

# MAINE STATE LEGISLATURE

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L.D. 863

Date: 6-15-21

(Filing No. H(661) )

**HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
130TH LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 631, L.D. 863, "An Act To Have Maine Join the Interstate Psychology Interjurisdictional Compact To Improve Telehealth Options for Psychologists and Their Patients"

Amend the bill by striking out the title and substituting the following:

**'An Act To Have Maine Join the Interstate Psychology Interjurisdictional Compact'**

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 32 MRSA c. 56, sub-c. 4 is enacted to read:

**SUBCHAPTER 4**

**PSYCHOLOGY INTERJURISDICTIONAL COMPACT**

**§3841. Short title; legislative intent; declaration of purpose - Article 1**

**1. Short title.** This subchapter may be known and cited as "the Psychology Interjurisdictional Compact."

**2. Legislative intent.** This compact is the Maine enactment of the Psychology Interjurisdictional Compact, which is referred to in this subchapter as "the compact." The form, format and text of the compact have been changed minimally so as to conform to the Maine Revised Statutes. The changes to the compact are technical in nature, and this Act must be interpreted as substantively the same as the compact that is enacted by other compact states.

**3. Purpose.** The compact protects the public through the verification of education, training and experience and ensures accountability for the professional practice of psychology.

**A. The compact:**

- 1           (1) Regulates the day-to-day practice of telepsychology, that is, the provision of  
 2           psychological services using telecommunications technologies by psychologists  
 3           across state boundaries in the performance of their psychological practice as  
 4           assigned by an appropriate authority;
- 5           (2) Regulates the temporary in-person, face-to-face practice of psychology by  
 6           psychologists across state boundaries for 30 days within a calendar year in the  
 7           performance of their psychological practice as assigned by an appropriate  
 8           authority;
- 9           (3) Authorizes state psychology regulatory authorities to afford legal recognition,  
 10          in a manner consistent with the terms of the compact, to psychologists licensed in  
 11          another state;
- 12          (4) Recognizes that states have a vested interest in protecting public health and  
 13          safety through their licensing and regulation of psychologists and that such  
 14          regulation will best protect public health and safety;
- 15          (5) Does not apply when psychologists are licensed in both their home state and  
 16          receiving states; and
- 17          (6) Does not apply to ongoing in-person, face-to-face practice but allows for  
 18          authorization of a temporary psychological practice.

19          B. The compact is designed to achieve the following purposes and objectives:

- 20           (1) To increase public access to professional psychological services by allowing  
 21           for telepsychological practice across state lines as well as temporary in-person,  
 22           face-to-face services in a state in which the psychologist is not licensed to practice  
 23           psychology;
- 24           (2) To enhance a state's ability to protect public health and safety, especially client  
 25           safety;
- 26           (3) To encourage the cooperation of compact states in the areas of psychology  
 27           licensure and regulation;
- 28           (4) To facilitate the exchange of information between compact states regarding  
 29           psychologist licensure, adverse actions and disciplinary history;
- 30           (5) To promote compliance with the laws governing psychological practice in each  
 31           compact state; and
- 32           (6) To invest all compact states with the authority to hold licensed psychologists  
 33           accountable through the mutual recognition of compact states' licenses.

34          §3842. Definitions - Article 2

35           As used in this subchapter, unless the context otherwise indicates, the following terms  
 36           have the following meanings.

37           1. Adverse action. "Adverse action" means any action taken by a state psychology  
 38           regulatory authority that is identified by the state psychology regulatory authority as  
 39           discipline for a violation of a statute or regulation and that is a matter of public record.

40           2. Association of State and Provincial Psychology Boards. "Association of State  
 41           and Provincial Psychology Boards" means the recognized membership organization

1 composed of state and provincial psychology regulatory authorities responsible for the  
2 licensure and registration of psychologists throughout the United States and Canada.

3 **3. Authority to practice interjurisdictional telepsychology.** "Authority to practice  
4 interjurisdictional telepsychology" means a licensed psychologist's authority to practice  
5 telepsychology within the limits authorized under this compact in another compact state.

6 **4. Bylaws.** "Bylaws" means the bylaws established by the commission pursuant to  
7 section 3850 for its governance or for directing and controlling its actions and conduct.

8 **5. Client.** "Client" means the recipient of psychological services, whether  
9 psychological services are delivered in the context of health care, corporate, supervision or  
10 consulting services.

11 **6. Commission.** "Commission" means the Psychology Interjurisdictional Compact  
12 Commission established by section 3850, which is the governing body of the compact.

