

As Passed by the House

133rd General Assembly

Regular Session

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Am. Sub. S. B. No. 258

Senator Gavarone

Cosponsors: Senators Roegner, Hackett, Coley, Huffman, S., Antonio, Blessing, Brenner, Burke, Craig, Dolan, Eklund, Fedor, Hoagland, Johnson, Kunze, Lehner, Maharath, Manning, O'Brien, Rulli, Thomas, Williams, Wilson Representatives Miller, A., Seitz, West

A BILL

To amend sections 503.40, 503.41, 503.42, 503.43, 1
503.44, 503.47, 503.48, 503.49, 503.50, 715.61, 2
2927.17, 2945.37, 2945.371, 2945.38, 4731.04, 3
4731.15, 4731.41, 5122.02, 5122.03, 5122.11, and 4
5122.111; to enact sections 503.411, 4732.40, 5
4732.41, and 5122.112; and to repeal sections 6
503.45 and 503.46 of the Revised Code to enter 7
into the Psychology Interjurisdictional Compact 8
(PSYPACT), to make changes to the requirements 9
for competency evaluations and mental health 10
treatment in criminal cases, and to make changes 11
to the massage therapy licensing law. 12

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 503.40, 503.41, 503.42, 503.43, 13
503.44, 503.47, 503.48, 503.49, 503.50, 715.61, 2927.17, 14
4731.04, 4731.15, and 4731.41 be amended and sections 503.411, 15
4732.40, and 4732.41 of the Revised Code be enacted to read as 16
follows: 17

Sec. 503.40. As used in sections 503.40 to 503.49 of the Revised Code:

(A) ~~"Massage therapy" means any method of exerting pressure on, stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external soft tissue of the body with the hands, or with the aid of any mechanical or electrical apparatus or appliance~~ has the same meaning as in section 4731.04 of the Revised Code.

(B) "Massage establishment" means any fixed place of business where ~~a person offers massages~~ massage therapy is provided:

(1) In exchange for anything of value; or

(2) In connection with the provision of another legitimate service.

(C) ~~"Masseur" or "masseuse"~~ "Massage therapist" means any ~~individual person who performs massages at a massage establishment~~ massage therapy.

(D) ~~"Sexual or genital area" includes the genitalia, pubic area, anus, perineum of any person, and the breasts of a female~~ "Registration" means to provide information to the board of township trustees to indicate the location of the establishment, the names of individuals employed there, and evidence of current state licensure or student status of anyone providing massage therapy at the establishment as provided in division (A) of section 503.411 of the Revised Code.

Sec. 503.41. (A) A board of township trustees, by resolution, may regulate ~~and require the registration of~~ massage establishments ~~and their employees~~ within the unincorporated territory of the township and may require the registration of

persons performing massage therapy at the massage 47
establishments. In accordance with sections 503.40 to 503.49 of 48
the Revised Code, ~~for that purpose~~ those purposes, the board, by 49
a majority vote of all members, may adopt, amend, administer, 50
and enforce such establishment regulations and registration 51
requirements within the unincorporated territory of the 52
township. 53

(B) A board may adopt establishment regulations, 54
registration requirements, and amendments under this section 55
only after public hearing at not fewer than two regular sessions 56
of the board. The board shall cause to be published in a 57
newspaper of general circulation in the township, or as provided 58
in section 7.16 of the Revised Code, notice of the public 59
hearings, including the time, date, and place, once a week for 60
two weeks immediately preceding the hearings. The board shall 61
make available proposed establishment regulations, registration 62
requirements, or amendments to the public at the office of the 63
board. 64

(C) ~~Regulations~~ Establishment regulations, registration 65
requirements, or amendments adopted by the board are effective 66
thirty days after the date of adoption unless, within thirty 67
days after the adoption of the regulations, requirements, or 68
amendments, the township fiscal officer receives a petition, 69
signed by a number of qualified electors residing in the 70
unincorporated area of the township equal to not less than ten 71
per cent of the total vote cast for all candidates for governor 72
in the area at the most recent general election at which a 73
governor was elected, requesting the board to submit the 74
regulations, requirements, or amendments to the electors of the 75
area for approval or rejection at the next primary or general 76
election occurring at least ninety days after the board receives 77

the petition. 78

No establishment regulation, registration requirement, or 79
amendment for which the referendum vote has been requested is 80
effective unless a majority of the votes cast on the issue is in 81
favor of the regulation, requirement, or amendment. Upon 82
certification by the board of elections that a majority of the 83
votes cast on the issue was in favor of the regulation, 84
requirement, or amendment, the regulation, requirement, or 85
amendment takes immediate effect. 86

(D) The board shall make available establishment 87
regulations and registration requirements it adopts or amends to 88
the public at the office of the board and shall cause to be 89
published once a notice of the availability of the regulations 90
and requirements in a newspaper of general circulation in the 91
township within ten days after their adoption or amendment. 92

(E) Nothing in sections 503.40 to 503.49 of the Revised 93
Code shall be construed to allow a board of township trustees to 94
license any massage therapist or otherwise regulate the practice 95
of any limited branch of medicine specified in section 4731.15 96
of the Revised Code or the practice of providing therapeutic 97
massage by a licensed physician, a licensed podiatrist, a 98
licensed chiropractor, ~~a licensed podiatrist,~~ a licensed nurse, 99
or any other licensed health professional. ~~As~~ 100

As used in this division, "licensed" means licensed, 101
certified, or registered to practice in this state. 102

Sec. 503.411. If a board of township trustees has adopted 103
a resolution under section 503.41 of the Revised Code to 104
regulate massage establishments, all of the following apply: 105

(A) The massage establishment regulations shall include a 106

requirement that all massage therapy performed in a massage 107
establishment be performed by a person who meets one or more of 108
the following conditions and that does not exclude any such 109
person: 110

(1) Is licensed by the state cosmetology and barber board, 111
or its predecessors or successors, and provides massage therapy 112
as a portion of, and incidental to, barber services in 113
accordance with Chapter 4709. of the Revised Code or cosmetology 114
services in accordance with Chapter 4713. of the Revised Code; 115

(2) Is licensed by the board of nursing, or its 116
predecessors or successors, and provides massage therapy as a 117
portion of, and incidental to, nursing services in accordance 118
with Chapter 4723. of the Revised Code; 119

(3) Is licensed by the state medical board, or its 120
predecessors or successors, and provides massage therapy as a 121
portion of, and incidental to, medical services in accordance 122
with Chapter 4730. or 4731. of the Revised Code or acupuncture 123
or oriental medicine in accordance with Chapter 4762. of the 124
Revised Code; 125

(4) Is licensed by the state chiropractic board, or its 126
predecessors or successors, and provides massage therapy as a 127
portion of, and incidental to, chiropractic services in 128
accordance with Chapter 4734. of the Revised Code; 129

(5) Is licensed by the state medical board, or its 130
predecessors or successors, as a massage therapist in accordance 131
with Chapter 4731. of the Revised Code; 132

(6) Is licensed by the Ohio occupational therapy, physical 133
therapy, and athletic trainers board, or its predecessors or 134
successors, and provides massage therapy as a portion of, and 135

incidental to, services provided as an occupational therapist, 136
physical therapist, or athletic trainer in accordance with 137
Chapter 4755. of the Revised Code; 138

(7) Is enrolled and regularly and actively participating 139
in a program of study to achieve the training necessary to 140
obtain the massage therapist license specified in division (A) 141
(5) of this section and the program of study is in good standing 142
as determined by the state medical board. 143

(B) No person shall knowingly act as a massage therapist 144
for a massage establishment located in the unincorporated area 145
of the township without first having obtained a license from a 146
board specified in division (A) of this section or without being 147
a student as provided in division (A) (7) of this section. 148

(C) The massage establishment regulations may include any 149
of the following: 150

(1) A requirement that the massage establishment fully 151
comply with any applicable zoning resolution and amendments to 152
the resolution that are adopted by the board under Chapter 519. 153
of the Revised Code; 154

(2) Designated hours as prohibited hours of operation; 155

(3) The prohibitions set forth in division (B) of section 156
503.42 of the Revised Code; 157

(4) Any other regulation considered by the board to be 158
necessary for the health, safety, and welfare of the township 159
residents, subject to division (E) of section 503.41 of the 160
Revised Code. 161

Sec. 503.42. If a board of township trustees has adopted a 162
resolution under section 503.41 of the Revised Code that 163

includes a permit requirement to operate a massage 164
establishment: 165

(A) No person shall ~~engage in, conduct or carry on, or~~ 166
~~permit to be engaged in, conducted or carried on in the~~ 167
~~unincorporated areas of the township, the operation of~~ operate a 168
massage establishment in the unincorporated areas of a township 169
without first having obtained a permit from the board of 170
township trustees as provided in section 503.43 of the Revised 171
Code. 172

(B) ~~No individual shall act as a masseur or masseuse for a~~ 173
~~massage establishment located in the unincorporated areas of the~~ 174
~~township without first having obtained a license from the board~~ 175
~~of township trustees as provided in section 503.45 of the~~ 176
~~Revised Code.~~ 177

~~(C)~~ No owner or operator of a massage establishment 178
located in the unincorporated ~~areas~~ area of the township shall 179
knowingly do any of the following: 180

(1) ~~Employ an unlicensed masseur or masseuse as a massage~~ 181
~~therapist a person who does not meet one of the criteria listed~~ 182
~~in division (A) of section 503.411 of the Revised Code;~~ 183

(2) Refuse to allow appropriate state or local 184
authorities, including police officers, access to the massage 185
establishment for any health or safety inspection conducted 186
pursuant to a massage establishment regulation or massage 187
therapist registration requirement adopted by the township under 188
section 503.41 of the Revised Code; 189

(3) Operate during the hours designated as prohibited 190
hours of operation by the board of township trustees; 191

(4) Employ any person under the age of eighteen. 192

~~(D) No person employed in a massage establishment located in the unincorporated area of the township shall knowingly do any of the following in the performance of duties at the massage establishment:~~ 193-196

~~(1) Place his or her hand upon, touch with any part of his or her body, fondle in any manner, or massage the sexual or genital area of any other person;~~ 197-199

~~(2) Perform, offer, or agree to perform any act which would require the touching of the sexual or genital area of any other person;~~ 200-202

~~(3) Touch, offer, or agree to touch the sexual or genital area of any other person with any mechanical or electrical apparatus or appliance;~~ 203-205

~~(4) Wear unclean clothing, no clothing, transparent clothing, or clothing that otherwise reveals the sexual or genital areas of the masseur or masseuse;~~ 206-208

~~(5) Uncover or allow the sexual or genital area of any other person to be uncovered while providing massages.~~ 209-210

~~(E) No licensed masseur or masseuse shall accept or continue employment at a massage establishment that does not have a current, valid permit issued by the board of township trustees.~~ 211-214

Sec. 503.43. If a board of township trustees has adopted a resolution under section 503.41 of the Revised Code that includes a permit requirement to operate a massage establishment, the application for a permit to operate a massage establishment shall be made to the board and shall include the following: 215-220

(A) An initial, nonrefundable filing fee of two hundred 221
fifty dollars and an annual nonrefundable renewal fee of one 222
hundred twenty-five dollars; 223

(B) A health and safety report of an inspection of the 224
premises performed within thirty days of the application to 225
determine compliance with applicable health and safety codes, 226
which inspection appropriate state or local authorities acting 227
pursuant to an agreement with the board shall perform; 228

(C) The full name and address of any person applying for a 229
permit, including any partner or limited partner of a 230
partnership applicant, any officer or director of a corporate 231
applicant, and any stock holder holding more than two per cent 232
of the stock of a corporate applicant having less than a total 233
of fifty employees or any stock holder holding more than twenty- 234
five per cent of the stock of a corporate applicant having more 235
than a total of fifty employees, the date of birth ~~and social-~~ 236
~~security number~~ of each individual, and the federal 237
identification number of any partnership or corporation; 238

(D) Authorization for an investigation into the criminal 239
record of any person applying for a permit; 240

(E) Proof that the massage establishment fully complies 241
with any applicable zoning resolution and amendments to the 242
resolution adopted by the board under Chapter 519. of the 243
Revised Code; 244

(F) Any other information determined by the board to be 245
necessary for the health, safety, and welfare of the township 246
residents, subject to division (E) of section 503.41 of the 247
Revised Code. 248

A permit issued under this section to a massage 249

establishment shall expire one year after the date of issuance, 250
except that no massage establishment shall be required to 251
discontinue business because of the failure of the board to act 252
on a renewal application filed in a timely manner and pending 253
before the board on the expiration date of the establishment's 254
permit. Each permit shall contain the name of the applicant, the 255
address of the massage establishment, and the expiration date of 256
the permit. 257

Sec. 503.44. If a board of township trustees has adopted a 258
resolution under section 503.41 of the Revised Code that 259
includes a permit requirement to operate a massage 260
establishment, it shall deny any application for a permit to 261
operate a massage establishment or revoke, at any time, a 262
previously issued permit, for any of the following reasons: 263

(A) Falsification of any of the information required for 264
the application or failure to fully complete the application; 265

(B) Failure to cooperate with any required health or 266
safety inspection; 267

(C) Any one of the persons named on the application is 268
under the age of eighteen; 269

(D) Any one of the persons named on the application has 270
been convicted of or pleaded guilty to any violation of Chapter 271
2907. of the Revised Code, or any violation of any municipal 272
ordinance that is substantially equivalent to any offense 273
contained in Chapter 2907. of the Revised Code, within five 274
years preceding the application; 275

~~(E) Any masseur or masseuse employed at the licensed 276
massage establishment has been convicted of or pleaded guilty to 277
a violation of division (D) of section 503.42 of the Revised 278~~

Code.	279
Sec. 503.47. If a board of township trustees has adopted a	280
resolution under section 503.41 of the Revised Code <u>that</u>	281
<u>includes a permit requirement to operate a massage</u>	282
<u>establishment</u> , the regulations adopted for that purpose may	283
require any of the following:	284
(A) A massage establishment to display its current permit	285
in an area open to the public;	286
(B) Each massager <u>A massage establishment</u> to display the	287
massager's license <u>massage therapists' licenses to practice at</u>	288
all times in the areas <u>of the massage establishment where the</u>	289
licensee is providing massages <u>massage therapy is provided;</u>	290
(C) Massage establishments to undergo periodic health and	291
safety inspections to determine continual compliance with	292
applicable health and safety codes;	293
(D) Massagers to undergo periodic physical examinations	294
performed by a licensed physician, a physician assistant, a	295
clinical nurse specialist, a certified nurse practitioner, or a	296
certified nurse-midwife certifying that the massager continues	297
to be free from communicable diseases;	298
(E) Any other requirement reasonably thought necessary by	299
the board <u>for the health, safety, and welfare of township</u>	300
<u>residents, subject to division (E) of section 503.41 of the</u>	301
<u>Revised Code.</u>	302
Sec. 503.48. A board of township trustees acting under	303
sections 503.40 to 503.49 of the Revised Code <u>that has adopted a</u>	304
<u>resolution under section 503.41 of the Revised Code</u> need not	305
hold any hearing in connection with an order denying or revoking	306
a permit to operate a massage establishment or masseur or	307

~~masseuse license~~. The board shall maintain a complete record of 308
each proceeding and shall notify the applicant in writing of its 309
order. Any person adversely affected by an order of the board 310
denying or revoking a permit to operate a massage establishment 311
~~or masseur or masseuse license~~ may appeal from the order of the 312
board to the court of common pleas of the county in which the 313
township is located, ~~the place of business of the permit holder~~ 314
~~is located, or the person is a resident~~. The appeal shall be in 315
accordance with Chapter 2506. of the Revised Code. 316

Sec. 503.49. If a board of township trustees has adopted a 317
resolution under section 503.41 of the Revised Code that 318
includes a permit requirement to operate a massage 319
establishment, the board shall deposit the fees collected by the 320
township for massage establishment permits ~~and masseur and~~ 321
~~masseuse licenses~~ in the township general fund and first use the 322
fees for the cost of administering and enforcing massage 323
establishment regulations and massage therapist registration 324
requirements adopted under section 503.41 of the Revised Code. 325

Sec. 503.50. (A) Whoever violates division (A) ~~or (B)~~ of 326
section 503.42 of the Revised Code is guilty of a misdemeanor of 327
the first degree. 328

(B) Whoever violates division (B) of section 503.411 or 329
~~division (C), (D), or (E)~~ (B) of section 503.42 of the Revised 330
Code is guilty of a misdemeanor of the third degree. 331

