41 Temporary Authorization to Practice under this Compact.

42 (E) **"Commission"** means: the national administrative body of which all
43 states that have enacted the Compact are members.

44 (F) **"Compact"** means: Psychology Interjurisdictional Compact
45 (PSYPACT).

46 (G) **"Compact State"** means: a state, the District of Columbia, or United
47 States territory that has enacted this Compact legislation and which has
48 not withdrawn pursuant to Article XIII, Section C or has been terminated
49 pursuant to Article XII, Section B. For purposes of this Compact, Compact
50 State and Member State may be used interchangeably.

51 (H) **"Coordinated Licensure Information System"** also referred to as
52 "Coordinated Database" means: an integrated process for collecting,
53 storing, and sharing information on psychologists' licensure and
54 enforcement activities related to psychology licensure laws, which is
55 administered by the recognized membership organization composed of
56 State and Provincial Psychology Regulatory Authorities.

57 (I) **"PSY|PRO"** means: ASPPB Proprietary credentials management
58 system

59 (J) **"Rule"** means: a written statement by the Psychology
60 Interjurisdictional Compact Commission promulgated pursuant to Article
61 XI of this Compact that is of general applicability; implements, interprets,
62 or prescribes a policy or provision of the Compact; or is an
63 organizational, procedural, or practice requirement of the Commission
64 and has the force and effect of statutory law in a member state and
65 includes the amendment, repeal, or suspension of an existing rule.

66 (K) **"Significant Investigatory Information"** means:

- 67 1. investigative information that a State Psychology Regulatory
68 Authority, after a preliminary inquiry that includes notification
69 and an opportunity to respond if required by state law, has
70 reason to believe, if proven true, would indicate more than a
71 violation of state statute or ethics code that would be
72 considered more substantial than minor infraction; or
- 73 2. investigative information that indicates that the psychologist
74 represents an immediate threat to public health and safety
75 regardless of whether the psychologist has been notified and/or
76 had an opportunity to respond.

77 (L) **"State"** means: any state, commonwealth, territory, or possession of
78 the United States, the District of Columbia.

79 (M) **"State Psychology Regulatory Authority"** means: the Board, office
80 or agency with the legislative mandate to license and regulate the practice
81 of psychology.

82 (N) **"Temporary Authorization to Practice"** means: a licensed
83 psychologist's authority to conduct temporary in-person, face-to-face
84 practice, within the limits authorized under this Compact, in another
85 Compact State. This Temporary Authorization to Practice is deemed valid

86 until the psychologist is no longer eligible under the Compact Statute
87 and/or the Rules and/or Policies established by the Commission.
88

89 **9.2 Method of Data Submission:** Compact States shall submit data as described in this section
90 of these rules to the Coordinated Licensure Information System in accordance with the Compact
91 Data Participation Agreement.
92

93 **9.3 Access to the Coordinated Database:** Only Compact States shall have access to the data
94 submitted by other Compact States. The system will be accessible through PSY|PRO and will
95 contain at a minimum the following data:

- 96 (A) Psychologist name;
- 97 (B) States where licensed;
- 98 (C) Authority to Practice Interjurisdictional Telepsychology holder status;
- 99 (D) Authority to Practice Interjurisdictional Telepsychology home state;
- 100 (E) Temporary Authorization to Practice holder status;
- 101 (F) Temporary Authorization to Practice home state;
- 102 (G) ASPPB E.Passport status;
- 103 (H) ASPPB IPC status;
- 104 (I) Adverse action status;
- 105 (J) Current significant investigative information; and
- 106 (K) Non-confidential information related to alternative program participation
107 information.
108

109 **9.4 Coordinated Licensure Information System – Dataset:** A Compact State shall provide the
110 following in accordance with the Compact Data Participation Agreement:

- 111 (A) proof of current and active psychology license based on a doctoral degree for any
112 psychologists applying for authorization to practice under the authority of this compact.
113 Proof may be provided from a State Psychology Regulatory Authority website that is
114 deemed to be a primary source or written official licensure verification from a State
115 Psychology Regulatory Authority including proper signatures and state seals;
- 116 (B) significant investigatory information;
- 117 (C) non-confidential information related to alternative program participation information;
118 and
- 119 (D) adverse actions against a psychologist's license.
120