13 **7. Commissioner.** "Commissioner" means the voting representative appointed by  
14 each state psychology regulatory authority pursuant to section 3850.

15 **8. Compact state.** "Compact state" means a state, the District of Columbia or a United  
16 States territory that has enacted the compact and that has not withdrawn pursuant to section  
17 3850-C, subsection 3 or has not been terminated pursuant to section 3850-B, subsection 2.

18 **9. Confidential.** "Confidential" means the principle that data or information is not  
19 made available or disclosed to unauthorized persons or processes.

20 **10. Coordinated database.** "Coordinated database" means the coordinated licensure  
21 information system described in section 3849, which is an integrated process for collecting,  
22 storing and sharing information on psychologists' licensure and enforcement activities  
23 related to psychology licensure laws.

24 **11. Day.** "Day" means any part of a day in which psychological services are  
25 performed.

26 **12. Distant state.** "Distant state" means a compact state where a psychologist is  
27 physically present, not through the use of telecommunications technologies, to provide  
28 temporary in-person, face-to-face psychological services.

29 **13. E-passport.** "E-passport" means a certificate issued by the Association of State  
30 and Provincial Psychology Boards that promotes the standardization in the criteria of  
31 interjurisdictional telepsychology practice and facilitates the process for licensed  
32 psychologists to provide telepsychological services across state lines.

33 **14. Executive board.** "Executive board" means a group of directors elected or  
34 appointed to act on behalf of, and within the powers granted to them by, the commission  
35 pursuant to section 3850, subsection 5.

36 **15. Home state.** "Home state" means a compact state where a psychologist is licensed  
37 to practice psychology. If the psychologist is licensed in more than one compact state and  
38 is practicing under the authority to practice interjurisdictional telepsychology, the home  
39 state is the compact state where the psychologist is physically present when the  
40 telepsychological services are delivered. If the psychologist is licensed in more than one  
41 compact state and is practicing under the temporary authorization to practice pursuant to  
42 section 3845, the home state is any compact state where the psychologist is licensed.

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1           **16. Identity history summary.** "Identity history summary" means a summary of  
2 information retained by the Federal Bureau of Investigation or other designee with similar  
3 authority in connection with arrests and, in some instances, federal employment,  
4 naturalization or military service.

5           **17. In-person, face-to-face.** "In-person, face-to-face" means interactions in which the  
6 psychologist and the client are in the same physical space and does not include interactions  
7 that may occur through the use of telecommunications technologies.

8           **18. Interjurisdictional practice certificate.** "Interjurisdictional practice certificate"  
9 means a certificate issued by the Association of State and Provincial Psychology Boards  
10 that grants temporary authorization to practice based on notification to the state psychology  
11 regulatory authority of intention to practice temporarily and verifies the qualifications for  
12 such practice.

13           **19. License.** "License" means authorization by a state psychology regulatory authority  
14 to engage in the independent practice of psychology.

15           **20. Non-compact state.** "Non-compact state" means any state that is not a compact  
16 state.

17           **21. Psychologist.** "Psychologist" means an individual licensed for the independent  
18 practice of psychology.

19           **22. Receiving state.** "Receiving state" means a compact state where the client is  
20 physically located when telepsychological services are delivered.

21           **23. Rule.** "Rule" means a written statement by the commission, promulgated pursuant  
22 to section 3850-A, that is of general applicability, implements, interprets or prescribes a  
23 policy or provision of the compact or an organizational, procedural or practice requirement  
24 of the commission. A rule has the force and effect of statutory law in a compact state and  
25 includes the amendment, repeal or suspension of an existing rule.

26           **24. Significant investigatory information.** "Significant investigatory information"  
27 means either:

28           A. Investigative information that a state psychology regulatory authority, after a  
29 preliminary inquiry that includes notification and an opportunity to respond if required  
30 by state law, has reason to believe, if proven true, would indicate more than a violation  
31 of state statute or ethics code that would be considered more substantial than a minor  
32 infraction; or

33           B. Investigative information that indicates that a psychologist represents an immediate  
34 threat to public health and safety regardless of whether the psychologist has been  
35 notified and had an opportunity to respond.

36           **25. State.** "State" means a state, the District of Columbia or a territory of the United  
37 States.

38           **26. State psychology regulatory authority.** "State psychology regulatory authority"  
39 means the board, office or other agency with the legislative mandate to license and regulate  
40 the practice of psychology.

41           **27. Telepsychology.** "Telepsychology" means the provision of psychological services  
42 using telecommunications technologies.