Sec. 715.61. (A) As used in this section: 332

(1) "Massage establishment" has the same meaning as in 333
section 503.40 of the Revised Code. 334

(2) "Massage therapy" has the same meaning as in section 335
4731.04 of the Revised Code. 336

(B) Any municipal corporation may regulate and license 337
manufacturers and dealers in explosives, chattel mortgage and 338
salary loan brokers, peddlers, public ballrooms, scavengers, 339
intelligence officers, billiard rooms, bowling alleys, livery, 340
sale, and boarding stables, dancing or riding academies or 341
schools, race courses, ball grounds, street musicians, 342
secondhand dealers, junk shops, and all persons engaged in the 343
trade, business, or profession of manicuring, ~~massaging~~, or 344
chiroprody. In the granting of any license a municipal 345
corporation may charge such fees as the legislative authority 346
deems proper and expedient. 347

(C) (1) A municipal corporation may regulate and license 348
massage establishments within its jurisdiction and may require 349
the registration of persons performing massage therapy at the 350
massage establishment. 351

(2) If a municipal corporation regulates massage 352
establishments under this section, the regulations shall include 353
a requirement that all massage therapy performed in the massage 354
establishment be performed by a person described in division (A) 355
of section 503.411 of the Revised Code. 356

Sec. 2927.17. (A) No person, by means of a statement, 357
solicitation, or offer in a print or electronic publication, 358
sign, placard, storefront display, or other medium, shall 359
advertise massage therapy, relaxation massage, any other massage 360
technique or method, or any related service, with the suggestion 361
or promise of sexual activity. 362

(B) Whoever violates this section is guilty of unlawful 363
advertising of massage, a misdemeanor of the first degree. 364

(C) Nothing in this section prevents the legislative 365

authority of a municipal corporation or township from enacting 366
any regulation of the advertising of massage further than and in 367
addition to the provisions of divisions (A) and (B) of this 368
section. 369

(D) As used in this section, ~~"sexual:~~ 370

(1) "Massage therapy" has the same meaning as in section 371
4731.04 of the Revised Code. 372

(2) "Sexual activity" has the same meaning as in section 373
2907.01 of the Revised Code. 374

Sec. 4731.04. As used in this chapter: 375

(A) "Cosmetic therapy" means the permanent removal of hair 376
from the human body through the use of electric modalities 377
approved by the state medical board for use in cosmetic therapy 378
and may include the systematic friction, stroking, slapping, and 379
kneading or tapping of the face, neck, scalp, or shoulders. 380

(B) "Fifth pathway training" means supervised clinical 381
training obtained in the United States as a substitute for the 382
internship or social service requirements of a foreign medical 383
school. 384

(C) "Graduate medical education" means education received 385
through any of the following: 386

(1) An internship, residency, or clinical fellowship 387
program conducted in the United States and accredited by either 388
the accreditation council for graduate medical education of the 389
American medical association or the American osteopathic 390
association; 391

(2) A clinical fellowship program that is not accredited 392
as described in division (C) (1) of this section, but is 393

conducted in the United States at an institution with a 394
residency program that is accredited as described in that 395
division and is in a clinical field the same as or related to 396
the clinical field of the fellowship program; 397

(3) An internship program conducted in Canada and 398
accredited by the committee on accreditation of preregistration 399
physician training programs of the federation of provincial 400
medical licensing authorities of Canada; 401

(4) A residency program conducted in Canada and accredited 402
by either the royal college of physicians and surgeons of Canada 403
or the college of family physicians of Canada. 404

(D) "Massage therapy" means the ~~treatment of disorders of~~ 405
~~the human body by the~~ manipulation of soft tissue through the 406
systematic external application of massage techniques including 407
touch, stroking, friction, vibration, percussion, kneading, 408
stretching, compression, and joint movements within the normal 409
physiologic range of motion; and adjunctive thereto, the 410
external application of water, heat, cold, topical preparations, 411
and mechanical devices. 412

"Massage therapy" does not include the manipulation of the 413
reproductive organs, perineum, rectum, or anus unless the action 414
is undertaken pursuant to a prescription issued by a person who 415
is authorized under this chapter to practice medicine and 416
surgery or osteopathic medicine and surgery or the action is 417
performed under the supervision of such a physician. 418

(E) "Reflexology" means a protocol of manual techniques 419
that are applied to specific reflex areas on the feet, hands, 420
and outer ears for the purpose of stimulating the complex neural 421
pathways linking body systems to achieve optimal body function. 422

Manual techniques include thumb- and finger-walking, as well as 423
hook and backup and rotating-on-a-point. 424

Sec. 4731.15. (A) The state medical board also shall 425
regulate the following limited branches of medicine: massage 426
therapy and cosmetic therapy, and to the extent specified in 427
section 4731.151 of the Revised Code, naprapathy and 428
mechanotherapy. The board shall adopt rules governing the 429
limited branches of medicine under its jurisdiction. The rules 430
shall be adopted in accordance with Chapter 119. of the Revised 431
Code. 432

(B) A license to practice a limited branch of medicine 433
issued by the state medical board is valid for a two-year period 434
unless revoked or suspended and expires on the date that is two 435
years after the date of issuance. The license may be renewed for 436
additional two-year periods in accordance with division (C) of 437
this section. 438

(C) Both of the following apply with respect to the 439
renewal of licenses to practice a limited branch of medicine: 440

(1) Each person seeking to renew a license to practice a 441
limited branch of medicine shall apply for biennial renewal with 442
the state medical board in a manner prescribed by the board. An 443
applicant for renewal shall pay a biennial renewal fee of one 444
hundred dollars. 445

(2) At least one month before a license expires, the board 446
shall provide a renewal notice to the license holder. 447

(D) All persons who hold a license to practice a limited 448
branch of medicine issued by the state medical board shall 449
provide the board notice of any change of address. The notice 450
shall be submitted to the board not later than thirty days after 451

the change of address. 452

(E) A license to practice a limited branch of medicine 453
shall be automatically suspended if the license holder fails to 454
renew the license in accordance with division (C) of this 455
section. Continued practice after the suspension of the license 456
to practice shall be considered as practicing in violation of 457
sections 4731.34 and 4731.41 of the Revised Code. 458

If a license has been suspended pursuant to this division 459
for two years or less, it may be reinstated. The board shall 460
reinstate the license upon an applicant's submission of a 461
renewal application and payment of a reinstatement fee of one 462
hundred twenty-five dollars. With regard to reinstatement of a 463
license to practice cosmetic therapy, the applicant also shall 464
submit with the application a certification that the number of 465
hours of continuing education necessary to have a suspended 466
license reinstated have been completed, as specified in rules 467
the board shall adopt in accordance with Chapter 119. of the 468
Revised Code. 469

If a license has been suspended pursuant to this division 470
for more than two years, it may be restored. Subject to section 471
4731.222 of the Revised Code, the board may restore the license 472
upon an applicant's submission of a restoration application and 473
a restoration fee of one hundred fifty dollars and compliance 474
with sections 4776.01 to 4776.04 of the Revised Code. The board 475
shall not restore to an applicant a license to practice unless 476
the board, in its discretion, decides that the results of the 477
criminal records check do not make the applicant ineligible for 478
a license issued pursuant to section 4731.17 of the Revised 479
Code. 480

(F) The following persons are not required to hold a 481

<u>license to practice massage therapy issued under this chapter:</u>	482
<u>(1) A person authorized to practice under Chapter 4709.,</u>	483
<u>4713., 4723., 4730., 4734., 4755., or 4762. of the Revised Code,</u>	484
<u>provided that the scope of practice authorizes the person to use</u>	485
<u>massage techniques;</u>	486
<u>(2) An enrolled student practicing massage therapy as part</u>	487
<u>of a program of study at a school, college, or institution in</u>	488
<u>good standing as determined by the board in accordance with</u>	489
<u>division (A) of section 4731.16 of the Revised Code;</u>	490
<u>(3) A person holding a license to practice cosmetic</u>	491
<u>therapy issued under this chapter and whose practice may include</u>	492
<u>massage techniques;</u>	493
<u>(4) A person who holds a certification issued by the</u>	494
<u>American reflexology certification board or its successor and</u>	495
<u>who practices reflexology in this state;</u>	496
<u>(5) An enrolled student practicing reflexology as part of</u>	497
<u>a program of study at a school, college, or institution with a</u>	498
<u>certificate of registration issued by the state board of career</u>	499
<u>colleges and schools under section 3332.05 of the Revised Code.</u>	500
Sec. 4731.41. (A) <u>No—Except as provided in division (F) of</u>	501
<u>section 4731.15 of the Revised Code, no person shall practice</u>	502
<u>medicine and surgery, or any of its branches, without the</u>	503
<u>appropriate license or certificate from the state medical board</u>	504
<u>to engage in the practice. No person shall advertise or claim to</u>	505
<u>the public to be a practitioner of medicine and surgery, or any</u>	506
<u>of its branches, without a license or certificate from the</u>	507
<u>board. No person shall open or conduct an office or other place</u>	508
<u>for such practice without a license or certificate from the</u>	509
<u>board. No person shall conduct an office in the name of some</u>	510

person who has a license or certificate to practice medicine and 511
surgery, or any of its branches. No person shall practice 512
medicine and surgery, or any of its branches, after the person's 513
license or certificate has been revoked, or, if suspended, 514
during the time of such suspension. 515

A license or certificate signed by the secretary of the 516
board to which is affixed the official seal of the board to the 517
effect that it appears from the records of the board that no 518
such license or certificate to practice medicine and surgery, or 519
any of its branches, in this state has been issued to the person 520
specified therein, or that a license or certificate to practice, 521
if issued, has been revoked or suspended, shall be received as 522
prima-facie evidence of the record of the board in any court or 523
before any officer of the state. 524

(B) No license or certificate from the state medical board 525
is required by a physician who comes into this state to practice 526
medicine at a free-of-charge camp accredited by the SeriousFun 527
children's network that specializes in providing therapeutic 528
recreation, as defined in section 2305.231 of the Revised Code, 529
for individuals with chronic illnesses as long as all of the 530
following apply: 531

(1) The physician provides documentation to the medical 532
director of the camp that the physician is licensed and in good 533
standing to practice medicine in another state; 534

(2) The physician provides services only at the camp or in 535
connection with camp events or camp activities that occur off 536
the grounds of the camp; 537

(3) The physician receives no compensation for the 538
services; 539

(4) The physician provides those services within this 540
state for not more than thirty days per calendar year; 541

(5) The camp has a medical director who holds an 542
unrestricted license to practice medicine issued in accordance 543
with division (A) of this section. 544

(C) Division (A) of this section does not apply to a 545
person who meets both of the following conditions: 546

(1) The person holds in good standing a valid license to 547
practice medicine and surgery issued by another state. 548

(2) The person is practicing as a volunteer without 549
remuneration during a charitable event that lasts not more than 550
seven days. 551

When a person meets the conditions of this division, the 552
person shall be deemed authorized by the state medical board, 553
during the course of the charitable event, to practice medicine 554
and surgery and shall be subject to the provisions of this 555
chapter authorizing the board to take disciplinary action 556
against a physician. Not less than seven calendar days before 557
the first day of the charitable event, the person or the event's 558
organizer shall notify the board of the person's intent to 559
practice medicine and surgery at the event. During the course of 560
the charitable event, the person's scope of practice is limited 561
to the procedures that a physician authorized under this chapter 562
to practice medicine and surgery is authorized to perform unless 563
the person's scope of practice in the other state is more 564
restrictive than in this state. If the latter is the case, the 565
person's scope of practice is limited to the procedures that a 566
physician in the other state may perform. 567

Sec. 4732.40. The "Psychology Interjurisdictional Compact 568

(PSYPACT)" is hereby ratified, enacted into law, and entered 569
into by the state of Ohio as a party to the compact with any 570
other state that has legally joined in the compact as follows: 571

PSYCHOLOGY INTERJURISDICTIONAL COMPACT (PSYPACT) 572

ARTICLE I 573

PURPOSE 574

Whereas, states license psychologists, in order to protect 575
the public through verification of education, training and 576
experience and ensure accountability for professional practice; 577
and 578

Whereas, this Compact is intended to regulate the day to 579
day practice of telepsychology (i.e. the provision of 580
psychological services using telecommunication technologies) by 581
psychologists across state boundaries in the performance of 582
their psychological practice as assigned by an appropriate 583
authority; and 584

Whereas, this Compact is intended to regulate the 585
temporary in-person, face-to-face practice of psychology by 586
psychologists across state boundaries for 30 days within a 587
calendar year in the performance of their psychological practice 588
as assigned by an appropriate authority; 589

Whereas, this Compact is intended to authorize State 590
Psychology Regulatory Authorities to afford legal recognition, 591
in a manner consistent with the terms of the Compact, to 592
psychologists licensed in another state; 593

Whereas, this Compact recognizes that states have a vested 594
interest in protecting the public's health and safety through 595
their licensing and regulation of psychologists and that such 596

state regulation will best protect public health and safety; 597

Whereas, this Compact does not apply when a psychologist 598
is licensed in both the Home and Receiving States; and 599

Whereas, this Compact does not apply to permanent in- 600
person, face-to-face practice, it does allow for authorization 601
of temporary psychological practice. 602

Consistent with these principles, this Compact is designed 603
to achieve the following purposes and objectives: 604

1. Increase public access to professional psychological 605
services by allowing for telepsychological practice across state 606
lines as well as temporary in-person, face-to-face services into 607
a state which the psychologist is not licensed to practice 608
psychology; 609

2. Enhance the states' ability to protect the public's 610
health and safety, especially client/patient safety; 611

3. Encourage the cooperation of Compact States in the 612
areas of psychology licensure and regulation; 613

4. Facilitate the exchange of information between Compact 614
States regarding psychologist licensure, adverse actions and 615
disciplinary history; 616

5. Promote compliance with the laws governing 617
psychological practice in each Compact State; and 618

6. Invest all Compact States with the authority to hold 619
licensed psychologists accountable through the mutual 620
recognition of Compact State licenses. 621

ARTICLE II 622

DEFINITIONS 623

A. "Adverse Action" means: Any action taken by a State Psychology Regulatory Authority which finds a violation of a statute or regulation that is identified by the State Psychology Regulatory Authority as discipline and is a matter of public record. 624
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B. "Association of State and Provincial Psychology Boards (ASPPB)" means: the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities responsible for the licensure and registration of psychologists throughout the United States and Canada. 629
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C. "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. 634
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D. "Bylaws" means: those Bylaws established by the Psychology Interjurisdictional Compact Commission pursuant to Article X for its governance, or for directing and controlling its actions and conduct. 638
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E. "Client/Patient" means: the recipient of psychological services, whether psychological services are delivered in the context of healthcare, corporate, supervision, and/or consulting services. 642
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F. "Commissioner" means: the voting representative appointed by each State Psychology Regulatory Authority pursuant to Article X. 646
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G. "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 been terminated pursuant to Article 649
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<u>XII, Section B.</u>	653
<u>H. "Coordinated Licensure Information System" also</u>	654
<u>referred to as "Coordinated Database" means: an integrated</u>	655
<u>process for collecting, storing, and sharing information on</u>	656
<u>psychologists' licensure and enforcement activities related to</u>	657
<u>psychology licensure laws, which is administered by the</u>	658
<u>recognized membership organization composed of State and</u>	659
<u>Provincial Psychology Regulatory Authorities.</u>	660
<u>I. "Confidentiality" means: the principle that data or</u>	661
<u>information is not made available or disclosed to unauthorized</u>	662
<u>persons and/or processes.</u>	663
<u>J. "Day" means: any part of a day in which psychological</u>	664
<u>work is performed.</u>	665
<u>K. "Distant State" means: the Compact State where a</u>	666
<u>psychologist is physically present (not through the use of</u>	667
<u>telecommunications technologies), to provide temporary in-</u>	668
<u>person, face-to-face psychological services.</u>	669
<u>L. "E.Passport" means: a certificate issued by the</u>	670
<u>Association of State and Provincial Psychology Boards (ASPPB)</u>	671
<u>that promotes the standardization in the criteria of</u>	672
<u>interjurisdictional telepsychology practice and facilitates the</u>	673
<u>process for licensed psychologists to provide telepsychological</u>	674
<u>services across state lines.</u>	675
<u>M. "Executive Board" means: a group of directors elected</u>	676
<u>or appointed to act on behalf of, and within the powers granted</u>	677
<u>to them by, the Commission.</u>	678
<u>N. "Home State" means: a Compact State where a</u>	679
<u>psychologist is licensed to practice psychology. If the</u>	680
<u>psychologist is licensed in more than one Compact State and is</u>	681

practicing under the Authorization to Practice 682
Interjurisdictional Telepsychology, the Home State is the 683
Compact State where the psychologist is physically present when 684
the telepsychological services are delivered. If the 685
psychologist is licensed in more than one Compact State and is 686
practicing under the Temporary Authorization to Practice, the 687
Home State is any Compact State where the psychologist is 688
licensed. 689