121 **9.5 Required use of ASPPB PSY|PRO System:** A Compact State shall use the ASPPB
122 PSY|PRO software system to report the following:

- 123 (A) adverse actions;
- 124 (B) significant investigatory information; and
- 125 (C) non-confidential information related to alternative program participation information.
126

127 **9.6 Frequency of Reporting Adverse Actions:** A Compact State shall report any adverse action
128 as required against a licensee or an Authorization Holder through the interface described in 9.5
129 above within ten (10) business days of the effective date of the adverse action.
130

9.7 Frequency of Reporting Significant Investigatory Information: A Compact State shall report any significant investigatory information as required against a licensee or an Authorization Holder through the interface described in 9.5 above within ten (10) business days of the effective date of the beginning of the determination of significant investigatory information.

9.8 Frequency of Reporting Non-confidential Information Related to Alternative Program Participation: A Compact State shall report any non-confidential information related to alternative program participation as required against a licensee or Authorization Holder through the interface described in 9.5 above within ten (10) business days of the receipt by the Compact State of notification of participation in a program by a licensee and/or an Authorization Holder.

9.9 Discrepancy with Coordinated Licensure Information System Data Set: A psychologist holding an Authority to Practice Interjurisdictional Telepsychology and/or a Temporary Authorization to Practice under PSYPACT may request from their Home State Psychology Regulatory Authority in writing a review of the data relating to them in the Coordinated Licensure Information System.

- A. In the event psychologist holding an Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice asserts the data related to them is inaccurate, the burden of proof shall be upon the psychologist to provide evidence that substantiates such a claim.
- B. The Compact State Psychology Regulatory Authority shall verify within ten (10) business days and submit corrected information to the Commission for inclusion in the Coordinated Licensure Information System.

Italicized definitions are mirrored directly from the PSYPACT Compact Language.



MENTAL HEALTH CARE CRISIS

Published studies report that about 25% of all U.S. adults have a mental illness and that nearly 50% of U.S. adults will develop at least one mental illness during their lifetime.

PSYPACT can increase a patient's access to mental health care from qualified licensed psychologists and can change the way in which patients are able to receive mental health care through telepsychology.

Source: CDC, 2016



OPIOID EPIDEMIC

Drug overdose deaths and opioid-involved deaths continue to increase in the United States. On average, 115 Americans die everyday from an opioid overdose.

PSYPACT allows for access to licensed psychologists that have specific training in addictions even though they may not be located in a patient's state.

Source: CDC, 2017



IMPORTANCE OF TELEHEALTH

Telehealth procedures for psychological treatment has been repeatedly demonstrated to be effective and provides several advantages over traditional treatment methods such as accessibility, versatility and affordability.

PSYPACT allows for the provision of psychological services via telecommunications technologies across state lines by licensed psychologists.

Sources: Barak, Hen, Boniel-Nissim & Shapira, 2008; Epstein, 2011; Wenzelhof, 2012

WHY PSYPACT IS IMPORTANT

In the midst of an ongoing mental health care crisis in the United States, there is an increasing need for accessible and continuous care from qualified mental health care professionals like licensed psychologists. The Psychology Interjurisdictional Compact, or PSYPACT, is an interstate compact designed to increase access to mental health care services through telepsychology.



ACCESS TO CARE

Access to mental health care services continues to be a challenge for many people seeking care. PSYPACT can increase the number of qualified licensed psychologists available to provide care as well provide a different delivery method of care via telepsychology.

For example, PSYPACT can benefit individuals in those in rural areas, those who lack specialty care (e.g. autism spectrum disorder, child treatment, opioid addiction) or those afraid to seek treatment due to the stigma of mental health care.

Psychology Interjurisdictional Compact (PSYPACT)



CONTINUITY OF CARE

One of the primary benefits of PSYPACT is continuity of care. With the population becoming increasingly mobile, there is an increased need for continuity of service across state lines.

It can be challenging for a patient to find a psychologist that meets their specific needs. Once that therapeutic relationship is established, patients often desire to continue that service if they move or relocate. PSYPACT can ensure that patients can continue to see their psychologists as they move or relocate.



COORDINATION OF CARE

Patients and their care coordinating family members often live in different states. Although family members do not require licenses to coordinate care across state lines, there may be rules regarding the ability for out-of-state family members to be able to participate in care coordination efforts.

