



# SENATE BILL 361: Health Care Expansion Act of 2019.

2019-2020 General Assembly

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<b>Committee:</b>	Senate Health Care. If favorable, re-refer to Appropriations/Base Budget. If favorable, re-refer to Rules and Operations of the Senate	<b>Date:</b>	June 4, 2019
<b>Introduced by:</b>	Sens. Krawiec, Bishop, Hise	<b>Prepared by:</b>	Jason Moran-Bates Staff Attorney
<b>Analysis of:</b>	PCS to First Edition S361-CSBC-41		

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**OVERVIEW:** *The Proposed Committee Substitute (PCS) to Senate Bill 361 would reform Certificate of Need (CON) Laws; enact the Psychology Interjurisdictional Licensure Compact (PSYPACT); allow marriage and family therapists to conduct the first-level exam for involuntary commitment and create marriage and family therapist licensure fees; and eliminate redundancy in adult care home inspections.*

**BILL ANALYSIS:** The PCS to Senate Bill 361 would make the changes outlined below.

**PART I. REFORM CERTIFICATE OF NEED LAWS** would remove psychiatric facilities, kidney disease treatment centers, intermediate care facilities for individuals with intellectual disabilities, chemical dependency treatment facilities, diagnostic centers, and ambulatory surgical facilities from the list of health services that require a Certificate of Need. It would prevent the State Medical Facilities Plan from limiting the number of operating rooms or gastrointestinal endoscopy rooms. If the project authorized by a Certificate of Need were not completed within two years, the certificate would expire, and certificates issued to facilities that ceased to operate for more than a year would be withdrawn. Home health agencies operated by continuing care retirement communities would be exempt from CON review.

## **PART II. PSYCHOLOGY INTERJURISDICTIONAL LICENSURE COMPACT (PSYPACT)**

**Section 2(a)** would recodify 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 2(b)** of the bill would enact the PSYPACT.

G.S. 90-270.160 would set forth the purpose of the PSYPACT.

G.S. 90-270.161 would establish definitions for the PSYPACT.

G.S. 90-270.162 would:

- Establish a psychologist's home state as the state in which the psychologist is licensed or physically present when practicing.
- Allow a psychologist to provide services, via telepsychology, to clients in other compact states, if those states:
  - Require the psychologist to hold an E.Passport.

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# Senate PCS 361

Page 2

- 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.
- Allow 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.
  - 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 would allow 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 would be subject to their home state's licensing authorities, and be subject to the compact state's rules regarding scope of practice.

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

G.S. 90-270.165 would allow 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 would allow 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 would allow 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 would allow 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.

# Senate PCS 361

Page 3

G.S. 90-270.169 would create the Psychology Interjurisdictional Compact Commission. Membership in the Commission would consist 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 would have 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 would be immune from suit for their official actions.

G.S. 90-270.170 would give the Commission power to make rules for the compact. These rules would not affect the rules of practice established by the regulatory authorities of the member states. Rules may be approved by a majority vote of Commission members, and any rule rejected by the legislatures of a majority of member states would no longer have any effect.

G.S. 90-270.171 would establish 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 would:

- Make the PSYPACT effective on the date the seventh member state enacts it.
- Allow member states to leave the PSYPACT by repealing the act enacting it.
- Prevent the Commission from prohibiting any other licensure agreements between member states, so any reciprocity agreements between member states would still remain in effect.
- Allow 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 would require 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.

**PART III. ALLOW LICENSED MARRIAGE AND FAMILY THERAPISTS TO CONDUCT FIRST-LEVEL EXAM FOR INVOLUNTARY COMMITMENT AND CREATE FEES** would amend G.S. 122C-263.1 to permit licensed marriage and family therapists to conduct first examinations in involuntary commitment proceedings. It would create a ten dollar fee for licensure as a marriage and family therapist and allow the Board to charge each applicant the cost of processing test results and the cost of test materials.

**PART IV. ELIMINATE REDUNDANCY IN ADULT CARE HOME INSPECTIONS** would amend the statute pertaining to inspections, monitoring, and review of adult care homes. The amendment would provide 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.

# Senate PCS 361

Page 4

**PART V** contains a severability clause.

**EFFECTIVE DATE:** Except as provided below, the bill would become effective when it becomes law:

- PART I would be effective October 1, 2019.
- PART II would be effective when at least seven states have enacted the PSYPACT set forth in Part II.
- PART III would be effective October 1, 2019.

## **BACKGROUND:**

**PART I:** Any new institutional health service, as defined in G.S. 131A-176(16), must undergo Certificate of Need review before it is offered. The process requires an application to the department of Health and Human Services, Division of Health Service Regulation. After the application is submitted, there is a public comment and hearing process before the Division approves or disapproves the application. In making a determination, the Division considers the needs identified in the State Medical Facilities Plan.

**PART II:** The PSYPACT is a multi-jurisdictional psychology compact. As of April 9, 2019, it has been enacted by seven states (Arizona, Nevada, Utah, Colorado, Nebraska, Missouri and Illinois). Though Illinois has enacted PSYPACT legislation, it does not become effective until January 1<sup>st</sup>, 2020, and therefore does not count as the seventh state needed to make PSYPACT operational. PSYPACT legislation is currently being considered in District of Columbia, Georgia, New Hampshire, Oklahoma, Pennsylvania, Rhode Island and Texas. It has been endorsed by the psychology licensing boards in seven states (New Mexico, Texas, Georgia, Ohio, Wisconsin, Virginia and Rhode Island). PSYPACT was recommended by the Joint Legislative Oversight Committee on Health and Human Services to the 2018 Session of the 2017 General Assembly of North Carolina.

**PART III:** G.S. 122C-263(c) requires that a commitment examiner conduct an examination of a respondent within 24 hours of the respondent being presented for involuntary commitment. This examination can be conducted in person or by using telemedicine procedures. After examining the respondent, the commitment examiner can recommend outpatient treatment, treatment at a 24-hour facility prior to a court hearing on commitment, or a termination of the commitment proceedings.