



SENATE BILL 361: Healthy NC.

2019-2020 General Assembly

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| Committee: | | Date: | October 26, 2020 |
| Introduced by: | | Prepared by: | Jason Moran-Bates Staff Attorney |
| Analysis of: | S.L. 2020-82 | | |

OVERVIEW: *Session Law 2020-82 (1) enacts the Psychology Interjurisdictional Licensure Compact (PSYPACT), (2) allows marriage and family therapists to conduct the first-level exam for involuntary commitment, (3) eliminates redundancy in adult care home inspections, (4) modifies step therapy protocols, and (5) clarifies the use of coronavirus relief funds allocated to the North Carolina community Health Center Association. This act has various effective dates. Please see the full summary for details.*

BILL ANALYSIS:

PART I. PSYCHOLOGY INTERJURISDICTIONAL LICENSURE COMPACT (PSYPACT)

Part I enacts the Psychology Interjurisdictional Compact and makes North Carolina a member of the Compact.

Section 1.(a) recodifies the current Psychology Practice Act, Article 18A of Chapter 90 of the General Statutes, as Article 18H of Chapter 90 of the General Statutes.

Section 1.(b) of the act enacts the PSYPACT.

G.S. 90-270.160 sets forth the purpose of the PSYPACT.

G.S. 90-270.161 establishes definitions for the PSYPACT.

G.S. 90-270.162:

- Establishes a psychologist's home state as the state in which the psychologist is licensed or physically present when practicing.
- Allows a psychologist to provide services, via telepsychology, to clients in other compact states, if those states:
 - Require the psychologist to hold an E.Passport.
 - Investigate complaints against psychologists.
 - Notify the PSYPACT Commission about adverse actions taken against psychologists.
 - Comply with the by-laws of the Commission.
 - Perform criminal background checks on psychologists.
- Allows a psychologist to provide face-to-face services in a compact state if that state:
 - Requires psychologists to hold a current Interjurisdictional Practice Certificate (IPC).
 - Investigates complaints against psychologists.

Jeffrey Hudson
Director



Legislative Analysis
Division
919-733-2578

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- Notifies the PSYPACT Commission about adverse actions taken against psychologists.
- Complies with the by-laws of the Commission.
- Performs criminal background checks on psychologists.

G.S. 90-270.163 allows a psychologist to practice telepsychology with clients in other compact states, provided that the psychologist has a graduate degree in psychology, is licensed in a compact state, has no criminal record, holds a valid E.Passport, and makes certain attestations.

Psychologists practicing under G.S. 90-270.163 are subject to their home state's licensing authorities, and subject to the compact state's rules regarding scope of practice.

G.S. 90-270.164 allows a psychologist to practice psychology face-to-face with clients in compact states, provided the psychologist has a graduate degree in psychology, is licensed in a compact state, has no criminal record, holds a valid IPC, and makes certain attestations.

Psychologists practicing under G.S. 90-270.164 are subject to the authority, law, and scope of practice of the compact state in which they are practicing.

G.S. 90-270.165 allows a psychologist to practice telepsychology with patients in other compact states only when the psychologist initiates the session from the home state in which the psychologist is licensed.

G.S. 90-270.166 allows home states, compact states in which a psychologist treats patients face-to-face, and states in which a psychologist practices via telepsychiatry to take adverse actions against the psychologist's license.

G.S. 90-270.167 allows the regulatory authority in the compact states the power to:

- Issue subpoenas.
- Issue cease-and-desist orders.
- Prevent psychologists under investigation from changing their home state licensures.

G.S. 90-270.168 allows the Commission to maintain a database containing the following data on licensed psychologists, which must be submitted by each compact state:

- Identifying information.
- Licensure data.
- Significant investigatory information.
- Information on adverse actions taken by the regulatory authority.

G.S. 90-270.169 creates the Psychology Interjurisdictional Compact Commission. Membership in the Commission consists of one voting member from each compact state. All meetings of the Commission must be public unless employment, discipline, litigation, contract negotiation, or adverse action investigation are being discussed. The Commission has all the powers necessary to administer and carry out the business of the PSYPACT.

The Commission may be financed by accepting gifts and levying assessments on member states.

Commission members are immune from suit for their official actions.