PSYPACT can assist in facilitating the coordination of care by allowing family members who may not be local to the patient's area to participate in their treatment and provide additional support for the patient.

www.psypact.org

PSYPACT Reducing Regulatory Barriers. Increasing Access to Mental Health Care.

Created by the Association of State and Provincial Psychology Boards (ASPPB), the Psychology Interjurisdictional Compact (PSYPACT) is an interstate compact that facilitates the practice of psychology using telecommunications technologies (telepsychology) and/or temporary in-person, face-to-face psychological practice.

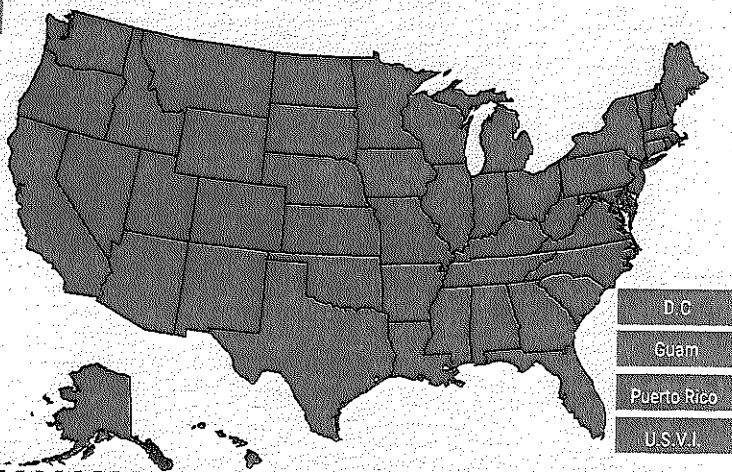
ABOUT PSYPACT

PSYPACT is a cooperative agreement enacted into law by participating states

Addresses increased demand to provide/receive psychological services via electronic means (telepsychology)

Authorizes both telepsychology and temporary in-person, face-to-face practice of psychology across state lines in PSYPACT states

PSYPACT states have the ability to regulate telepsychology and temporary in-person, face-to-face practice



HOW PSYPACT WORKS

PSYPACT must be enacted by a state legislature. Once enacted, a state joins the PSYPACT Commission, the governing body of PSYPACT.

Psychologists licensed in a PSYPACT state can practice under PSYPACT via two different methods:

Telepsychology:

Psychologists obtain an Authority to Practice Interjurisdictional Telepsychology from the PSYPACT Commission, which requires an active ASPPB E.Passport.

Temporary Practice:

Psychologists obtain a Temporary Authorization to Practice from the PSYPACT Commission, which requires an active ASPPB IPC.

PSYPACT states communicate and exchange information including verification of licensure and disciplinary sanctions.

BENEFITS OF PSYPACT

- Increases client/patient access to care
- Facilitates continuity of care when client/patient relocates, travels, etc.
- Certifies that psychologists have met acceptable standards of practice
- Promotes cooperation between PSYPACT states in the areas of licensure and regulation
- Offers a higher degree of consumer protection across state lines

HOW PSYPACT IMPACTS PSYCHOLOGISTS

Allows licensed psychologists to practice telepsychology and/or conduct temporary in-person, face-to-face practice across state lines without having to become licensed in additional PSYPACT states

Permits psychologists to provide services to populations currently underserved or geographically isolated

Standardizes time allowances for temporary practice regulations in PSYPACT states

EMAIL: info@psypact.org

WEBSITE: www.psypact.org

SOCIAL: [@PSYPACT](https://twitter.com/PSYPACT)

UNDERSTANDING HOW PSYPACT WORKS



1 STATES ENACT PSYPACT

PSYPACT legislation is enacted by a state legislature. Upon enactment, the state officially joins PSYPACT.