O. "Identity History Summary" means: a summary of 690
information retained by the FBI, or other designee with similar 691
authority, in connection with arrests and, in some instances, 692
federal employment, naturalization, or military service. 693

P. "In-Person, Face-to-Face" means: interactions in which 694
the psychologist and the client/patient are in the same physical 695
space and which does not include interactions that may occur 696
through the use of telecommunication technologies. 697

Q. "Interjurisdictional Practice Certificate (IPC)" means: 698
a certificate issued by the Association of State and Provincial 699
Psychology Boards (ASPPB) that grants temporary authority to 700
practice based on notification to the State Psychology 701
Regulatory Authority of intention to practice temporarily, and 702
verification of one's qualifications for such practice. 703

R. "License" means: authorization by a State Psychology 704
Regulatory Authority to engage in the independent practice of 705
psychology, which would be unlawful without the authorization. 706

S. "Non-Compact State" means: any State which is not at 707
the time a Compact State. 708

T. "Psychologist" means: an individual licensed for the 709
independent practice of psychology. 710

U. "Psychology Interjurisdictional Compact Commission" 711
also referred to as "Commission" means: the national 712
administration of which all Compact States are members. 713

V. "Receiving State" means: a Compact State where the 714
client/patient is physically located when the telepsychological 715
services are delivered. 716

W. "Rule" means: a written statement by the Psychology 717
Interjurisdictional Compact Commission promulgated pursuant to 718
Article XI of the Compact that is of general applicability, 719
implements, interprets, or prescribes a policy or provision of 720
the Compact, or an organizational, procedural, or practice 721
requirement of the Commission and has the force and effect of 722
statutory law in a Compact State, and includes the amendment, 723
repeal or suspension of an existing rule. 724

X. "Significant Investigatory Information" means: 725

1. investigative information that a State Psychology 726
Regulatory Authority, after a preliminary inquiry that includes 727
notification and an opportunity to respond if required by state 728
law, has reason to believe, if proven true, would indicate more 729
than a violation of state statute or ethics code that would be 730
considered more substantial than minor infraction; or 731

2. investigative information that indicates that the 732
psychologist represents an immediate threat to public health and 733
safety regardless of whether the psychologist has been notified 734
and/or had an opportunity to respond. 735

Y. "State" means: a state, commonwealth, territory, or 736
possession of the United States, the District of Columbia. 737

Z. "State Psychology Regulatory Authority" means: the 738
Board, office or other agency with the legislative mandate to 739

license and regulate the practice of psychology. 740

AA. "Telepsychology" means: the provision of psychological 741
services using telecommunication technologies. 742

BB. "Temporary Authorization to Practice" means: a 743
licensed psychologist's authority to conduct temporary in- 744
person, face-to-face practice, within the limits authorized 745
under this Compact, in another Compact State. 746

CC. "Temporary In-Person, Face-to-Face Practice" means: 747
where a psychologist is physically present (not through the use 748
of telecommunications technologies), in the Distant State to 749
provide for the practice of psychology for 30 days within a 750
calendar year and based on notification to the Distant State. 751

ARTICLE III 752

HOME STATE LICENSURE 753

A. The Home State shall be a Compact State where a 754
psychologist is licensed to practice psychology. 755

B. A psychologist may hold one or more Compact State 756
licenses at a time. If the psychologist is licensed in more than 757
one Compact State, the Home State is the Compact State where the 758
psychologist is physically present when the services are 759
delivered as authorized by the Authority to Practice 760
Interjurisdictional Telepsychology under the terms of this 761
Compact. 762

C. Any Compact State may require a psychologist not 763
previously licensed in a Compact State to obtain and retain a 764
license to be authorized to practice in the Compact State under 765
circumstances not authorized by the Authority to Practice 766
Interjurisdictional Telepsychology under the terms of this 767

<u>Compact.</u>	768
<u>D. Any Compact State may require a psychologist to obtain</u>	769
<u>and retain a license to be authorized to practice in a Compact</u>	770
<u>State under circumstances not authorized by Temporary</u>	771
<u>Authorization to Practice under the terms of this Compact.</u>	772
<u>E. A Home State's license authorizes a psychologist to</u>	773
<u>practice in a Receiving State under the Authority to Practice</u>	774
<u>Interjurisdictional Telepsychology only if the Compact State:</u>	775
<u>1. Currently requires the psychologist to hold an active</u>	776
<u>E.Passport;</u>	777
<u>2. Has a mechanism in place for receiving and</u>	778
<u>investigating complaints about licensed individuals;</u>	779
<u>3. Notifies the Commission, in compliance with the terms</u>	780
<u>herein, of any adverse action or significant investigatory</u>	781
<u>information regarding a licensed individual;</u>	782
<u>4. Requires an Identity History Summary of all applicants</u>	783
<u>at initial licensure, including the use of the results of</u>	784
<u>fingerprints or other biometric data checks compliant with the</u>	785
<u>requirements of the Federal Bureau of Investigation FBI, or</u>	786
<u>other designee with similar authority, no later than ten years</u>	787
<u>after activation of the Compact; and</u>	788
<u>5. Complies with the Bylaws and Rules of the Commission.</u>	789
<u>F. A Home State's license grants Temporary Authorization</u>	790
<u>to Practice to a psychologist in a Distant State only if the</u>	791
<u>Compact State:</u>	792
<u>1. Currently requires the psychologist to hold an active</u>	793
<u>IPC;</u>	794

2. Has a mechanism in place for receiving and 795
investigating complaints about licensed individuals; 796
3. Notifies the Commission, in compliance with the terms 797
herein, of any adverse action or significant investigatory 798
information regarding a licensed individual; 799
4. Requires an Identity History Summary of all applicants 800
at initial licensure, including the use of the results of 801
fingerprints or other biometric data checks compliant with the 802
requirements of the Federal Bureau of Investigation FBI, or 803
other designee with similar authority, no later than ten years 804
after activation of the Compact; and 805
5. Complies with the Bylaws and Rules of the Commission. 806

ARTICLE IV 807

COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY 808

A. Compact States shall recognize the right of a 809
psychologist, licensed in a Compact State in conformance with 810
Article III, to practice telepsychology in other Compact States 811
(Receiving States) in which the psychologist is not licensed, 812
under the Authority to Practice Interjurisdictional 813
Telepsychology as provided in the Compact. 814

B. To exercise the Authority to Practice 815
Interjurisdictional Telepsychology under the terms and 816
provisions of this Compact, a psychologist licensed to practice 817
in a Compact State must: 818

1. Hold a graduate degree in psychology from an institute 819
of higher education that was, at the time the degree was 820
awarded: 821

a. Regionally accredited by an accrediting body recognized 822

by the U.S. Department of Education to grant graduate degrees, 823
OR authorized by Provincial Statute or Royal Charter to grant 824
doctoral degrees; OR 825

b. A foreign college or university deemed to be equivalent 826
to 1 (a) above by a foreign credential evaluation service that 827
is a member of the National Association of Credential Evaluation 828
Services (NACES) or by a recognized foreign credential 829
evaluation service; AND 830

2. Hold a graduate degree in psychology that meets the 831
following criteria: 832

a. The program, wherever it may be administratively 833
housed, must be clearly identified and labeled as a psychology 834
program. Such a program must specify in pertinent institutional 835
catalogues and brochures its intent to educate and train 836
professional psychologists; 837

b. The psychology program must stand as a recognizable, 838
coherent, organizational entity within the institution; 839

c. There must be a clear authority and primary 840
responsibility for the core and specialty areas whether or not 841
the program cuts across administrative lines; 842

d. The program must consist of an integrated, organized 843
sequence of study; 844

e. There must be an identifiable psychology faculty 845
sufficient in size and breadth to carry out its 846
responsibilities; 847

f. The designated director of the program must be a 848
psychologist and a member of the core faculty; 849

g. The program must have an identifiable body of students 850

who are matriculated in that program for a degree; 851

h. The program must include supervised practicum, 852
internship, or field training appropriate to the practice of 853
psychology; 854

i. The curriculum shall encompass a minimum of three 855
academic years of full-time graduate study for doctoral degree 856
and a minimum of one academic year of full-time graduate study 857
for master's degree; 858

j. The program includes an acceptable residency as defined 859
by the Rules of the Commission. 860

3. Possess a current, full and unrestricted license to 861
practice psychology in a Home State which is a Compact State; 862

4. Have no history of adverse action that violate the 863
Rules of the Commission; 864

5. Have no criminal record history reported on an Identity 865
History Summary that violates the Rules of the Commission; 866

6. Possess a current, active E.Passport; 867

7. Provide attestations in regard to areas of intended 868
practice, conformity with standards of practice, competence in 869
telepsychology technology; criminal background; and knowledge 870
and adherence to legal requirements in the home and receiving 871
states, and provide a release of information to allow for 872
primary source verification in a manner specified by the 873
Commission; and 874

8. Meet other criteria as defined by the Rules of the 875
Commission. 876

C. The Home State maintains authority over the license of 877

any psychologist practicing into a Receiving State under the 878
Authority to Practice Interjurisdictional Telepsychology. 879

D. A psychologist practicing into a Receiving State under 880
the Authority to Practice Interjurisdictional Telepsychology 881
will be subject to the Receiving State's scope of practice. A 882
Receiving State may, in accordance with that state's due process 883
law, limit or revoke a psychologist's Authority to Practice 884
Interjurisdictional Telepsychology in the Receiving State and 885
may take any other necessary actions under the Receiving State's 886
applicable law to protect the health and safety of the Receiving 887
State's citizens. If a Receiving State takes action, the state 888
shall promptly notify the Home State and the Commission. 889

E. If a psychologist's license in any Home State, another 890
Compact State, or any Authority to Practice Interjurisdictional 891
Telepsychology in any Receiving State, is restricted, suspended 892
or otherwise limited, the E.Passport shall be revoked and 893
therefore the psychologist shall not be eligible to practice 894
telepsychology in a Compact State under the Authority to 895
Practice Interjurisdictional Telepsychology. 896

ARTICLE V 897

COMPACT TEMPORARY AUTHORIZATION TO PRACTICE 898

A. Compact States shall also recognize the right of a 899
psychologist, licensed in a Compact State in conformance with 900
Article III, to practice temporarily in other Compact States 901
(Distant States) in which the psychologist is not licensed, as 902
provided in the Compact. 903

B. To exercise the Temporary Authorization to Practice 904
under the terms and provisions of this Compact, a psychologist 905
licensed to practice in a Compact State must: 906

1. Hold a graduate degree in psychology from an institute 907
of higher education that was, at the time the degree was 908
awarded: 909
- a. Regionally accredited by an accrediting body recognized 910
by the U.S. Department of Education to grant graduate degrees, 911
OR authorized by Provincial Statute or Royal Charter to grant 912
doctoral degrees; OR 913
- b. A foreign college or university deemed to be equivalent 914
to 1 (a) above by a foreign credential evaluation service that 915
is a member of the National Association of Credential Evaluation 916
Services (NACES) or by a recognized foreign credential 917
evaluation service; AND 918
2. Hold a graduate degree in psychology that meets the 919
following criteria: 920
- a. The program, wherever it may be administratively 921
housed, must be clearly identified and labeled as a psychology 922
program. Such a program must specify in pertinent institutional 923
catalogues and brochures its intent to educate and train 924
professional psychologists; 925
- b. The psychology program must stand as a recognizable, 926
coherent, organizational entity within the institution; 927
- c. There must be a clear authority and primary 928
responsibility for the core and specialty areas whether or not 929
the program cuts across administrative lines; 930
- d. The program must consist of an integrated, organized 931
sequence of study; 932
- e. There must be an identifiable psychology faculty 933
sufficient in size and breadth to carry out its 934

<u>responsibilities;</u>	935
<u>f. The designated director of the program must be a</u>	936
<u>psychologist and a member of the core faculty;</u>	937
<u>g. The program must have an identifiable body of students</u>	938
<u>who are matriculated in that program for a degree;</u>	939
<u>h. The program must include supervised practicum,</u>	940
<u>internship, or field training appropriate to the practice of</u>	941
<u>psychology;</u>	942
<u>i. The curriculum shall encompass a minimum of three</u>	943
<u>academic years of full-time graduate study for doctoral degrees</u>	944
<u>and a minimum of one academic year of full-time graduate study</u>	945
<u>for master's degree;</u>	946
<u>j. The program includes an acceptable residency as defined</u>	947
<u>by the Rules of the Commission.</u>	948
<u>3. Possess a current, full and unrestricted license to</u>	949
<u>practice psychology in a Home State which is a Compact State;</u>	950
<u>4. No history of adverse action that violate the Rules of</u>	951
<u>the Commission;</u>	952
<u>5. No criminal record history that violates the Rules of</u>	953
<u>the Commission;</u>	954
<u>6. Possess a current, active IPC;</u>	955
<u>7. Provide attestations in regard to areas of intended</u>	956
<u>practice and work experience and provide a release of</u>	957
<u>information to allow for primary source verification in a manner</u>	958
<u>specified by the Commission; and</u>	959
<u>8. Meet other criteria as defined by the Rules of the</u>	960
<u>Commission.</u>	961

C. A psychologist practicing into a Distant State under the Temporary Authorization to Practice shall practice within the scope of practice authorized by the Distant State. 962
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D. A psychologist practicing into a Distant State under the Temporary Authorization to Practice will be subject to the Distant State's authority and law. A Distant State may, in accordance with that state's due process law, limit or revoke a psychologist's Temporary Authorization to Practice in the Distant State and may take any other necessary actions under the Distant State's applicable law to protect the health and safety of the Distant State's citizens. If a Distant State takes action, the state shall promptly notify the Home State and the Commission. 965
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E. If a psychologist's license in any Home State, another Compact State, or any Temporary Authorization to Practice in any Distant State, is restricted, suspended or otherwise limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice in a Compact State under the Temporary Authorization to Practice. 975
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ARTICLE VI 981

CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE 982

A. A psychologist may practice in a Receiving State under the Authority to Practice Interjurisdictional Telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate State Psychology Regulatory Authority, as defined in the Rules of the Commission, and under the following circumstances: 983
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1. The psychologist initiates a client/patient contact in a Home State via telecommunications technologies with a 989
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<u>client/patient in a Receiving State;</u>	991
<u>2. Other conditions regarding telepsychology as determined</u>	992
<u>by Rules promulgated by the Commission.</u>	993
<u>ARTICLE VII</u>	994
<u>ADVERSE ACTIONS</u>	995
<u>A. A Home State shall have the power to impose adverse</u>	996
<u>action against a psychologist's license issued by the Home</u>	997
<u>State. A Distant State shall have the power to take adverse</u>	998
<u>action on a psychologist's Temporary Authorization to Practice</u>	999
<u>within that Distant State.</u>	1000
<u>B. A Receiving State may take adverse action on a</u>	1001
<u>psychologist's Authority to Practice Interjurisdictional</u>	1002
<u>Telepsychology within that Receiving State. A Home State may</u>	1003
<u>take adverse action against a psychologist based on an adverse</u>	1004
<u>action taken by a Distant State regarding temporary in-person,</u>	1005
<u>face-to-face practice.</u>	1006
<u>C. If a Home State takes adverse action against a</u>	1007
<u>psychologist's license, that psychologist's Authority to</u>	1008
<u>Practice Interjurisdictional Telepsychology is terminated and</u>	1009
<u>the E.Passport is revoked. Furthermore, that psychologist's</u>	1010
<u>Temporary Authorization to Practice is terminated and the IPC is</u>	1011
<u>revoked.</u>	1012
<u>1. All Home State disciplinary orders which impose adverse</u>	1013
<u>action shall be reported to the Commission in accordance with</u>	1014
<u>the Rules promulgated by the Commission. A Compact State shall</u>	1015
<u>report adverse actions in accordance with the Rules of the</u>	1016
<u>Commission.</u>	1017
<u>2. In the event discipline is reported on a psychologist,</u>	1018

the psychologist will not be eligible for telepsychology or 1019
temporary in-person, face-to-face practice in accordance with 1020
the Rules of the Commission. 1021