# COMMITTEE AMENDMENT

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**28. Temporary authorization to practice.** "Temporary authorization to practice" means a licensed psychologist's authority to provide temporary in-person, face-to-face practice within the limits authorized under this compact in another compact state.

**29. Temporary in-person, face-to-face practice.** "Temporary in-person, face-to-face practice" means the practice of psychology when a psychologist is physically present in a distant state to provide services for 30 days within a calendar year and is based on notification to the distant state. "Temporary in-person face-to-face practice" does not include the use of telecommunications technologies.

**§3843. Home state licensure - Article 3**

**1. Home state.** The home state must be a compact state where a psychologist is licensed to practice psychology.

**2. Licensing in more than one compact state.** A psychologist may hold one or more compact state licenses at a time. If the psychologist is licensed in more than one compact state, the home state is the compact state where the psychologist is physically present when the services are delivered as authorized by the authority to practice interjurisdictional telepsychology under the terms of this compact.

**3. Circumstances not authorized by compact for telepsychology practice.** Any compact state may require a psychologist not previously licensed in a compact state to obtain and retain a license to be authorized to practice in the compact state under circumstances not authorized by the authority to practice interjurisdictional telepsychology under the terms of this compact.

**4. Circumstances not authorized by compact for temporary authorization to practice.** Any compact state may require a psychologist to obtain and retain a license to be authorized to practice in a compact state under circumstances not authorized by the temporary authorization to practice under the terms of this compact.

**5. Home state license; telepsychology practice.** A home state's license authorizes a psychologist to practice in a receiving state under the authority to practice interjurisdictional telepsychology only if the compact state:

- A. Currently requires the psychologist to hold an active e-passport;
- B. Has a mechanism in place for receiving and investigating complaints about licensed psychologists;
- C. Notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed psychologist;
- D. Requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, or other designee with similar authority, no later than 10 years after activation of the compact; and
- E. Complies with the bylaws and rules of the commission.

**6. Home state license; temporary authorization to practice.** A home state's license grants temporary authorization to practice to a psychologist in a distant state only if the compact state:

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- 1           A. Currently requires the psychologist to hold an active interjurisdictional practice
- 2           certificate;
- 3           B. Has a mechanism in place for receiving and investigating complaints about licensed
- 4           psychologists;
- 5           C. Notifies the commission, in compliance with the terms herein, of any adverse action
- 6           or significant investigatory information regarding a licensed psychologist;
- 7           D. Requires an identity history summary of all applicants at initial licensure, including
- 8           the use of the results of fingerprints or other biometric data checks compliant with the
- 9           requirements of the Federal Bureau of Investigation, or other designee with similar
- 10           authority, no later than 10 years after activation of the compact; and
- 11           E. Complies with the bylaws and rules of the commission.

**§3844. Compact privilege to practice telepsychology - Article 4**

13           **1. Privilege to practice telepsychology in receiving states.** Compact states shall  
14           recognize the right of a psychologist, licensed in a compact state in conformance with  
15           section 3843, to practice telepsychology in receiving states in which the psychologist is not  
16           licensed under the authority to practice interjurisdictional telepsychology as provided in  
17           the compact.

18           **2. Conditions to exercise authority to practice interjurisdictional telepsychology.**  
19           To exercise the authority to practice interjurisdictional telepsychology under the terms and  
20           provisions of this compact, a psychologist licensed to practice in a compact state must:

21           A. Hold a graduate degree in psychology from an institute of higher education that  
22           was, at the time the degree was awarded:

23                   (1) Regionally accredited by an accrediting body recognized by the United States  
24                   Department of Education to grant graduate degrees or authorized by provincial  
25                   statute or royal charter to grant doctoral degrees; or

26                   (2) A foreign college or university determined to satisfy subparagraph (1) by a  
27                   foreign credential evaluation service that is a member of the National Association  
28                   of Credential Evaluation Services or by a recognized foreign credential evaluation  
29                   service;

30           B. Hold a graduate degree in psychology that meets the following criteria:

31                   (1) The program, wherever it may be administratively housed, must be clearly  
32                   identified and labeled as a psychology program. The program must specify in  
33                   pertinent institutional catalogues and brochures its intent to educate and train  
34                   professional psychologists;

35                   (2) The program must stand as a recognizable, coherent, organizational entity  
36                   within the institution;

37                   (3) There must be a clear authority and primary responsibility for the core and  
38                   specialty areas whether or not the program cuts across administrative lines;

39                   (4) The program must consist of an integrated, organized sequence of study;

40                   (5) There must be an identifiable psychology faculty sufficient in size and breadth  
41                   to carry out its responsibilities;