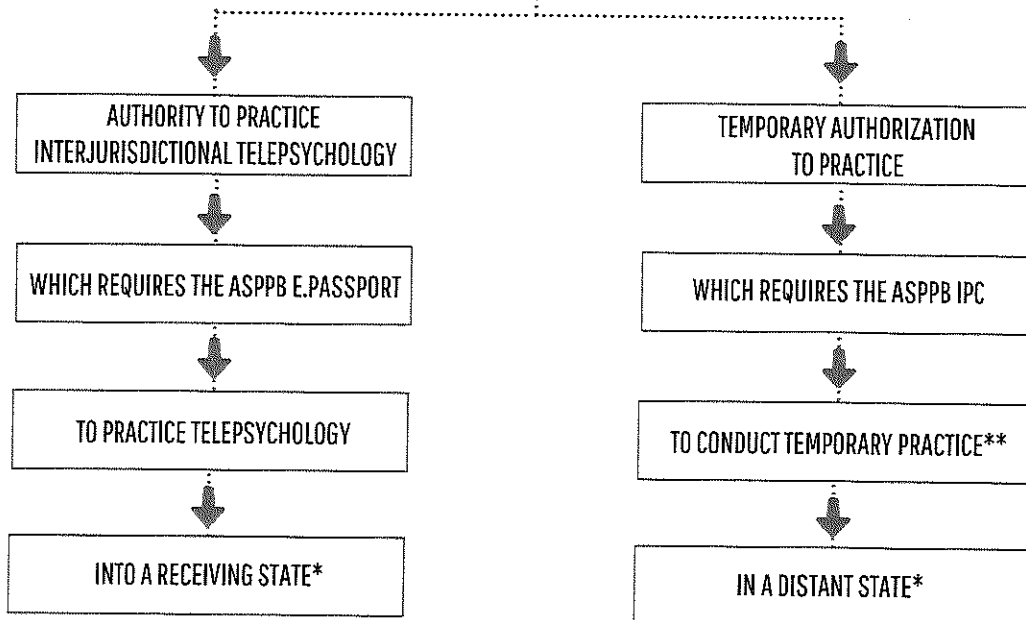
2 STATES JOIN THE PSYPACT COMMISSION

Each state appoints a representative to serve as that state's Commissioner. The PSYPACT Commission is the governing body of PSYPACT and is responsible for writing the Bylaws and Rules of PSYPACT.



3 PSYCHOLOGISTS PRACTICE UNDER PSYPACT

Psychologists licensed in their Home State* can obtain authorization to practice under PSYPACT from the PSYPACT Commission:



* Indicates must be a Compact State that has enacted PSYPACT legislation

** Indicates temporary practice must be in-person, face-to-face

THERE ARE TWO WAYS TO PRACTICE UNDER PSYPACT

As a psychologist licensed in a PSYPACT state, you will soon be eligible to apply to practice telepsychology and/or conduct temporary in-person, face-to-face practice in PSYPACT states.

HERE IS WHAT YOU NEED TO KNOW:

TO PRACTICE



TELEPSYCHOLOGY



PSYPACT Commission Requirements

- In order to practice telepsychology under the authority of PSYPACT, the PSYPACT Commission requires that a psychologist obtain an Authority to Practice Interjurisdictional Telepsychology (APIT).



Authority to Practice Telepsychology Requirements

- Possess an active ASPPB E.Passport (see requirements below)
- Hold a full, unrestricted license to practice psychology in a PSYPACT state
- Provide attestations



ASPPB E.Passport Requirements

- Have a current, active psychology license based on a doctoral degree in at least one PSYPACT state
- No disciplinary action listed on any psychology license
- Have a doctoral degree in psychology from a program that was accredited by APA/CPA or designated as a psychology program by the ASPPB/ National Register Joint Designation Committee at time of conferral; or deemed to be equivalent by a recognized foreign credential evaluation service
- Official transcripts must be sent to ASPPB from institution granting degree
- Successful completion of the Examination for Professional Practice (EPPP) with a score that meets or exceeds the established ASPPB recommended passing score at the time of application
- Annual renewal with three (3) hours of continuing education relevant to the use of technology in psychology



Fees

- APIT Fee: \$40 (one time fee)
- ASPPB E.Passport Application Fee: \$400 (one time fee)
- ASPPB E.Passport Renewal Fee: \$100 (annual fee)



Time Limit

- Unlimited



Scope of Practice

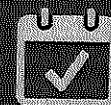
- Subject to the Receiving State's scope of practice



Initiation and Provision of Psychological Services

- When treating a client/patient in a Receiving State, a psychologist must initiate a client/patient contact while physically located in a psychologist's Home State via telecommunications technologies

TO CONDUCT



TEMPORARY PRACTICE



PSYPACT Commission Requirements

- In order to conduct temporary practice under the authority of PSYPACT, the PSYPACT Commission requires that a psychologist obtain a Temporary Authorization to Practice (TAP).