3. Other actions may be imposed as determined by the Rules 1022
promulgated by the Commission. 1023

D. A Home State's Psychology Regulatory Authority shall 1024
investigate and take appropriate action with respect to reported 1025
inappropriate conduct engaged in by a licensee which occurred in 1026
a Receiving State as it would if such conduct had occurred by a 1027
licensee within the Home State. In such cases, the Home State's 1028
law shall control in determining any adverse action against a 1029
psychologist's license. 1030

E. A Distant State's Psychology Regulatory Authority shall 1031
investigate and take appropriate action with respect to reported 1032
inappropriate conduct engaged in by a psychologist practicing 1033
under Temporary Authorization Practice which occurred in that 1034
Distant State as it would if such conduct had occurred by a 1035
licensee within the Home State. In such cases, Distant States 1036
law shall control in determining any adverse action against a 1037
psychologist's Temporary Authorization to Practice. 1038

F. Nothing in this Compact shall override a Compact 1039
State's decision that a psychologist's participation in an 1040
alternative program may be used in lieu of adverse action and 1041
that such participation shall remain non-public if required by 1042
the Compact State's law. Compact States must require 1043
psychologists who enter any alternative programs to not provide 1044
telepsychology services under the Authority to Practice 1045
Interjurisdictional Telepsychology or provide temporary 1046
psychological services under the Temporary Authorization to 1047
Practice in any other Compact State during the term of the 1048

alternative program. 1049

G. No other judicial or administrative remedies shall be 1050
available to a psychologist in the event a Compact State imposes 1051
an adverse action pursuant to subsection C, above. 1052

ARTICLE VIII 1053

ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S PSYCHOLOGY 1054

REGULATORY AUTHORITY 1055

A. In addition to any other powers granted under state 1056
law, a Compact State's Psychology Regulatory Authority shall 1057
have the authority under this Compact to: 1058

1. Issue subpoenas, for both hearings and investigations, 1059
which require the attendance and testimony of witnesses and the 1060
production of evidence. Subpoenas issued by a Compact State's 1061
Psychology Regulatory Authority for the attendance and testimony 1062
of witnesses, and/or the production of evidence from another 1063
Compact State shall be enforced in the latter state by any court 1064
of competent jurisdiction, according to that court's practice 1065
and procedure in considering subpoenas issued in its own 1066
proceedings. The issuing State Psychology Regulatory Authority 1067
shall pay any witness fees, travel expenses, mileage and other 1068
fees required by the service statutes of the state where the 1069
witnesses and/or evidence are located; and 1070

2. Issue cease and desist and/or injunctive relief orders 1071
to revoke a psychologist's Authority to Practice 1072
Interjurisdictional Telepsychology and/or Temporary 1073
Authorization to Practice. 1074

3. During the course of any investigation, a psychologist 1075
may not change his/her Home State licensure. A Home State 1076
Psychology Regulatory Authority is authorized to complete any 1077

pending investigations of a psychologist and to take any actions 1078
appropriate under its law. The Home State Psychology Regulatory 1079
Authority shall promptly report the conclusions of such 1080
investigations to the Commission. Once an investigation has been 1081
completed, and pending the outcome of said investigation, the 1082
psychologist may change his/her Home State licensure. The 1083
Commission shall promptly notify the new Home State of any such 1084
decisions as provided in the Rules of the Commission. All 1085
information provided to the Commission or distributed by Compact 1086
States pursuant to the psychologist shall be confidential, filed 1087
under seal and used for investigatory or disciplinary matters. 1088
The Commission may create additional rules for mandated or 1089
discretionary sharing of information by Compact States. 1090

ARTICLE IX 1091

COORDINATED LICENSURE INFORMATION SYSTEM 1092

A. The Commission shall provide for the development and 1093
maintenance of a Coordinated Licensure Information System 1094
(Coordinated Database) and reporting system containing licensure 1095
and disciplinary action information on all psychologists 1096
individuals to whom this Compact is applicable in all Compact 1097
States as defined by the Rules of the Commission. 1098

B. Notwithstanding any other provision of state law to the 1099
contrary, a Compact State shall submit a uniform data set to the 1100
Coordinated Database on all licensees as required by the Rules 1101
of the Commission, including: 1102

1. Identifying information; 1103

2. Licensure data; 1104

3. Significant investigatory information; 1105

<u>4. Adverse actions against a psychologist's license;</u>	1106
<u>5. An indicator that a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice is revoked;</u>	1107 1108 1109
<u>6. Non-confidential information related to alternative program participation information;</u>	1110 1111
<u>7. Any denial of application for licensure, and the reasons for such denial; and</u>	1112 1113
<u>8. Other information which may facilitate the administration of this Compact, as determined by the Rules of the Commission.</u>	1114 1115 1116
<u>C. The Coordinated Database administrator shall promptly notify all Compact States of any adverse action taken against, or significant investigative information on, any licensee in a Compact State.</u>	1117 1118 1119 1120
<u>D. Compact States reporting information to the Coordinated Database may designate information that may not be shared with the public without the express permission of the Compact State reporting the information.</u>	1121 1122 1123 1124
<u>E. Any information submitted to the Coordinated Database that is subsequently required to be expunged by the law of the Compact State reporting the information shall be removed from the Coordinated Database.</u>	1125 1126 1127 1128
<u>ARTICLE X</u>	1129
<u>ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION</u>	1130 1131
<u>A. The Compact States hereby create and establish a joint</u>	1132

public agency known as the Psychology Interjurisdictional 1133
Compact Commission. 1134

1. The Commission is a body politic and an instrumentality 1135
of the Compact States. 1136

2. Venue is proper and judicial proceedings by or against 1137
the Commission shall be brought solely and exclusively in a 1138
court of competent jurisdiction where the principal office of 1139
the Commission is located. The Commission may waive venue and 1140
jurisdictional defenses to the extent it adopts or consents to 1141
participate in alternative dispute resolution proceedings. 1142

3. Nothing in this Compact shall be construed to be a 1143
waiver of sovereign immunity. 1144

B. Membership, Voting, and Meetings 1145

1. The Commission shall consist of one voting 1146
representative appointed by each Compact State who shall serve 1147
as that state's Commissioner. The State Psychology Regulatory 1148
Authority shall appoint its delegate. This delegate shall be 1149
empowered to act on behalf of the Compact State. This delegate 1150
shall be limited to: 1151

a. Executive Director, Executive Secretary or similar 1152
executive; 1153

b. Current member of the State Psychology Regulatory 1154
Authority of a Compact State; OR 1155

c. Designee empowered with the appropriate delegate 1156
authority to act on behalf of the Compact State. 1157

2. Any Commissioner may be removed or suspended from 1158
office as provided by the law of the state from which the 1159
Commissioner is appointed. Any vacancy occurring in the 1160

Commission shall be filled in accordance with the laws of the 1161
Compact State in which the vacancy exists. 1162

3. Each Commissioner shall be entitled to one (1) vote 1163
with regard to the promulgation of Rules and creation of Bylaws 1164
and shall otherwise have an opportunity to participate in the 1165
business and affairs of the Commission. A Commissioner shall 1166
vote in person or by such other means as provided in the Bylaws. 1167
The Bylaws may provide for Commissioners' participation in 1168
meetings by telephone or other means of communication. 1169

4. The Commission shall meet at least once during each 1170
calendar year. Additional meetings shall be held as set forth in 1171
the Bylaws. 1172

5. All meetings shall be open to the public, and public 1173
notice of meetings shall be given in the same manner as required 1174
under the rulemaking provisions in Article XI. 1175

6. The Commission may convene in a closed, non-public 1176
meeting if the Commission must discuss: 1177

a. Non-compliance of a Compact State with its obligations 1178
under the Compact; 1179

b. The employment, compensation, discipline or other 1180
personnel matters, practices or procedures related to specific 1181
employees or other matters related to the Commission's internal 1182
personnel practices and procedures; 1183

c. Current, threatened, or reasonably anticipated 1184
litigation against the Commission; 1185

d. Negotiation of contracts for the purchase or sale of 1186
goods, services or real estate; 1187

e. Accusation against any person of a crime or formally 1188

<u>censuring any person;</u>	1189
<u>f. Disclosure of trade secrets or commercial or financial information which is privileged or confidential;</u>	1190
	1191
<u>g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;</u>	1192
	1193
	1194
<u>h. Disclosure of investigatory records compiled for law enforcement purposes;</u>	1195
	1196
<u>i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the Compact;</u>	1197
	1198
	1199
<u>or</u>	1200
	1201
<u>j. Matters specifically exempted from disclosure by federal and state statute.</u>	1202
	1203
<u>7. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes which fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, of any person participating in the meeting, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.</u>	1204
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<u>C. The Commission shall, by a majority vote of the</u>	1217

Commissioners, prescribe Bylaws and/or Rules to govern its 1218
conduct as may be necessary or appropriate to carry out the 1219
purposes and exercise the powers of the Compact, including but 1220
not limited to: 1221

1. Establishing the fiscal year of the Commission; 1222

2. Providing reasonable standards and procedures: 1223

a. for the establishment and meetings of other committees; 1224
and 1225

b. governing any general or specific delegation of any 1226
authority or function of the Commission; 1227

3. Providing reasonable procedures for calling and 1228
conducting meetings of the Commission, ensuring reasonable 1229
advance notice of all meetings and providing an opportunity for 1230
attendance of such meetings by interested parties, with 1231
enumerated exceptions designed to protect the public's interest, 1232
the privacy of individuals of such proceedings, and proprietary 1233
information, including trade secrets. The Commission may meet in 1234
closed session only after a majority of the Commissioners vote 1235
to close a meeting to the public in whole or in part. As soon as 1236
practicable, the Commission must make public a copy of the vote 1237
to close the meeting revealing the vote of each Commissioner 1238
with no proxy votes allowed; 1239

4. Establishing the titles, duties and authority and 1240
reasonable procedures for the election of the officers of the 1241
Commission; 1242

5. Providing reasonable standards and procedures for the 1243
establishment of the personnel policies and programs of the 1244
Commission. Notwithstanding any civil service or other similar 1245
law of any Compact State, the Bylaws shall exclusively govern 1246

<u>the personnel policies and programs of the Commission;</u>	1247
<u>6. Promulgating a Code of Ethics to address permissible</u>	1248
<u>and prohibited activities of Commission members and employees;</u>	1249
<u>7. Providing a mechanism for concluding the operations of</u>	1250
<u>the Commission and the equitable disposition of any surplus</u>	1251
<u>funds that may exist after the termination of the Compact after</u>	1252
<u>the payment and/or reserving of all of its debts and</u>	1253
<u>obligations;</u>	1254
<u>8. The Commission shall publish its Bylaws in a convenient</u>	1255
<u>form and file a copy thereof and a copy of any amendment</u>	1256
<u>thereto, with the appropriate agency or officer in each of the</u>	1257
<u>Compact States;</u>	1258
<u>9. The Commission shall maintain its financial records in</u>	1259
<u>accordance with the Bylaws; and</u>	1260
<u>10. The Commission shall meet and take such actions as are</u>	1261
<u>consistent with the provisions of this Compact and the Bylaws.</u>	1262
<u>D. The Commission shall have the following powers:</u>	1263
<u>1. The authority to promulgate uniform rules to facilitate</u>	1264
<u>and coordinate implementation and administration of this</u>	1265
<u>Compact. The rule shall have the force and effect of law and</u>	1266
<u>shall be binding in all Compact States;</u>	1267
<u>2. To bring and prosecute legal proceedings or actions in</u>	1268
<u>the name of the Commission, provided that the standing of any</u>	1269
<u>State Psychology Regulatory Authority or other regulatory body</u>	1270
<u>responsible for psychology licensure to sue or be sued under</u>	1271
<u>applicable law shall not be affected;</u>	1272
<u>3. To purchase and maintain insurance and bonds;</u>	1273

4. To borrow, accept or contract for services of 1274
personnel, including, but not limited to, employees of a Compact 1275
State; 1276
5. To hire employees, elect or appoint officers, fix 1277
compensation, define duties, grant such individuals appropriate 1278
authority to carry out the purposes of the Compact, and to 1279
establish the Commission's personnel policies and programs 1280
relating to conflicts of interest, qualifications of personnel, 1281
and other related personnel matters; 1282
6. To accept any and all appropriate donations and grants 1283
of money, equipment, supplies, materials and services, and to 1284
receive, utilize and dispose of the same; provided that at all 1285
times the Commission shall strive to avoid any appearance of 1286
impropriety and/or conflict of interest; 1287
7. To lease, purchase, accept appropriate gifts or 1288
donations of, or otherwise to own, hold, improve or use, any 1289
property, real, personal or mixed; provided that at all times 1290
the Commission shall strive to avoid any appearance of 1291
impropriety; 1292
8. To sell, convey, mortgage, pledge, lease, exchange, 1293
abandon or otherwise dispose of any property real, personal or 1294
mixed; 1295
9. To establish a budget and make expenditures; 1296
10. To borrow money; 1297
11. To appoint committees, including advisory committees 1298
comprised of Members, State regulators, State legislators or 1299
their representatives, and consumer representatives, and such 1300
other interested persons as may be designated in this Compact 1301
and the Bylaws; 1302

12. To provide and receive information from, and to cooperate with, law enforcement agencies; 1303
1304
13. To adopt and use an official seal; and 1305
14. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice and telepsychology practice. 1306
1307
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1309
- E. The Executive Board 1310
- The elected officers shall serve as the Executive Board, which shall have the power to act on behalf of the Commission according to the terms of this Compact. 1311
1312
1313
1. The Executive Board shall be comprised of six members: 1314
- a. Five voting members who are elected from the current membership of the Commission by the Commission; 1315
1316
- b. One ex-officio, nonvoting member from the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities. 1317
1318
1319
2. The ex-officio member must have served as staff or member on a State Psychology Regulatory Authority and will be selected by its respective organization. 1320
1321
1322
3. The Commission may remove any member of the Executive Board as provided in Bylaws. 1323
1324
4. The Executive Board shall meet at least annually. 1325
5. The Executive Board shall have the following duties and responsibilities: 1326
1327
- a. Recommend to the entire Commission changes to the Rules or Bylaws, changes to this Compact legislation, fees paid by 1328
1329

<u>Compact States such as annual dues, and any other applicable</u>	1330
<u>fees;</u>	1331
<u>b. Ensure Compact administration services are</u>	1332
<u>appropriately provided, contractual or otherwise;</u>	1333
<u>c. Prepare and recommend the budget;</u>	1334
<u>d. Maintain financial records on behalf of the Commission;</u>	1335
<u>e. Monitor Compact compliance of member states and provide</u>	1336
<u>compliance reports to the Commission;</u>	1337
<u>f. Establish additional committees as necessary; and</u>	1338
<u>g. Other duties as provided in Rules or Bylaws.</u>	1339
<u>F. Financing of the Commission</u>	1340
<u>1. The Commission shall pay, or provide for the payment of</u>	1341
<u>the reasonable expenses of its establishment, organization and</u>	1342
<u>ongoing activities.</u>	1343
<u>2. The Commission may accept any and all appropriate</u>	1344
<u>revenue sources, donations and grants of money, equipment,</u>	1345
<u>supplies, materials and services.</u>	1346
<u>3. The Commission may levy on and collect an annual</u>	1347
<u>assessment from each Compact State or impose fees on other</u>	1348
<u>parties to cover the cost of the operations and activities of</u>	1349
<u>the Commission and its staff which must be in a total amount</u>	1350
<u>sufficient to cover its annual budget as approved each year for</u>	1351
<u>which revenue is not provided by other sources. The aggregate</u>	1352
<u>annual assessment amount shall be allocated based upon a formula</u>	1353
<u>to be determined by the Commission which shall promulgate a rule</u>	1354
<u>binding upon all Compact States.</u>	1355
<u>4. The Commission shall not incur obligations of any kind</u>	1356

prior to securing the funds adequate to meet the same; nor shall 1357
the Commission pledge the credit of any of the Compact States, 1358
except by and with the authority of the Compact State. 1359

5. The Commission shall keep accurate accounts of all 1360
receipts and disbursements. The receipts and disbursements of 1361
the Commission shall be subject to the audit and accounting 1362
procedures established under its Bylaws. However, all receipts 1363
and disbursements of funds handled by the Commission shall be 1364
audited yearly by a certified or licensed public accountant and 1365
the report of the audit shall be included in and become part of 1366
the annual report of the Commission. 1367