G.S. 90-270.170 gives the Commission power to make rules for the compact. These rules do not affect the rules of practice established by the regulatory authorities of the member states. Rules may be approved

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by a majority vote of Commission members, and any rule rejected by the legislatures of a majority of member states no longer has any effect.

G.S. 90-270.171 establishes oversight, default, and conflict resolution provisions for the PSYPACT.

- All branches of government of all member states must enforce the PSYPACT's purpose and intent.
- If a state is in default under the terms of the PSYPACT and refuses to cure that default, the Commission may terminate the state's membership in the PSYPACT.
- By a majority vote of members, the Commission may initiate legal action to enforce compliance with the rules of the PSYPACT.
- The Commission will attempt to resolve any dispute between member and non-member states.

G.S. 90-270.172:

- Makes the PSYPACT effective on the date the seventh member state enacts it.
- Allows member states to leave the PSYPACT by repealing the act enacting it.
- Prevents the Commission from prohibiting any other licensure agreements between member states, so any reciprocity agreements between member states would still remain in effect.
- Allows member states to amend the PSYPACT; however, amendments would not take effect until the legislatures of all the member states enacted them.

G.S. 90-270.173 requires the PSYPACT to be construed liberally, and if any portions of the PSYPACT are struck down by a court, the remaining provisions would remain in effect.

The PSYPACT portion of Session Law 2020-82 is effective when at least seven states have enacted the PSYPACT.

PART II. ALLOW LICENSED MARRIAGE AND FAMILY THERAPISTS TO CONDUCT FIRST-LEVEL EXAM FOR INVOLUNTARY COMMITMENT

Part II amends G.S. 122C-263.1 to permit licensed marriage and family therapists to conduct first examinations in involuntary commitment proceedings.

The LMFT portion of Session Law 2020-82 became effective October 1, 2013.

PART III. ELIMINATE REDUNDANCY IN ADULT CARE HOME INSPECTIONS

Part III amends the statute pertaining to inspections, monitoring, and review of adult care homes. This part provides that if the annual inspection of an adult care home is conducted separately from the physical plant and life-safety requirements inspection required every two years, the Division of Health Service Regulation, DHHS, is prohibited from citing a violation of law that overlaps with a physical plant and life-safety inspection area in the annual inspection unless failure to address poses a risk to resident health or safety. This portion of Session Law 2020-82 became effective July 1, 2020.

PART IV. STEP THERAPY PROTOCOLS

Part IV establishes step therapy protocols for private insurers and the State Health Plan for Teachers and State Employees.

Part V requires insurers to develop their formularies with the approval of a therapeutics committee that complies with standards established by the Center for Medicare and Medicaid Services. These formularies must be made available to providers, pharmacists, and insureds and updated after a review of new research.

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Insurers must grant exception requests to the formulary drugs and cover an alternate drug if an insured can demonstrate any of the following:

- The insured has tried the alternate drug while covered by the current or the previous health benefit plan.
- The formulary drug has been ineffective in the treatment of the insured's condition.
- The formulary drug is reasonably expected to cause a harmful or adverse clinical reaction in the insured.
- Either (i) the drug is prescribed in accordance with any applicable clinical protocol of the insurer for the prescribing of the drug, or (ii) the drug has been approved as an exception to the clinical protocol pursuant to the insurer's exception procedure.
- The insured's physician certifies in writing that the insured has previously used an alternative drug or device and the alternative drug or device has been detrimental to the enrollee's health.

Step therapy protocol changes became effective October 1, 2020, and apply to insurance contracts issued, renewed, or amended on or after that date.

PART V. CLARIFY USE OF CORONAVIRUS RELIEF FUNDS

Part V clarifies that coronavirus relief funds allocated to the North Carolina Community Health Center Association.

This portion of the act amended S.L. 2020-4, Sec. 3.3(34) to clarify the funds must be used for (1) supplies and equipment purchased in accordance with Centers for Disease Control and Prevention Guidelines, (2) rapidly ramping up infection control and triage training for health care professionals, (3) retrofitting separate areas to screen and treat patients with suspected COVID-19 infections, (4) transporting patients with confirmed or suspected COVID-19 infections safely to or from health care facilities, and (5) planning, training, and implementing expanded telehealth capabilities. This portion of Session Law 2020-82 became effective July 1, 2020