Temporary Authorization to Practice Requirements

- Possess an active ASPPB Interjurisdictional Practice Certificate (IPC) (see requirements below)
- Hold a full, unrestricted license to practice psychology in a PSYPACT state
- Provide attestations



ASPPB IPC Requirements

- Have a current, active psychology license based on a doctoral degree in at least one PSYPACT state
- No disciplinary action listed on any psychology license
- Have a doctoral degree in psychology from a program that was accredited by APA/CPA or designated as a psychology program by the ASPPB/ National Register Joint Designation Committee at time of conferral; or deemed to be equivalent by a recognized foreign credential evaluation service
- Official transcripts must be sent to ASPPB from institution granting degree
- Annual renewal



Fees

- TAP Fee: \$40 (one time fee)
- ASPPB IPC Application Fee: \$200 (one time fee)
- ASPPB IPC Renewal Fee: \$50 (annual fee)



Time Limit

- 30 days per calendar year per PSYPACT state



Scope of Practice

- Subject to the Distant State's scope of practice



Authority and Law

- A psychologist practicing into a Distant State under the TAP will be subject to the Distant State's authority and law.



STEP-1

APPLICATION

ASPPB E.Passport

Start the E.Passport application by visiting ASPPB's credentials management system, PSY|PRO, at www.psypro.org and log in. Select 'Practicing Telepsychology' from the left menu. Work through the application checklist and submit for review. For an application quick guide, click [HERE](#). Once your application has been reviewed, Step 2- Authorization, will automatically begin.



STEP-2

AUTHORIZATION

Authority to Practice
Interjurisdictional Telepsychology
(APIT) from the
PSYPACT Commission

In addition to the E.Passport, you must obtain an Authority to Practice Interjurisdictional Telepsychology (APIT) from the PSYPACT Commission. Once your E.Passport application review is complete, your APIT application will automatically begin in PSY|PRO. Once you are notified via email, you will only need to log in to PSY|PRO to declare your Home State. for the E.Passport/APIT, Home State is the PSYPACT participating state where you are licensed and physically present when the telepsychological services are delivered.



STEP-3

UPDATE & ABIDE

Update Home State & Abide by
Scope of Practice

You can use the E.Passport/APIT to practice telepsychology in any PSYPACT participating state without obtaining an additional license. You are responsible for keeping your declared Home State updated in PSY|PRO. You will be subject to the scope of practice of the Receiving State. Receiving State is the PSYPACT participating state where the client/patient is physically located when the telepsychological services are delivered.



STEP-4

CE & RENEW

Complete Continuing Education (CE)
Requirements & Annual Renewal

In order to maintain the E.Passport, you will need to complete the required 3 credit hours of CE relevant to the use technology in psychology annually. You will also need to complete the annual renewal process. Renewal reminders are sent via email so please keep your contact information updated. Renewals are completed in PSY|PRO.



STEP-1

APPLICATION

ASPPB Interjurisdictional Practice Certificate (IPC)

Start the IPC application by visiting ASPPB's credentials management system, PSY|PRO, at www.psypro.org and log in. Select 'Practicing Temporarily' from the left menu. Work through the application checklist and submit for review. For an application quick guide, click [HERE](#). Once your application has been reviewed, Step 2- Authorization, will automatically begin.

STEP-2



AUTHORIZATION

Temporary Authorization to Practice (TAP) from the PSYPACT Commission

In addition to the IPC, you must obtain Temporary Authorization to Practice (TAP) from the PSYPACT Commission. Once your IPC application review is complete, your TAP application will automatically begin in PSY|PRO. Once you are notified via email, you will only need to log in to PSY|PRO and declare your Home State. For the purposes of the IPC/TAP, Home State is the PSYPACT participating state where you are licensed.



STEP-3

UPDATE, TRACK & ABIDE

Update Home State, Track Days & Abide by Scope of Practice

You can use the IPC/TAP to practice temporarily for up to 30 days per calendar year in each compact state without obtaining an additional license. You are responsible for tracking the number of days worked and updating your declared Home State in PSY|PRO. You will be subject to the scope of practice of the Distant State. Distant State is the PSYPACT participating state where you are physically present when providing temporary, in-person face-to-face psychological services.