G. Qualified Immunity, Defense, and Indemnification 1368

1. The members, officers, Executive Director, employees 1369
and representatives of the Commission shall be immune from suit 1370
and liability, either personally or in their official capacity, 1371
for any claim for damage to or loss of property or personal 1372
injury or other civil liability caused by or arising out of any 1373
actual or alleged act, error or omission that occurred, or that 1374
the person against whom the claim is made had a reasonable basis 1375
for believing occurred within the scope of Commission 1376
employment, duties or responsibilities; provided that nothing in 1377
this paragraph shall be construed to protect any such person 1378
from suit and/or liability for any damage, loss, injury or 1379
liability caused by the intentional or willful or wanton 1380
misconduct of that person. 1381

2. The Commission shall defend any member, officer, 1382
Executive Director, employee or representative of the Commission 1383
in any civil action seeking to impose liability arising out of 1384
any actual or alleged act, error or omission that occurred 1385
within the scope of Commission employment, duties or 1386

responsibilities, or that the person against whom the claim is 1387
made had a reasonable basis for believing occurred within the 1388
scope of Commission employment, duties or responsibilities; 1389
provided that nothing herein shall be construed to prohibit that 1390
person from retaining his or her own counsel; and provided 1391
further, that the actual or alleged act, error or omission did 1392
not result from that person's intentional or willful or wanton 1393
misconduct. 1394

3. The Commission shall indemnify and hold harmless any 1395
member, officer, Executive Director, employee or representative 1396
of the Commission for the amount of any settlement or judgment 1397
obtained against that person arising out of any actual or 1398
alleged act, error or omission that occurred within the scope of 1399
Commission employment, duties or responsibilities, or that such 1400
person had a reasonable basis for believing occurred within the 1401
scope of Commission employment, duties or responsibilities, 1402
provided that the actual or alleged act, error or omission did 1403
not result from the intentional or willful or wanton misconduct 1404
of that person. 1405

ARTICLE XI 1406

RULEMAKING 1407

A. The Commission shall exercise its rulemaking powers 1408
pursuant to the criteria set forth in this Article and the Rules 1409
adopted thereunder. Rules and amendments shall become binding as 1410
of the date specified in each rule or amendment. 1411

B. If a majority of the legislatures of the Compact States 1412
rejects a rule, by enactment of a statute or resolution in the 1413
same manner used to adopt the Compact, then such rule shall have 1414
no further force and effect in any Compact State. 1415

<u>C. Rules or amendments to the rules shall be adopted at a</u>	1416
<u>regular or special meeting of the Commission.</u>	1417
<u>D. Prior to promulgation and adoption of a final rule or</u>	1418
<u>Rules by the Commission, and at least sixty (60) days in advance</u>	1419
<u>of the meeting at which the rule will be considered and voted</u>	1420
<u>upon, the Commission shall file a Notice of Proposed Rulemaking:</u>	1421
<u>1. On the website of the Commission; and</u>	1422
<u>2. On the website of each Compact States' Psychology</u>	1423
<u>Regulatory Authority or the publication in which each state</u>	1424
<u>would otherwise publish proposed rules.</u>	1425
<u>E. The Notice of Proposed Rulemaking shall include:</u>	1426
<u>1. The proposed time, date, and location of the meeting in</u>	1427
<u>which the rule will be considered and voted upon;</u>	1428
<u>2. The text of the proposed rule or amendment and the</u>	1429
<u>reason for the proposed rule;</u>	1430
<u>3. A request for comments on the proposed rule from any</u>	1431
<u>interested person; and</u>	1432
<u>4. The manner in which interested persons may submit</u>	1433
<u>notice to the Commission of their intention to attend the public</u>	1434
<u>hearing and any written comments.</u>	1435
<u>F. Prior to adoption of a proposed rule, the Commission</u>	1436
<u>shall allow persons to submit written data, facts, opinions and</u>	1437
<u>arguments, which shall be made available to the public.</u>	1438
<u>G. The Commission shall grant an opportunity for a public</u>	1439
<u>hearing before it adopts a rule or amendment if a hearing is</u>	1440
<u>requested by:</u>	1441
<u>1. At least twenty-five (25) persons who submit comments</u>	1442

<u>independently of each other;</u>	1443
<u>2. A governmental subdivision or agency; or</u>	1444
<u>3. A duly appointed person in an association that has</u>	1445
<u>having at least twenty-five (25) members.</u>	1446
<u>H. If a hearing is held on the proposed rule or amendment,</u>	1447
<u>the Commission shall publish the place, time, and date of the</u>	1448
<u>scheduled public hearing.</u>	1449
<u>1. All persons wishing to be heard at the hearing shall</u>	1450
<u>notify the Executive Director of the Commission or other</u>	1451
<u>designated member in writing of their desire to appear and</u>	1452
<u>testify at the hearing not less than five (5) business days</u>	1453
<u>before the scheduled date of the hearing.</u>	1454
<u>2. Hearings shall be conducted in a manner providing each</u>	1455
<u>person who wishes to comment a fair and reasonable opportunity</u>	1456
<u>to comment orally or in writing.</u>	1457
<u>3. No transcript of the hearing is required, unless a</u>	1458
<u>written request for a transcript is made, in which case the</u>	1459
<u>person requesting the transcript shall bear the cost of</u>	1460
<u>producing the transcript. A recording may be made in lieu of a</u>	1461
<u>transcript under the same terms and conditions as a transcript.</u>	1462
<u>This subsection shall not preclude the Commission from making a</u>	1463
<u>transcript or recording of the hearing if it so chooses.</u>	1464
<u>4. Nothing in this section shall be construed as requiring</u>	1465
<u>a separate hearing on each rule. Rules may be grouped for the</u>	1466
<u>convenience of the Commission at hearings required by this</u>	1467
<u>section.</u>	1468
<u>I. Following the scheduled hearing date, or by the close</u>	1469
<u>of business on the scheduled hearing date if the hearing was not</u>	1470

held, the Commission shall consider all written and oral 1471
comments received. 1472

J. The Commission shall, by majority vote of all members, 1473
take final action on the proposed rule and shall determine the 1474
effective date of the rule, if any, based on the rulemaking 1475
record and the full text of the rule. 1476

K. If no written notice of intent to attend the public 1477
hearing by interested parties is received, the Commission may 1478
proceed with promulgation of the proposed rule without a public 1479
hearing. 1480

L. Upon determination that an emergency exists, the 1481
Commission may consider and adopt an emergency rule without 1482
prior notice, opportunity for comment, or hearing, provided that 1483
the usual rulemaking procedures provided in the Compact and in 1484
this section shall be retroactively applied to the rule as soon 1485
as reasonably possible, in no event later than ninety (90) days 1486
after the effective date of the rule. For the purposes of this 1487
provision, an emergency rule is one that must be adopted 1488
immediately in order to: 1489

1. Meet an imminent threat to public health, safety, or 1490
welfare; 1491

2. Prevent a loss of Commission or Compact State funds; 1492

3. Meet a deadline for the promulgation of an 1493
administrative rule that is established by federal law or rule; 1494
or 1495

4. Protect public health and safety. 1496

M. The Commission or an authorized committee of the 1497
Commission may direct revisions to a previously adopted rule or 1498

amendment for purposes of correcting typographical errors, 1499
errors in format, errors in consistency, or grammatical errors. 1500
Public notice of any revisions shall be posted on the website of 1501
the Commission. The revision shall be subject to challenge by 1502
any person for a period of thirty (30) days after posting. The 1503
revision may be challenged only on grounds that the revision 1504
results in a material change to a rule. A challenge shall be 1505
made in writing, and delivered to the Chair of the Commission 1506
prior to the end of the notice period. If no challenge is made, 1507
the revision will take effect without further action. If the 1508
revision is challenged, the revision may not take effect without 1509
the approval of the Commission. 1510

ARTICLE XII 1511

OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT 1512

A. Oversight 1513

1. The Executive, Legislative and Judicial branches of 1514
state government in each Compact State shall enforce this 1515
Compact and take all actions necessary and appropriate to 1516
effectuate the Compact's purposes and intent. The provisions of 1517
this Compact and the rules promulgated hereunder shall have 1518
standing as statutory law. 1519

2. All courts shall take judicial notice of the Compact 1520
and the rules in any judicial or administrative proceeding in a 1521
Compact State pertaining to the subject matter of this Compact 1522
which may affect the powers, responsibilities or actions of the 1523
Commission. 1524

3. The Commission shall be entitled to receive service of 1525
process in any such proceeding, and shall have standing to 1526
intervene in such a proceeding for all purposes. Failure to 1527

provide service of process to the Commission shall render a 1528
judgment or order void as to the Commission, this Compact or 1529
promulgated rules. 1530

B. Default, Technical Assistance, and Termination 1531

1. If the Commission determines that a Compact State has 1532
defaulted in the performance of its obligations or 1533
responsibilities under this Compact or the promulgated rules, 1534
the Commission shall: 1535

a. Provide written notice to the defaulting state and 1536
other Compact States of the nature of the default, the proposed 1537
means of remedying the default and/or any other action to be 1538
taken by the Commission; and 1539

b. Provide remedial training and specific technical 1540
assistance regarding the default. 1541

2. If a state in default fails to remedy the default, the 1542
defaulting state may be terminated from the Compact upon an 1543
affirmative vote of a majority of the Compact States, and all 1544
rights, privileges and benefits conferred by this Compact shall 1545
be terminated on the effective date of termination. A remedy of 1546
the default does not relieve the offending state of obligations 1547
or liabilities incurred during the period of default. 1548

3. Termination of membership in the Compact shall be 1549
imposed only after all other means of securing compliance have 1550
been exhausted. Notice of intent to suspend or terminate shall 1551
be submitted by the Commission to the Governor, the majority and 1552
minority leaders of the defaulting state's legislature, and each 1553
of the Compact States. 1554

4. A Compact State which has been terminated is 1555
responsible for all assessments, obligations and liabilities 1556

incurred through the effective date of termination, including 1557
obligations which extend beyond the effective date of 1558
termination. 1559

5. The Commission shall not bear any costs incurred by the 1560
state which is found to be in default or which has been 1561
terminated from the Compact, unless agreed upon in writing 1562
between the Commission and the defaulting state. 1563

6. The defaulting state may appeal the action of the 1564
Commission by petitioning the U.S. District Court for the state 1565
of Georgia or the federal district where the Compact has its 1566
principal offices. The prevailing member shall be awarded all 1567
costs of such litigation, including reasonable attorney's fees. 1568

C. Dispute Resolution 1569

1. Upon request by a Compact State, the Commission shall 1570
attempt to resolve disputes related to the Compact which arise 1571
among Compact States and between Compact and Non-Compact States. 1572

2. The Commission shall promulgate a rule providing for 1573
both mediation and binding dispute resolution for disputes that 1574
arise before the commission. 1575

D. Enforcement 1576

1. The Commission, in the reasonable exercise of its 1577
discretion, shall enforce the provisions and Rules of this 1578
Compact. 1579

2. By majority vote, the Commission may initiate legal 1580
action in the United States District Court for the State of 1581
Georgia or the federal district where the Compact has its 1582
principal offices against a Compact State in default to enforce 1583
compliance with the provisions of the Compact and its 1584

promulgated Rules and Bylaws. The relief sought may include both 1585
injunctive relief and damages. In the event judicial enforcement 1586
is necessary, the prevailing member shall be awarded all costs 1587
of such litigation, including reasonable attorney's fees. 1588

3. The remedies herein shall not be the exclusive remedies 1589
of the Commission. The Commission may pursue any other remedies 1590
available under federal or state law. 1591

ARTICLE XIII 1592

DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL 1593
COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND 1594
AMENDMENTS 1595

A. The Compact shall come into effect on the date on which 1596
the Compact is enacted into law in the seventh Compact State. 1597
The provisions which become effective at that time shall be 1598
limited to the powers granted to the Commission relating to 1599
assembly and the promulgation of rules. Thereafter, the 1600
Commission shall meet and exercise rulemaking powers necessary 1601
to the implementation and administration of the Compact. 1602

B. Any state which joins the Compact subsequent to the 1603
Commission's initial adoption of the rules shall be subject to 1604
the rules as they exist on the date on which the Compact becomes 1605
law in that state. Any rule which has been previously adopted by 1606
the Commission shall have the full force and effect of law on 1607
the day the Compact becomes law in that state. 1608

C. Any Compact State may withdraw from this Compact by 1609
enacting a statute repealing the same. 1610

1. A Compact State's withdrawal shall not take effect 1611
until six (6) months after enactment of the repealing statute. 1612

2. Withdrawal shall not affect the continuing requirement 1613
of the withdrawing State's Psychology Regulatory Authority to 1614
comply with the investigative and adverse action reporting 1615
requirements of this act prior to the effective date of 1616
withdrawal. 1617

D. Nothing contained in this Compact shall be construed to 1618
invalidate or prevent any psychology licensure agreement or 1619
other cooperative arrangement between a Compact State and a Non- 1620
Compact State which does not conflict with the provisions of 1621
this Compact. 1622

E. This Compact may be amended by the Compact States. No 1623
amendment to this Compact shall become effective and binding 1624
upon any Compact State until it is enacted into the law of all 1625
Compact States. 1626

ARTICLE XIV 1627

CONSTRUCTION AND SEVERABILITY 1628

This Compact shall be liberally construed so as to 1629
effectuate the purposes thereof. If this Compact shall be held 1630
contrary to the constitution of any state member thereto, the 1631
Compact shall remain in full force and effect as to the 1632
remaining Compact States. 1633

Sec. 4732.41. Not later than thirty days after the 1634
"Psychology Interjurisdictional Compact (PSYPACT)" is entered 1635
into under section 4732.40 of the Revised Code, the state board 1636
of psychology shall appoint a member to the psychology 1637
interjurisdictional compact commission created under the 1638
compact. The board shall fill a vacancy not later than thirty 1639
days after the vacancy occurs. 1640

Section 2. That existing sections 503.40, 503.41, 503.42, 1641

503.43, 503.44, 503.47, 503.48, 503.49, 503.50, 715.61, 2927.17, 1642
4731.04, 4731.15, and 4731.41 of the Revised Code are hereby 1643
repealed. 1644

Section 3. That sections 503.45 and 503.46 of the Revised 1645
Code are hereby repealed. 1646

Section 4. That sections 2945.37, 2945.371, 2945.38, 1647
5122.02, 5122.03, 5122.11, and 5122.111 be amended and section 1648
5122.112 of the Revised Code be enacted to read as follows: 1649

Sec. 2945.37. (A) As used in sections 2945.37 to 2945.402 1650
of the Revised Code: 1651

(1) "Prosecutor" means a prosecuting attorney or a city 1652
director of law, village solicitor, or similar chief legal 1653
officer of a municipal corporation who has authority to 1654
prosecute a criminal case that is before the court or the 1655
criminal case in which a defendant in a criminal case has been 1656
found incompetent to stand trial or not guilty by reason of 1657
insanity. 1658

(2) "Examiner" means either of the following: 1659

(a) A psychiatrist or a licensed clinical psychologist who 1660
satisfies the criteria of division (I) of section 5122.01 of the 1661
Revised Code or is employed by a certified forensic center 1662
designated by the department of mental health and addiction 1663
services to conduct examinations or evaluations. 1664

(b) For purposes of a separate intellectual disability 1665
evaluation that is ordered by a court pursuant to division ~~(H)~~ 1666
(I) of section 2945.371 of the Revised Code, a psychologist 1667
designated by the director of developmental disabilities 1668
pursuant to that section to conduct that separate intellectual 1669
disability evaluation. 1670

(3) "Nonsecured status" means any unsupervised, off- 1671
grounds movement or trial visit from a hospital or institution, 1672
or any conditional release, that is granted to a person who is 1673
found incompetent to stand trial and is committed pursuant to 1674
section 2945.39 of the Revised Code or to a person who is found 1675
not guilty by reason of insanity and is committed pursuant to 1676
section 2945.40 of the Revised Code. 1677

(4) "Unsupervised, off-grounds movement" includes only 1678
off-grounds privileges that are unsupervised and that have an 1679
expectation of return to the hospital or institution on a daily 1680
basis. 1681

(5) "Trial visit" means a patient privilege of a longer 1682
stated duration of unsupervised community contact with an 1683
expectation of return to the hospital or institution at 1684
designated times. 1685

(6) "Conditional release" means a commitment status under 1686
which the trial court at any time may revoke a person's 1687
conditional release and order the rehospitization or 1688
reinstitutionalization of the person as described in division 1689
(A) of section 2945.402 of the Revised Code and pursuant to 1690
which a person who is found incompetent to stand trial or a 1691
person who is found not guilty by reason of insanity lives and 1692
receives treatment in the community for a period of time that 1693
does not exceed the maximum prison term or term of imprisonment 1694
that the person could have received for the offense in question 1695
had the person been convicted of the offense instead of being 1696
found incompetent to stand trial on the charge of the offense or 1697
being found not guilty by reason of insanity relative to the 1698
offense. 1699

(7) "Licensed clinical psychologist," "mentally ill person 1700

subject to court order," and "psychiatrist" have the same 1701
meanings as in section 5122.01 of the Revised Code. 1702

(8) "Person with an intellectual disability subject to 1703
institutionalization by court order" has the same meaning as in 1704
section 5123.01 of the Revised Code. 1705

(B) In a criminal action in a court of common pleas, a 1706
county court, or a municipal court, the court, prosecutor, or 1707
defense may raise the issue of the defendant's competence to 1708
stand trial. If the issue is raised before the trial has 1709
commenced, the court shall hold a hearing on the issue as 1710
provided in this section. If the issue is raised after the trial 1711
has commenced, the court shall hold a hearing on the issue only 1712
for good cause shown or on the court's own motion. 1713

(C) The court shall conduct the hearing required or 1714
authorized under division (B) of this section within thirty days 1715
after the issue is raised, unless the defendant has been 1716
referred for evaluation in which case the court shall conduct 1717
the hearing within ten days after the filing of the report of 1718
the evaluation or, in the case of a defendant who is ordered by 1719
the court pursuant to division ~~(H)~~ (I) of section 2945.371 of 1720
the Revised Code to undergo a separate intellectual disability 1721
evaluation conducted by a psychologist designated by the 1722
director of developmental disabilities, within ten days after 1723
the filing of the report of the separate intellectual disability 1724
evaluation under that division. A hearing may be continued for 1725
good cause. 1726

(D) The defendant shall be represented by counsel at the 1727
hearing conducted under division (C) of this section. If the 1728
defendant is unable to obtain counsel, the court shall appoint 1729
counsel under Chapter 120. of the Revised Code or under the 1730

authority recognized in division (C) of section 120.06, division 1731
(E) of section 120.16, division (E) of section 120.26, or 1732
section 2941.51 of the Revised Code before proceeding with the 1733
hearing. 1734

(E) The prosecutor and defense counsel may submit evidence 1735
on the issue of the defendant's competence to stand trial. A 1736
written report of the evaluation of the defendant may be 1737
admitted into evidence at the hearing by stipulation, but, if 1738
either the prosecution or defense objects to its admission, the 1739
report may be admitted under sections 2317.36 to 2317.38 of the 1740
Revised Code or any other applicable statute or rule. 1741

(F) The court shall not find a defendant incompetent to 1742
stand trial solely because the defendant is receiving or has 1743
received treatment as a voluntary or involuntary mentally ill 1744
patient under Chapter 5122. or a voluntary or involuntary 1745
resident with an intellectual disability under Chapter 5123. of 1746
the Revised Code or because the defendant is receiving or has 1747
received psychotropic drugs or other medication, even if the 1748
defendant might become incompetent to stand trial without the 1749
drugs or medication. 1750

(G) A defendant is presumed to be competent to stand 1751
trial. If, after a hearing, the court finds by a preponderance 1752
of the evidence that, because of the defendant's present mental 1753
condition, the defendant is incapable of understanding the 1754
nature and objective of the proceedings against the defendant or 1755
of assisting in the defendant's defense, the court shall find 1756
the defendant incompetent to stand trial and shall enter an 1757
order authorized by section 2945.38 of the Revised Code. 1758

(H) Municipal courts shall follow the procedures set forth 1759
in sections 2945.37 to 2945.402 of the Revised Code. Except as 1760

provided in section 2945.371 of the Revised Code, a municipal 1761
court shall not order an evaluation of the defendant's 1762
competence to stand trial or the defendant's mental condition at 1763
the time of the commission of the offense to be conducted at any 1764
hospital operated by the department of mental health and 1765
addiction services. Those evaluations shall be performed through 1766
community resources including, but not limited to, certified 1767
forensic centers, court probation departments, and community 1768
mental health services providers. All expenses of the 1769
evaluations shall be borne by the legislative authority of the 1770
municipal court, as defined in section 1901.03 of the Revised 1771
Code, and shall be taxed as costs in the case. If a defendant is 1772
found incompetent to stand trial or not guilty by reason of 1773
insanity, a municipal court may commit the defendant as provided 1774
in sections 2945.38 to 2945.402 of the Revised Code. 1775

Sec. 2945.371. (A) If the issue of a defendant's 1776
competence to stand trial is raised or if a defendant enters a 1777
plea of not guilty by reason of insanity, the court may order 1778
one or more evaluations of the defendant's present mental 1779
condition or, in the case of a plea of not guilty by reason of 1780
insanity, of the defendant's mental condition at the time of the 1781
offense charged. An examiner shall conduct the evaluation and 1782
the evaluation may be conducted through electronic means. 1783

(B) If the court orders more than one evaluation under 1784
division (A) of this section, the prosecutor and the defendant 1785
may recommend to the court an examiner whom each prefers to 1786
perform one of the evaluations. If a defendant enters a plea of 1787
not guilty by reason of insanity and if the court does not 1788
designate an examiner recommended by the defendant, the court 1789
shall inform the defendant that the defendant may have 1790
independent expert evaluation and that, if the defendant is 1791

unable to obtain independent expert evaluation, it will be 1792
obtained for the defendant at public expense if the defendant is 1793
indigent. 1794

(C) (1) If the court orders an evaluation under division 1795
(A) of this section, the defendant shall be available at the 1796
times and places established by the examiners who are to conduct 1797
the evaluation. The court may order a defendant who has been 1798
released on bail or recognizance to submit to an evaluation 1799
under this section. ~~If~~ 1800

(2) If a defendant who has been released on bail or 1801
recognizance refuses to submit to a complete evaluation, the 1802
court may amend the conditions of bail or recognizance and order 1803
the sheriff to take the defendant into custody and, except as 1804
provided in division (E) of this section, deliver the defendant 1805
to a center, program, or facility operated or certified by the 1806
department of mental health and addiction services or the 1807
department of developmental disabilities where the defendant may 1808
be held for evaluation for a reasonable period of time not to 1809
exceed twenty days. 1810

(D) (1) A defendant who has not been released on bail or 1811
recognizance may be evaluated at the defendant's place of 1812
detention. ~~Upon~~ 1813

(2) Upon the request of the examiner, the court may order 1814
the sheriff to transport the defendant to a program or facility 1815
operated or certified by the department of mental health and 1816
addiction services or the department of developmental 1817
disabilities, where the defendant may be held for evaluation for 1818
a reasonable period of time not to exceed twenty days, and to 1819
return the defendant to the place of detention after the 1820
evaluation. A municipal court may make an order under this 1821

division only upon the request of a certified forensic center 1822
examiner. 1823

(E) Except as provided in division (D) of this section, 1824
the court shall not order a defendant to be held for evaluation 1825
in a center, program, or facility operated by the department of 1826
mental health and addiction services or the department of 1827
developmental disabilities unless the defendant is charged with 1828
a felony or an offense of violence or unless the court 1829
determines, based on facts before the court, that the defendant 1830
is in need of immediate hospitalization. 1831

(F) If a court orders the evaluation to determine a 1832
defendant's mental condition at the time of the offense charged, 1833
the court shall inform the examiner of the offense with which 1834
the defendant is charged. 1835

~~(F)~~ (G) In conducting an evaluation of a defendant's 1836
mental condition at the time of the offense charged, the 1837
examiner shall consider all relevant evidence and may conduct 1838
the evaluation through electronic means. If the offense charged 1839
involves the use of force against another person, the relevant 1840
evidence to be considered includes, but is not limited to, any 1841
evidence that the defendant suffered, at the time of the 1842
commission of the offense, from the "battered woman syndrome." 1843

~~(G)~~ (H) The examiner shall file a written report with the 1844
court, under seal, within thirty days after entry of a court 1845
order for evaluation, ~~and the~~. The court shall provide copies 1846
of the report to the prosecutor and defense counsel and shall 1847
allow for inspection of the report by the defendant, the 1848
defendant's guardian, a probate court, a board of alcohol, drug 1849
addiction, and mental health services, and any mental health 1850
professional who performs a subsequent mental health evaluation 1851

of the defendant or who is involved in the treatment of the 1852
defendant, but the report shall not be open to public 1853
inspection. A person who is not among those permitted to inspect 1854
the report as described in this division may file a motion with 1855
the court seeking disclosure for good cause. When a motion for 1856
disclosure of a report is filed, the court shall notify the 1857
defendant of the pending motion and allow sufficient time for 1858
the defendant to object to the disclosure. If the defendant 1859
objects to the disclosure, the court shall schedule a hearing to 1860
determine whether the party seeking access has demonstrated that 1861
access to the report is necessary for treatment of the defendant 1862
or for a criminal adjudication of the defendant for which the 1863
report was originally created. At that time the defendant shall 1864
be allowed an opportunity to provide the court with grounds for 1865
the objection. The court shall not provide access to the report 1866
unless the party seeking access can demonstrate that access to 1867
the report is necessary for treatment of the defendant or for a 1868
criminal adjudication of the defendant for which the report was 1869
originally created. 1870

A defendant who is the subject of an examiner's report 1871
under this section prior to the effective date of this amendment 1872
may file a motion with the court to have that report placed 1873
under seal. Upon such a motion, the court shall place the report 1874
under seal, subject to the access and disclosure provisions 1875
provided in this section for reports filed after the effective 1876
date. 1877

The report shall include all of the following: 1878

(1) The examiner's findings; 1879

(2) The facts in reasonable detail on which the findings 1880
are based; 1881

(3) If the evaluation was ordered to determine the 1882
defendant's competence to stand trial, all of the following 1883
findings or recommendations that are applicable: 1884

(a) Whether the defendant is capable of understanding the 1885
nature and objective of the proceedings against the defendant or 1886
of assisting in the defendant's defense; 1887

(b) If the examiner's opinion is that the defendant is 1888
incapable of understanding the nature and objective of the 1889
proceedings against the defendant or of assisting in the 1890
defendant's defense, whether the defendant presently is mentally 1891
ill or has an intellectual disability and, if the examiner's 1892
opinion is that the defendant presently has an intellectual 1893
disability, whether the defendant appears to be a person with an 1894
intellectual disability subject to institutionalization by court 1895
order; 1896

(c) If the examiner's opinion is that the defendant is 1897
incapable of understanding the nature and objective of the 1898
proceedings against the defendant or of assisting in the 1899
defendant's defense, the examiner's opinion as to the likelihood 1900
of the defendant becoming capable of understanding the nature 1901
and objective of the proceedings against the defendant and of 1902
assisting in the defendant's defense within one year if the 1903
defendant is provided with a course of treatment; 1904

(d) If the examiner's opinion is that the defendant is 1905
incapable of understanding the nature and objective of the 1906
proceedings against the defendant or of assisting in the 1907
defendant's defense and that the defendant presently is mentally 1908
ill or has an intellectual disability, the examiner's 1909
recommendation as to the least restrictive placement or 1910
commitment alternative, including consideration of housing needs 1911

and the availability of mental health treatment in the 1912
community, consistent with the defendant's treatment needs for 1913
restoration to competency and with the safety of the community. 1914

(4) If the evaluation was ordered to determine the 1915
defendant's mental condition at the time of the offense charged, 1916
the examiner's findings as to whether the defendant, at the time 1917
of the offense charged, did not know, as a result of a severe 1918
mental disease or defect, the wrongfulness of the defendant's 1919
acts charged. 1920

~~(H)~~(I) If the examiner's report filed under division ~~(G)~~ 1921
(H) of this section indicates that in the examiner's opinion the 1922
defendant is incapable of understanding the nature and objective 1923
of the proceedings against the defendant or of assisting in the 1924
defendant's defense and that in the examiner's opinion the 1925
defendant appears to be a person with an intellectual disability 1926
subject to institutionalization by court order, the court shall 1927
order the defendant to undergo a separate intellectual 1928
disability evaluation conducted by a psychologist designated by 1929
the director of developmental disabilities. Divisions (C) to ~~(F)~~ 1930
(G) of this section apply in relation to a separate intellectual 1931
disability evaluation conducted under this division. The 1932
psychologist appointed under this division to conduct the 1933
separate intellectual disability evaluation shall file a written 1934
report with the court within thirty days after the entry of the 1935
court order requiring the separate intellectual disability 1936
evaluation, ~~and the court~~. The court shall file the report 1937
under seal in the same manner as a report submitted by an 1938
examiner under division (H) of this section and shall provide 1939
copies of the report to the prosecutor and defense counsel. The 1940
report shall include all of the information described in 1941
divisions ~~(G) (1)~~(H) (1) to (4) of this section. If the court 1942

orders a separate intellectual disability evaluation of a 1943
defendant under this division, the court shall not conduct a 1944
hearing under divisions (B) to (H) of section 2945.37 of the 1945
Revised Code regarding that defendant until a report of the 1946
separate intellectual disability evaluation conducted under this 1947
division has been filed. Upon the filing of that report, the 1948
court shall conduct the hearing within the period of time 1949
specified in division (C) of section 2945.37 of the Revised 1950
Code. 1951

~~(I)~~ (J) An examiner appointed under divisions (A) and (B) 1952
of this section or under division ~~(H)~~ (I) of this section to 1953
evaluate a defendant to determine the defendant's competence to 1954
stand trial also may be appointed to evaluate a defendant who 1955
has entered a plea of not guilty by reason of insanity, but an 1956
examiner of that nature shall prepare separate reports on the 1957
issue of competence to stand trial and the defense of not guilty 1958
by reason of insanity. 1959

~~(J)~~ (K) No statement that a defendant makes in an 1960
evaluation or hearing under divisions (A) to ~~(H)~~ (I) of this 1961
section relating to the defendant's competence to stand trial or 1962
to the defendant's mental condition at the time of the offense 1963
charged shall be used against the defendant on the issue of 1964
guilt in any criminal action or proceeding, but, in a criminal 1965
action or proceeding, the prosecutor or defense counsel may call 1966
as a witness any person who evaluated the defendant or prepared 1967
a report pursuant to a referral under this section. Neither the 1968
appointment nor the testimony of an examiner appointed under 1969
this section precludes the prosecutor or defense counsel from 1970
calling other witnesses or presenting other evidence on 1971
competency or insanity issues. 1972

~~(K)~~(L) Persons appointed as examiners under divisions (A) 1973
and (B) of this section or under division ~~(H)~~(I) of this 1974
section shall be paid a reasonable amount for their services and 1975
expenses, as certified by the court. The certified amount shall 1976
be paid by the county in the case of county courts and courts of 1977
common pleas and by the legislative authority, as defined in 1978
section 1901.03 of the Revised Code, in the case of municipal 1979
courts. 1980

Sec. 2945.38. (A) If the issue of a defendant's competence 1981
to stand trial is raised and if the court, upon conducting the 1982
hearing provided for in section 2945.37 of the Revised Code, 1983
finds that the defendant is competent to stand trial, the 1984
defendant shall be proceeded against as provided by law. If the 1985
court finds the defendant competent to stand trial and the 1986
defendant is receiving psychotropic drugs or other medication, 1987
the court may authorize the continued administration of the 1988
drugs or medication or other appropriate treatment in order to 1989
maintain the defendant's competence to stand trial, unless the 1990
defendant's attending physician advises the court against 1991
continuation of the drugs, other medication, or treatment. 1992

(B) (1) (a) (i) If the defendant has been charged with a 1993
felony offense or a misdemeanor offense of violence for which 1994
the prosecutor has not recommended the procedures under division 1995
(B) (1) (a) (vi) of this section and if, after taking into 1996
consideration all relevant reports, information, and other 1997
evidence, the court finds that the defendant is incompetent to 1998
stand trial and that there is a substantial probability that the 1999
defendant will become competent to stand trial within one year 2000
if the defendant is provided with a course of treatment, the 2001
court shall order the defendant to undergo treatment. 2002

(ii) If the defendant has been charged with a felony offense and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order continuing evaluation and treatment of the defendant for a period not to exceed four months to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment.