STEP-4



RENEW

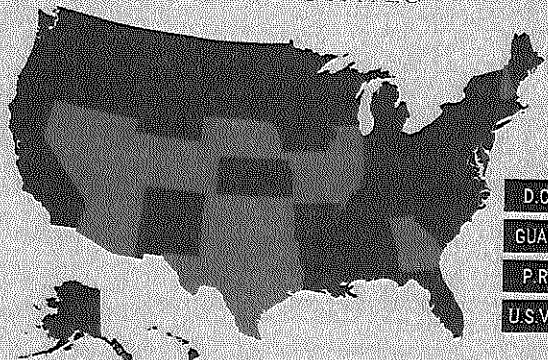
Complete Annual Renewal

In order to maintain the IPC, you will need to complete the annual renewal process. Renewal reminders are sent via email so please keep your contact information updated. Renewals are completed in PSY|PRO.

PSYPACT WHAT'S NEW WITH

THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT

PSYPACT STATES



D.C.

GUAM

P.R.

U.S.V.I.

Arizona

Utah

Nevada

Colorado

Nebraska

Missouri

Georgia

Delaware


Texas

New Hampshire

Oklahoma

Illinois

PSYPACT COMMISSION



The PSYPACT Commission is the governing body of PSYPACT responsible for oversight of the compact and for writing the Bylaws and Rules that govern PSYPACT. Each PSYPACT state has appointed a representative to serve as their state's Commissioner.

Since its formation, the PSYPACT Commission has convened for five meetings. For more information about the meetings as well as future meeting dates, please visit the Scheduled Meetings page at www.psypact.org.

RULES

The PSYPACT Commission voted on the following proposed rules at the PSYPACT Commission Public Hearing on February 27, 2020. To view all rules please visit www.psypact.org.

- Rule on Additional Authority Vested in State Psychology Regulatory Authorities
- Rule on Adverse Action
- Rule on Compact Privilege to Practice Telepsychology
- Rule on Compact Temporary Authorization to Practice

- Rule on Conditions of Telepsychology Practice into a Receiving State
- Rule on Coordinated Licensure Information System
- Rule on Definitions
- Rule on Oversight Dispute Resolution and Enforcement
- Rule on PSYPACT Commission

FEES FOR PSYCHOLOGISTS

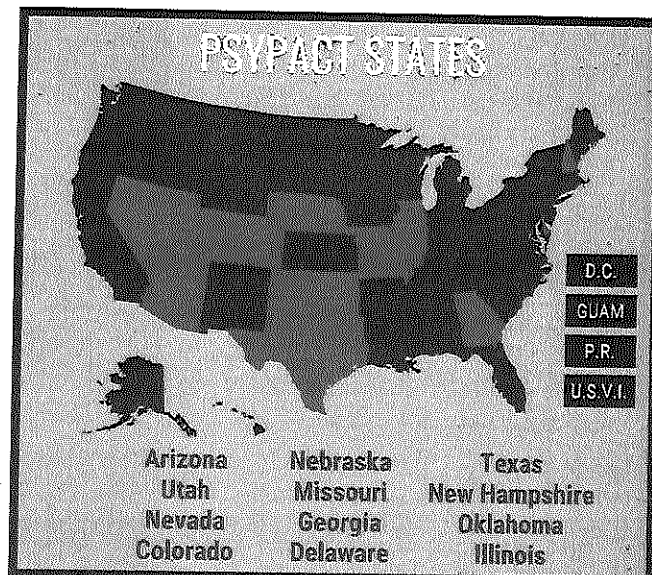
TELEPSYCHOLOGY	FEE	TEMPORARY IN-PERSON, FACE-TO-FACE PRACTICE	FEE
Authorization to Practice Interjurisdictional Telepsychology	\$40	Temporary Authorization to Practice	\$40
E-Passport Application Fee	\$400	Interjurisdictional Practice Certificate (IPC) Application Fee	\$200
E-Passport Annual Renewal Fee	\$100	Interjurisdictional Practice Certificate (IPC) Annual Renewal Fee	\$50