(iii) If the defendant has not been charged with a felony offense but has been charged with a misdemeanor offense of violence and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the defendant will become competent to stand trial within the time frame permitted under division (C) (1) of this section, the court may order continuing evaluation and treatment of the defendant for a period not to exceed the maximum period permitted under that division.

(iv) If the defendant has not been charged with a felony offense or a misdemeanor offense of violence, but has been charged with a misdemeanor offense that is not a misdemeanor offense of violence and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is a

substantial probability that the defendant will become competent 2034
to stand trial within the time frame permitted under division 2035
(C) (1) of this section, the court shall dismiss the charges and 2036
follow the process outlined in division (B) (1) (a) (v) (I) of this 2037
section. 2038

(v) If the defendant has not been charged with a felony 2039
offense or a misdemeanor offense of violence, or if the 2040
defendant has been charged with a misdemeanor offense of 2041
violence and the prosecutor has recommended the procedures under 2042
division (B) (1) (a) (vi) of this section, and if, after taking 2043
into consideration all relevant reports, information, and other 2044
evidence, the trial court finds that the defendant is 2045
incompetent to stand trial, the trial court shall do one of the 2046
following: 2047

(I) Dismiss the charges pending against the defendant. A 2048
dismissal under this division is not a bar to further 2049
prosecution based on the same conduct. Upon dismissal of the 2050
charges, the trial court shall discharge the defendant unless 2051
the court or prosecutor, after consideration of the requirements 2052
of section 5122.11 of the Revised Code, files an affidavit in 2053
probate court alleging that the defendant is a mentally ill 2054
person subject to court order or a person with an intellectual 2055
disability subject to institutionalization by court order. If an 2056
affidavit is filed in probate court, the trial court may detain 2057
the defendant for ten days pending a hearing in the probate 2058
court and shall send to the probate court copies of all written 2059
reports of the defendant's mental condition that were prepared 2060
pursuant to section 2945.371 of the Revised Code. The trial 2061
court or prosecutor shall specify in the appropriate space on 2062
the affidavit that the defendant is a person described in this 2063
subdivision. 2064

(II) Order the defendant to undergo outpatient competency restoration treatment at a facility operated or certified by the department of mental health and addiction services as being qualified to treat mental illness, at a public or community mental health facility, or in the care of a psychiatrist or other mental health professional. If a defendant who has been released on bail or recognizance refuses to comply with court-ordered outpatient treatment under this division, the court may dismiss the charges pending against the defendant and proceed under division (B) (1) (a) (v) (I) of this section or may amend the conditions of bail or recognizance and order the sheriff to take the defendant into custody and deliver the defendant to a center, program, or facility operated or certified by the department of mental health and addiction services for treatment.

(vi) If the defendant has not been charged with a felony offense but has been charged with a misdemeanor offense of violence and after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, the prosecutor in the case may recommend that the court follow the procedures prescribed in division (B) (1) (a) (v) of this section. If the prosecutor does not make such a recommendation, the court shall follow the procedures in division (B) (1) (a) (i) of this section.

(b) The court order for the defendant to undergo treatment or continuing evaluation and treatment under division (B) (1) (a) of this section shall specify that the defendant, if determined to require mental health treatment or continuing evaluation and treatment, either shall be committed to the department of mental health and addiction services for treatment or continuing evaluation and treatment at a hospital, facility, or agency, as

determined to be clinically appropriate by the department of 2096
mental health and addiction services or shall be committed to a 2097
facility certified by the department of mental health and 2098
addiction services as being qualified to treat mental illness, 2099
to a public or community mental health facility, or to a 2100
psychiatrist or another mental health professional for treatment 2101
or continuing evaluation and treatment. Prior to placing the 2102
defendant, the department of mental health and addiction 2103
services shall obtain court approval for that placement 2104
following a hearing. The court order for the defendant to 2105
undergo treatment or continuing evaluation and treatment under 2106
division (B)(1)(a) of this section shall specify that the 2107
defendant, if determined to require treatment or continuing 2108
evaluation and treatment for an intellectual disability, shall 2109
receive treatment or continuing evaluation and treatment at an 2110
institution or facility operated by the department of 2111
developmental disabilities, at a facility certified by the 2112
department of developmental disabilities as being qualified to 2113
treat intellectual disabilities, at a public or private 2114
intellectual disabilities facility, or by a psychiatrist or 2115
another intellectual disabilities professional. In any case, the 2116
order may restrict the defendant's freedom of movement as the 2117
court considers necessary. The prosecutor in the defendant's 2118
case shall send to the chief clinical officer of the hospital, 2119
facility, or agency where the defendant is placed by the 2120
department of mental health and addiction services, or to the 2121
managing officer of the institution, the director of the program 2122
or facility, or the person to which the defendant is committed, 2123
copies of relevant police reports and other background 2124
information that pertains to the defendant and is available to 2125
the prosecutor unless the prosecutor determines that the release 2126
of any of the information in the police reports or any of the 2127

other background information to unauthorized persons would 2128
interfere with the effective prosecution of any person or would 2129
create a substantial risk of harm to any person. 2130

In determining the place of commitment, the court shall 2131
consider the extent to which the person is a danger to the 2132
person and to others, the need for security, the availability of 2133
housing and supportive services, including outpatient mental 2134
health services in the community, and the type of crime involved 2135
and shall order the least restrictive alternative available that 2136
is consistent with public safety and treatment goals. In 2137
weighing these factors, the court shall give preference to 2138
protecting public safety and the availability of housing and 2139
supportive services. 2140

(c) If the defendant is found incompetent to stand trial, 2141
if the chief clinical officer of the hospital, facility, or 2142
agency where the defendant is placed, or the managing officer of 2143
the institution, the director of the program or facility, or the 2144
person to which the defendant is committed for treatment or 2145
continuing evaluation and treatment under division (B) (1) (b) of 2146
this section determines that medication is necessary to restore 2147
the defendant's competency to stand trial, and if the defendant 2148
lacks the capacity to give informed consent or refuses 2149
medication, the chief clinical officer of the hospital, 2150
facility, or agency where the defendant is placed, or the 2151
managing officer of the institution, the director of the program 2152
or facility, or the person to which the defendant is committed 2153
for treatment or continuing evaluation and treatment may 2154
petition the court for authorization for the involuntary 2155
administration of medication. The court shall hold a hearing on 2156
the petition within five days of the filing of the petition if 2157
the petition was filed in a municipal court or a county court 2158

regarding an incompetent defendant charged with a misdemeanor or 2159
within ten days of the filing of the petition if the petition 2160
was filed in a court of common pleas regarding an incompetent 2161
defendant charged with a felony offense. Following the hearing, 2162
the court may authorize the involuntary administration of 2163
medication or may dismiss the petition. 2164

(2) If the court finds that the defendant is incompetent 2165
to stand trial and that, even if the defendant is provided with 2166
a course of treatment, there is not a substantial probability 2167
that the defendant will become competent to stand trial within 2168
one year, the court shall order the discharge of the defendant, 2169
unless upon motion of the prosecutor or on its own motion, the 2170
court either seeks to retain jurisdiction over the defendant 2171
pursuant to section 2945.39 of the Revised Code or files an 2172
affidavit in the probate court for the civil commitment of the 2173
defendant pursuant to Chapter 5122. or 5123. of the Revised Code 2174
alleging that the defendant is a mentally ill person subject to 2175
court order or a person with an intellectual disability subject 2176
to institutionalization by court order. If an affidavit is filed 2177
in the probate court, the trial court shall send to the probate 2178
court copies of all written reports of the defendant's mental 2179
condition that were prepared pursuant to section 2945.371 of the 2180
Revised Code. 2181

The trial court may issue the temporary order of detention 2182
that a probate court may issue under section 5122.11 or 5123.71 2183
of the Revised Code, to remain in effect until the probable 2184
cause or initial hearing in the probate court. Further 2185
proceedings in the probate court are civil proceedings governed 2186
by Chapter 5122. or 5123. of the Revised Code. 2187

(C) No defendant shall be required to undergo treatment, 2188

including any continuing evaluation and treatment, under 2189
division (B) (1) of this section for longer than whichever of the 2190
following periods is applicable: 2191

(1) One year, if the most serious offense with which the 2192
defendant is charged is one of the following offenses: 2193

(a) Aggravated murder, murder, or an offense of violence 2194
for which a sentence of death or life imprisonment may be 2195
imposed; 2196

(b) An offense of violence that is a felony of the first 2197
or second degree; 2198

(c) A conspiracy to commit, an attempt to commit, or 2199
complicity in the commission of an offense described in division 2200
(C) (1) (a) or (b) of this section if the conspiracy, attempt, or 2201
complicity is a felony of the first or second degree. 2202

(2) Six months, if the most serious offense with which the 2203
defendant is charged is a felony other than a felony described 2204
in division (C) (1) of this section; 2205

(3) Sixty days, if the most serious offense with which the 2206
defendant is charged is a misdemeanor of the first or second 2207
degree; 2208

(4) Thirty days, if the most serious offense with which 2209
the defendant is charged is a misdemeanor of the third or fourth 2210
degree, a minor misdemeanor, or an unclassified misdemeanor. 2211

(D) Any defendant who is committed pursuant to this 2212
section shall not voluntarily admit the defendant or be 2213
voluntarily admitted to a hospital or institution pursuant to 2214
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 2215
Code. 2216

(E) Except as otherwise provided in this division, a 2217
defendant who is charged with an offense and is committed by the 2218
court under this section to the department of mental health and 2219
addiction services or is committed to an institution or facility 2220
for the treatment of intellectual disabilities shall not be 2221
granted unsupervised on-grounds movement, supervised off-grounds 2222
movement, or nonsecured status except in accordance with the 2223
court order. The court may grant a defendant supervised off- 2224
grounds movement to obtain medical treatment or specialized 2225
habilitation treatment services if the person who supervises the 2226
treatment or the continuing evaluation and treatment of the 2227
defendant ordered under division (B) (1) (a) of this section 2228
informs the court that the treatment or continuing evaluation 2229
and treatment cannot be provided at the hospital or facility 2230
where the defendant is placed by the department of mental health 2231
and addiction services or the institution or facility to which 2232
the defendant is committed. The chief clinical officer of the 2233
hospital or facility where the defendant is placed by the 2234
department of mental health and addiction services or the 2235
managing officer of the institution or director of the facility 2236
to which the defendant is committed, or a designee of any of 2237
those persons, may grant a defendant movement to a medical 2238
facility for an emergency medical situation with appropriate 2239
supervision to ensure the safety of the defendant, staff, and 2240
community during that emergency medical situation. The chief 2241
clinical officer of the hospital or facility where the defendant 2242
is placed by the department of mental health and addiction 2243
services or the managing officer of the institution or director 2244
of the facility to which the defendant is committed shall notify 2245
the court within twenty-four hours of the defendant's movement 2246
to the medical facility for an emergency medical situation under 2247
this division. 2248

(F) The person who supervises the treatment or continuing
evaluation and treatment of a defendant ordered to undergo
treatment or continuing evaluation and treatment under division
(B) (1) (a) of this section shall file a written report with the
court at the following times:

(1) Whenever the person believes the defendant is capable
of understanding the nature and objective of the proceedings
against the defendant and of assisting in the defendant's
defense;

(2) For a felony offense, fourteen days before expiration
of the maximum time for treatment as specified in division (C)
of this section and fourteen days before the expiration of the
maximum time for continuing evaluation and treatment as
specified in division (B) (1) (a) of this section, and, for a
misdemeanor offense, ten days before the expiration of the
maximum time for treatment, as specified in division (C) of this
section;

(3) At a minimum, after each six months of treatment;

(4) Whenever the person who supervises the treatment or
continuing evaluation and treatment of a defendant ordered under
division (B) (1) (a) of this section believes that there is not a
substantial probability that the defendant will become capable
of understanding the nature and objective of the proceedings
against the defendant or of assisting in the defendant's defense
even if the defendant is provided with a course of treatment.

(G) A report under division (F) of this section shall
contain the examiner's findings, the facts in reasonable detail
on which the findings are based, and the examiner's opinion as
to the defendant's capability of understanding the nature and

objective of the proceedings against the defendant and of 2278
assisting in the defendant's defense. If, in the examiner's 2279
opinion, the defendant remains incapable of understanding the 2280
nature and objective of the proceedings against the defendant 2281
and of assisting in the defendant's defense and there is a 2282
substantial probability that the defendant will become capable 2283
of understanding the nature and objective of the proceedings 2284
against the defendant and of assisting in the defendant's 2285
defense if the defendant is provided with a course of treatment, 2286
if in the examiner's opinion the defendant remains mentally ill 2287
or continues to have an intellectual disability, and if the 2288
maximum time for treatment as specified in division (C) of this 2289
section has not expired, the report also shall contain the 2290
examiner's recommendation as to the least restrictive placement 2291
or commitment alternative that is consistent with the 2292
defendant's treatment needs for restoration to competency and 2293
with the safety of the community. The court shall provide copies 2294
of the report to the prosecutor and defense counsel. 2295

(H) If a defendant is committed pursuant to division (B) 2296
(1) of this section, within ten days after the treating 2297
physician of the defendant or the examiner of the defendant who 2298
is employed or retained by the treating facility advises that 2299
there is not a substantial probability that the defendant will 2300
become capable of understanding the nature and objective of the 2301
proceedings against the defendant or of assisting in the 2302
defendant's defense even if the defendant is provided with a 2303
course of treatment, within ten days after the expiration of the 2304
maximum time for treatment as specified in division (C) of this 2305
section, within ten days after the expiration of the maximum 2306
time for continuing evaluation and treatment as specified in 2307
division (B) (1) (a) of this section, within thirty days after a 2308

defendant's request for a hearing that is made after six months 2309
of treatment, or within thirty days after being advised by the 2310
treating physician or examiner that the defendant is competent 2311
to stand trial, whichever is the earliest, the court shall 2312
conduct another hearing to determine if the defendant is 2313
competent to stand trial and shall do whichever of the following 2314
is applicable: 2315

(1) If the court finds that the defendant is competent to 2316
stand trial, the defendant shall be proceeded against as 2317
provided by law. 2318

(2) If the court finds that the defendant is incompetent 2319
to stand trial, but that there is a substantial probability that 2320
the defendant will become competent to stand trial if the 2321
defendant is provided with a course of treatment, and the 2322
maximum time for treatment as specified in division (C) of this 2323
section has not expired, the court, after consideration of the 2324
examiner's recommendation, shall order that treatment be 2325
continued, may change the facility or program at which the 2326
treatment is to be continued, and shall specify whether the 2327
treatment is to be continued at the same or a different facility 2328
or program. 2329

(3) If the court finds that the defendant is incompetent 2330
to stand trial, if the defendant is charged with an offense 2331
listed in division (C)(1) of this section, and if the court 2332
finds that there is not a substantial probability that the 2333
defendant will become competent to stand trial even if the 2334
defendant is provided with a course of treatment, or if the 2335
maximum time for treatment relative to that offense as specified 2336
in division (C) of this section has expired, further proceedings 2337
shall be as provided in sections 2945.39, 2945.401, and 2945.402 2338

of the Revised Code. 2339

(4) If the court finds that the defendant is incompetent 2340
to stand trial, if the most serious offense with which the 2341
defendant is charged is a misdemeanor or a felony other than a 2342
felony listed in division (C)(1) of this section, and if the 2343
court finds that there is not a substantial probability that the 2344
defendant will become competent to stand trial even if the 2345
defendant is provided with a course of treatment, or if the 2346
maximum time for treatment relative to that offense as specified 2347
in division (C) of this section has expired, the court shall 2348
dismiss the indictment, information, or complaint against the 2349
defendant. A dismissal under this division is not a bar to 2350
further prosecution based on the same conduct. The court shall 2351
discharge the defendant unless the court or prosecutor files an 2352
affidavit in probate court for civil commitment pursuant to 2353
Chapter 5122. or 5123. of the Revised Code. If an affidavit for 2354
civil commitment is filed, the court may detain the defendant 2355
for ten days pending civil commitment, and shall send to the 2356
probate court copies of all written reports of the defendant's 2357
mental condition prepared pursuant to section 2945.371 of the 2358
Revised Code. 2359

All of the following provisions apply to persons charged 2360
with a misdemeanor or a felony other than a felony listed in 2361
division (C)(1) of this section who are committed by the probate 2362
court subsequent to the court's or prosecutor's filing of an 2363
affidavit for civil commitment under authority of this division: 2364

(a) The chief clinical officer of the entity, hospital, or 2365
facility, the managing officer of the institution, the director 2366
of the program, or the person to which the defendant is 2367
committed or admitted shall do all of the following: 2368

(i) Notify the prosecutor, in writing, of the discharge of 2369
the defendant, send the notice at least ten days prior to the 2370
discharge unless the discharge is by the probate court, and 2371
state in the notice the date on which the defendant will be 2372
discharged; 2373

(ii) Notify the prosecutor, in writing, when the defendant 2374
is absent without leave or is granted unsupervised, off-grounds 2375
movement, and send this notice promptly after the discovery of 2376
the absence without leave or prior to the granting of the 2377
unsupervised, off-grounds movement, whichever is applicable; 2378

(iii) Notify the prosecutor, in writing, of the change of 2379
the defendant's commitment or admission to voluntary status, 2380
send the notice promptly upon learning of the change to 2381
voluntary status, and state in the notice the date on which the 2382
defendant was committed or admitted on a voluntary status. 2383

(b) Upon receiving notice that the defendant will be 2384
granted unsupervised, off-grounds movement, the prosecutor 2385
either shall re-indict the defendant or promptly notify the 2386
court that the prosecutor does not intend to prosecute the 2387
charges against the defendant. 2388

(I) If a defendant is convicted of a crime and sentenced 2389
to a jail or workhouse, the defendant's sentence shall be 2390
reduced by the total number of days the defendant is confined 2391
for evaluation to determine the defendant's competence to stand 2392
trial or treatment under this section and sections 2945.37 and 2393
2945.371 of the Revised Code or by the total number of days the 2394
defendant is confined for evaluation to determine the 2395
defendant's mental condition at the time of the offense charged. 2396

Sec. 5122.02. (A) Except as provided in division (D) of 2397

this section, any person who is eighteen years of age or older 2398
and who is, appears to be, or believes self to be mentally ill 2399
may make written application for voluntary admission to the 2400
chief medical officer of a hospital. 2401

(B) Except as provided in division (D) of this section, 2402
the application also may be made on behalf of a minor by a 2403
parent, a guardian of the person, or the person with custody of 2404
the minor, and on behalf of an adult incompetent person by the 2405
guardian or the person with custody of the incompetent person. 2406

Any person whose admission is applied for under division 2407
(A) or (B) of this section may be admitted for observation, 2408
diagnosis, care, or treatment, in any hospital unless the chief 2409
clinical officer finds that hospitalization is inappropriate, 2410
and except that, in the case of a public hospital, no person 2411
shall be admitted without the authorization of the board of the 2412
person's county of residence. 2413

(C) If a minor or person adjudicated incompetent due to 2414
mental illness whose voluntary admission is applied for under 2415
division (B) of this section is admitted, the court shall 2416
determine, upon petition by private or otherwise appointed 2417
counsel, a relative, or one acting as next friend, whether the 2418
admission or continued hospitalization is in the best interest 2419
of the minor or incompetent. 2420

The chief clinical officer shall discharge any voluntary 2421
patient who has recovered or whose hospitalization the officer 2422
determines to be no longer advisable ~~and may discharge any~~ 2423
~~voluntary patient who refuses to accept treatment consistent~~ 2424
~~with the written treatment plan required by section 5122.27 of~~ 2425
~~the Revised Code. In the case of a voluntary patient who refuses~~ 2426
to accept treatment consistent with the written treatment plan 2427

required by section 5122.27 of the Revised Code, the chief 2428
clinical officer may file an affidavit under section 5122.11 of 2429
the Revised Code. If the chief clinical officer decides not to 2430
file such an affidavit and to, instead, discharge the patient, 2431
and a trial court or prosecutor had, within the past twelve 2432
months, filed an affidavit in probate court pursuant to division 2433
(B) (1) (a) (v) (I) of section 2945.38 of the Revised Code relating 2434
to the patient, the chief clinical officer, to the extent that 2435
the chief clinical officer has knowledge of the patient's prior 2436
status, shall immediately notify such trial court or prosecutor 2437
of the intent to discharge. Not later than three court days 2438
after being notified of the intent to discharge, the trial court 2439
or prosecutor may file or cause to be filed with the court of 2440
the county where the patient is hospitalized, or the court of 2441
the county where the patient resides, an affidavit under section 2442
5122.11 of the Revised Code. If such an affidavit is filed, the 2443
patient's discharge must be postponed until a hearing under 2444
section 5122.141 of the Revised Code is held. 2445

(D) A person who is found incompetent to stand trial or 2446
not guilty by reason of insanity and who is committed pursuant 2447
to section 2945.39, 2945.40, 2945.401, or 2945.402 of the 2448
Revised Code shall not voluntarily admit the person or be 2449
voluntarily admitted to a hospital pursuant to this section 2450
until after the final termination of the commitment, as 2451
described in division (J) of section 2945.401 of the Revised 2452
Code. 2453

Sec. 5122.03. A patient admitted under section 5122.02 of 2454
the Revised Code who requests release in writing, or whose 2455
release is requested in writing by the patient's counsel, legal 2456
guardian, parent, spouse, or adult next of kin shall be released 2457
forthwith, except ~~that~~ when any of the following is the case: 2458

(A) The patient was admitted on the patient's own 2459
application and the request for release is made by a person 2460
other than the patient, release may be conditional upon the 2461
agreement of the patient; ~~or.~~ 2462

(B) The patient was, within the past twelve months, a 2463
defendant described in division (B) (1) (a) (v) (I) of section 2464
2945.38 of the Revised Code and the chief clinical officer of 2465
the hospital decides not to file or cause to be filed an 2466
affidavit under section 5122.11 of the Revised Code as described 2467
in division (C) of this section. In that circumstance, the chief 2468
clinical officer shall immediately notify the trial court or 2469
prosecutor described in division (B) (1) (a) (v) (I) of section 2470
2945.38 of the Revised Code of the chief clinical officer's 2471
decision and intent to release the patient. Not later than three 2472
court days after being notified of the intent to release, the 2473
trial court or prosecutor may file or cause to be filed with the 2474
court of the county where the patient is hospitalized, or the 2475
court of the county where the patient resides, an affidavit 2476
under section 5122.11 of the Revised Code. If such an affidavit 2477
is filed, the patient's release must be postponed until a 2478
hearing under section 5122.141 of the Revised Code is held. 2479

(C) The chief clinical officer of the hospital, within 2480
three court days from the receipt of the request for release, 2481
files or causes to be filed with the court of the county where 2482
the patient is hospitalized or of the county where the patient 2483
is a resident, an affidavit under section 5122.11 of the Revised 2484
Code. Release may be postponed until the hearing held under 2485
section 5122.141 of the Revised Code. A telephone communication 2486
within three court days from the receipt of the request for 2487
release from the chief clinical officer to the court, indicating 2488
that the required affidavit has been mailed, is sufficient 2489

compliance with the time limit for filing such affidavit. 2490

Unless the patient is released within three days from the 2491
receipt of the request by the chief clinical officer, the 2492
request shall serve as a request for an initial hearing under 2493
section 5122.141 of the Revised Code. If the court finds that 2494
the patient is a mentally ill person subject to court order, all 2495
provisions of this chapter with respect to involuntary 2496
hospitalization apply to such person. 2497

Judicial proceedings for hospitalization shall not be 2498
commenced with respect to a voluntary patient except pursuant to 2499
this section. 2500

Sections 5121.30 to 5121.56 of the Revised Code apply to 2501
persons received in a hospital operated by the department of 2502
mental health and addiction services on a voluntary application. 2503

The chief clinical officer of the hospital shall provide 2504
reasonable means and arrangements for informing patients of 2505
their rights to release as provided in this section and for 2506
assisting them in making and presenting requests for release or 2507
for a hearing under section 5122.141 of the Revised Code. 2508

Before a patient is released from a public hospital, the 2509
chief clinical officer shall, when possible, notify the board of 2510
the patient's county of residence of the patient's pending 2511
release after the chief clinical officer has informed the 2512
patient that the board will be so notified. 2513

Sec. 5122.11. Proceedings for a mentally ill person 2514
subject to court order pursuant to sections 5122.11 to 5122.15 2515
of the Revised Code shall be commenced by the filing of an 2516
affidavit in the manner prescribed by the department of mental 2517
health and addiction services and in a form prescribed in 2518

section 5122.111 of the Revised Code, by any person or persons 2519
with the probate court, either on reliable information or actual 2520
knowledge, whichever is determined to be proper by the court. 2521
This section does not apply to the hospitalization of a person 2522
pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of 2523
the Revised Code. 2524

The affidavit shall contain an allegation setting forth 2525
the specific category or categories under division (B) of 2526
section 5122.01 of the Revised Code upon which the jurisdiction 2527
of the court is based and a statement of alleged facts 2528
sufficient to indicate probable cause to believe that the person 2529
is a mentally ill person subject to court order. The affidavit 2530
may be accompanied, or the court may require that the affidavit 2531
be accompanied, by a certificate of a psychiatrist, or a 2532
certificate signed by a licensed clinical psychologist and a 2533
certificate signed by a licensed physician stating that the 2534
person who issued the certificate has examined the person and is 2535
of the opinion that the person is a mentally ill person subject 2536
to court order, or shall be accompanied by a written statement 2537
by the applicant, under oath, that the person has refused to 2538
submit to an examination by a psychiatrist, or by a licensed 2539
clinical psychologist and licensed physician. 2540

Upon ~~With regard to a defendant described in division (B)~~ 2541
(1) (a) (v) (I) of section 2945.38 of the Revised Code for whom 2542
criminal charges were dismissed, the affidavit shall contain a 2543
space for the trial court or prosecutor filing the affidavit to 2544
indicate that the person named in the affidavit is such a 2545
defendant. 2546

Upon receipt of the affidavit, if a judge of the court or 2547
a referee who is an attorney at law appointed by the court has 2548

probable cause to believe that the person named in the affidavit 2549
is a mentally ill person subject to court order, the judge or 2550
referee may issue a temporary order of detention ordering any 2551
health or police officer or sheriff to take into custody and 2552
transport the person to a hospital or other place designated in 2553
section 5122.17 of the Revised Code, or may set the matter for 2554
further hearing. If a temporary order of detention is issued and 2555
the person is transported to a hospital or other designated 2556
place, the court that issued the order shall retain jurisdiction 2557
over the case as it relates to the person's outpatient 2558
treatment, notwithstanding that the hospital or other designated 2559
place to which the person is transported is outside the 2560
territorial jurisdiction of the court. 2561

The person may be observed and treated until the hearing 2562
provided for in section 5122.141 of the Revised Code. If no such 2563
hearing is held, the person may be observed and treated until 2564
the hearing provided for in section 5122.15 of the Revised Code. 2565

Sec. 5122.111. To initiate proceedings for court-ordered 2566
treatment of a person under section 5122.11 of the Revised Code, 2567
a person or persons shall file an affidavit with the probate 2568
court that is identical in form and content to the following: 2569

AFFIDAVIT OF MENTAL ILLNESS 2570

The State of Ohio 2571

_____ County, ss. 2572

_____ Court 2573

_____ 2574

the undersigned, residing at 2575

_____ 2576

says, that he/she has information to believe or has actual	2577
knowledge that	2578
<hr/>	
(Please specify specific category(ies) below with an X.)	2579
	2580
[] Represents a substantial risk of physical harm to self as	2581
manifested by evidence of threats of, or attempts at, suicide or	2582
serious self-inflicted bodily harm;	2583
[] Represents a substantial risk of physical harm to others as	2584
manifested by evidence of recent homicidal or other violent	2585
behavior or evidence of recent threats that place another in	2586
reasonable fear of violent behavior and serious physical harm or	2587
other evidence of present dangerousness;	2588
[] Represents a substantial and immediate risk of serious	2589
physical impairment or injury to self as manifested by evidence	2590
of being unable to provide for and of not providing for basic	2591
physical needs because of mental illness and that appropriate	2592
provision for such needs cannot be made immediately available in	2593
the community;	2594
[] Would benefit from treatment for mental illness and is in	2595
need of such treatment as manifested by evidence of behavior	2596
that creates a grave and imminent risk to substantial rights of	2597
others or the person; or	2598
[] Would benefit from treatment as manifested by evidence of	2599
behavior that indicates all of the following:	2600
(a) The person is unlikely to survive safely in the community	2601
without supervision, based on a clinical determination.	2602
(b) The person has a history of lack of compliance with	2603
treatment for mental illness and one of the following applies:	2604

(i) At least twice within the thirty-six months prior to the 2605
filing of an affidavit seeking court-ordered treatment of the 2606
person under section 5122.111 of the Revised Code, the lack of 2607
compliance has been a significant factor in necessitating 2608
hospitalization in a hospital or receipt of services in a 2609
forensic or other mental health unit of a correctional facility, 2610
provided that the thirty-six-month period shall be extended by 2611
the length of any hospitalization or incarceration of the person 2612
that occurred within the thirty-six-month period. 2613

(ii) Within the forty-eight months prior to the filing of an 2614
affidavit seeking court-ordered treatment of the person under 2615
section 5122.111 of the Revised Code, the lack of compliance 2616
resulted in one or more acts of serious violent behavior toward 2617
self or others or threats of, or attempts at, serious physical 2618
harm to self or others, provided that the forty-eight-month 2619
period shall be extended by the length of any hospitalization or 2620
incarceration of the person that occurred within the forty- 2621
eight-month period. 2622

(c) The person, as a result of mental illness, is unlikely to 2623
voluntarily participate in necessary treatment. 2624

(d) In view of the person's treatment history and current 2625
behavior, the person is in need of treatment in order to prevent 2626
a relapse or deterioration that would be likely to result in 2627
substantial risk of serious harm to the person or others. 2628

2629

(Name of the party filing the affidavit) further says that the 2630
facts supporting this belief are as follows: 2631

2632

2633

2634
2635
2636
2637

These facts being sufficient to indicate probable cause that the
above said person is a mentally ill person subject to court
order.

2638
2639
2640

~~Name~~ The undersigned represents a trial court or a prosecutor
who, as described in division (B) (1) (a) (v) (I) of section 2945.38
of the Revised Code, is alleging that the above said person is a
mentally ill person subject to court order: [] Yes [] No
(please specify answer with an X). If Yes, please specify the
name and address of the trial court or prosecutor:

2641
2642
2643
2644
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2646

2647
2648

Name of Patient's Last Physician or Licensed Clinical
Psychologist

2649
2650

2651

Address of Patient's Last Physician or Licensed Clinical
Psychologist

2652
2653

2654

2655

The name and address of respondent's legal guardian, spouse, and
adult next of kin are:

2656
2657

Name	Kinship	Address
_____	Legal Guardian	_____
_____	Spouse	_____

2658
2659
2660
2661

_____ Adult Next of Kin _____ 2662
_____ Adult Next of Kin _____ 2663
_____ Adult Next of Kin _____ 2664
_____ Adult Next of Kin _____ 2665
_____ 2666

The following constitutes additional information that may be 2667
necessary for the purpose of determining residence: 2668

_____ 2669
_____ 2670
_____ 2671
_____ 2672
_____ 2673

Dated this _____ day of _____, 20__ 2674

_____ 2675

Signature of the party filing 2676
the affidavit 2677

Sworn to before me and signed in my presence on the day and year 2678
above dated. 2679

_____ 2680

Signature of Probate Judge, 2681
Deputy Clerk, or Notary 2682
Public 2683

WAIVER 2684

I, the undersigned party filing the affidavit hereby waive the 2685
issuing and service of notice of the hearing on said affidavit, 2686
and voluntarily enter my appearance herein. 2687

Dated this _____ day of _____, 20__ 2688

Signature of the party filing
the affidavit

2689
2690
2691

Sec. 5122.112. A probate court that terminates
jurisdiction over a defendant described in division (B)(1)(a)(v)
(I) of section 2945.38 of the Revised Code, for whom a trial
court or prosecutor initiated proceedings alleging that the
defendant is a mentally ill person subject to court order
pursuant to sections 5122.11 to 5122.15 of the Revised Code,
shall immediately do both of the following:

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(A) Notify the initiating court or prosecutor of the
termination;

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(B) Transmit to the initiating court a copy of any records
in its possession that pertain to the defendant's mental illness
or treatment for mental illness.

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Section 5. That existing sections 2945.37, 2945.371,
2945.38, 5122.02, 5122.03, 5122.11, and 5122.111 of the Revised
Code are hereby repealed.

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