PSYPACT COMMISSION TIMELINE

- July 22-23, 2019 Inaugural PSYPACT Commission Meeting held (in-person)
- October 9, 2019 PSYPACT Commission Meeting held for Proposed Rules from July 2019 Meeting (via teleconference)
- November 21-22, 2019 PSYPACT Commission Meeting (in-person)
- January 28, 2020 PSYPACT Commission Meeting Scheduled (via teleconference)
- February 27, 2020 PSYPACT Commission Meeting held for Proposed Rules from November 2019 Meeting (via teleconference)
- November 19-20, 2020 PSYPACT Commission Meeting (in-person)

PSYPACT WHAT'S NEW WITH

THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT



PSYPACT COMMISSION



The PSYPACT Commission is the governing body of PSYPACT responsible for oversight of the compact and for writing the Bylaws and Rules that govern PSYPACT. Each PSYPACT state has appointed a representative to serve as their state's Commissioner.

Since its formation, the PSYPACT Commission has convened for three meetings. For more information about the meetings as well as future meeting dates, please visit the Commission page at www.psypact.org.

NOTICE OF PROPOSED RULES

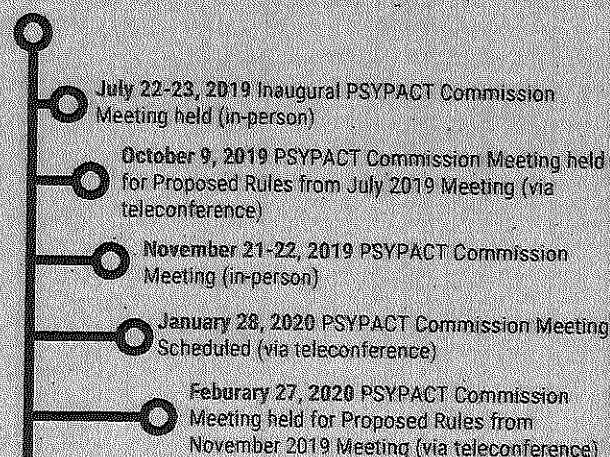
The PSYPACT Commission is seeking public comment on proposed draft Rules. The Commission will accept public comment until February 18, 2020. To submit public comment, please visit the link available at www.psypact.org. A public hearing will be held on February 27, 2020 at 4:00 pm ET. Notification will be posted 30 days prior to the public hearing with call-in information. Proposed draft rules include:

- Rule on Additional Authority Vested in State Psychology Regulatory Authorities
- Rule on Adverse Action
- Rule on Compact Privilege to Practice Telepsychology
- Rule on Compact Temporary Authorization to Practice
- Rule on Conditions of Telepsychology Practice into a Receiving State
- Rule on Coordinated Licensure Information System
- Rule on Definitions
- Rule on Oversight Dispute Resolution and Enforcement
- Rule on PSYPACT Commission

FEES FOR PSYCHOLOGISTS

TELEPSYCHOLOGY	TEE	TEMPORARY IN-PERSON, FACE-TO-FACE PRACTICE	TEE
Authorization to Practice Interjurisdictional Telepsychology	\$40	Temporary Authorization to Practice	\$40
E Passport Application Fee	\$400	Interjurisdictional Practice Certificate (IPC) Application Fee	\$200
E Passport Annual Renewal Fee	\$100	Interjurisdictional Practice Certificate (IPC) Annual Renewal Fee	\$50

PSYPACT COMMISSION TIMELINE



5

WAYS TO GET INVOLVED WITH

PSYPACT

1 Join our Grassroots Advocacy Platform

- Text "**Psychology**" to **52886** to Take Action
- Visit the Take Action at www.psypact.org to sign up for updates and show your support

2 Contact your Legislator

- Visit the Take Action page at www.psypact.org to contact your legislator and tell them why you think PSYPACT is important

3 Follow PSYPACT on Social Media

- Follow @PSYPACT on Twitter
- Like the PSYPACT Facebook Page

4 Join the PSYPACT Listserv

- Email info@psypact.org to join the PSYPACT Listserv and to receive updates regarding the progress of PSYPACT

5 Find your Officials & Register to Vote

- Visit the Take Action page at www.psypact.org to find your legislator and register to vote