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- 1           (6) The designated director of the program must be a psychologist and a member
- 2           of the core faculty;
- 3           (7) The program must have an identifiable body of students who are matriculated
- 4           in that program for a degree;
- 5           (8) The program must include supervised practicum, internship or field training
- 6           appropriate to the practice of psychology;
- 7           (9) The curriculum must encompass a minimum of 3 academic years of full-time
- 8           graduate study for doctoral degrees and a minimum of one academic year of full-
- 9           time graduate study for master's degrees; and
- 10          (10) The program includes an acceptable residency as defined by the rules;
- 11          C. Possess a current, full and unrestricted license to practice psychology in a home
- 12          state that is a compact state;
- 13          D. Have no history of adverse actions that violate the rules;
- 14          E. Have no criminal history record reported on an identity history summary that
- 15          violates the rules;
- 16          F. Possess a current, active e-passport;
- 17          G. Provide attestations in regard to areas of intended practice, conformity with
- 18          standards of practice, competence in telepsychology technology, criminal background
- 19          and knowledge and adherence to legal requirements in the home and receiving states
- 20          and provide a release of information to allow for primary source verification in a
- 21          manner specified by the commission; and
- 22          H. Meet other criteria as defined by the rules.

23          **3. Home state authority.** The home state maintains authority over the license of any

24          psychologist practicing in a receiving state under the authority to practice interjurisdictional

25          telepsychology.

26          **4. Scope of practice in receiving state.** A psychologist practicing in a receiving state

27          under the authority to practice interjurisdictional telepsychology is subject to the receiving

28          state's scope of practice. A receiving state may, in accordance with that state's due process

29          law, limit or revoke a psychologist's authority to practice interjurisdictional telepsychology

30          in the receiving state and may take any other necessary actions under the receiving state's

31          applicable law to protect the health and safety of the receiving state's citizens. If a receiving

32          state takes action, the receiving state shall promptly notify the home state and the

33          commission.

34          **5. Revocation of authority.** If a psychologist's license in any home state or another

35          compact state or any authority to practice interjurisdictional telepsychology in any

36          receiving state is restricted, suspended or otherwise limited, the e-passport must be revoked

37          and the psychologist is not eligible to practice telepsychology in a compact state under the

38          authority to practice interjurisdictional telepsychology.

39          **§3845. Compact temporary authorization to practice - Article 5**

40          **1. Temporary authorization to practice.** Compact states shall recognize the right of

41          a psychologist licensed in a compact state in conformance with section 3843 to practice



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1 temporarily in distant states in which the psychologist is not licensed, as provided in the  
2 compact.

3 **2. Conditions to exercise authority.** To exercise the temporary authorization to  
4 practice under the terms and provisions of this compact, a psychologist licensed to practice  
5 in a compact state must:

6 A. Hold a graduate degree in psychology from an institute of higher education that  
7 was, at the time the degree was awarded:

8 (1) Regionally accredited by an accrediting body recognized by the United States  
9 Department of Education to grant graduate degrees or authorized by provincial  
10 statute or royal charter to grant doctoral degrees; or

11 (2) A foreign college or university determined to satisfy subparagraph (1) by a  
12 foreign credential evaluation service that is a member of the National Association  
13 of Credential Evaluation Services or by a recognized foreign credential evaluation  
14 service;

15 B. Hold a graduate degree in psychology that meets the following criteria:

16 (1) The program, wherever it may be administratively housed, must be clearly  
17 identified and labeled as a psychology program. Such a program must specify in  
18 pertinent institutional catalogues and brochures its intent to educate and train  
19 professional psychologists;

20 (2) The program must stand as a recognizable, coherent, organizational entity  
21 within the institution;

22 (3) There must be a clear authority and primary responsibility for the core and  
23 specialty areas whether or not the program cuts across administrative lines;

24 (4) The program must consist of an integrated, organized sequence of study;

25 (5) There must be an identifiable psychology faculty sufficient in size and breadth  
26 to carry out its responsibilities;

27 (6) The designated director of the program must be a psychologist and a member  
28 of the core faculty;

29 (7) The program must have an identifiable body of students who are matriculated  
30 in that program for a degree;

31 (8) The program must include supervised practicum, internship or field training  
32 appropriate to the practice of psychology;

33 (9) The curriculum must encompass a minimum of 3 academic years of full-time  
34 graduate study for doctoral degrees and a minimum of one academic year of full-  
35 time graduate study for master's degrees; and

36 (10) The program must include an acceptable residency as defined by the rules;

37 C. Possess a current, full and unrestricted license to practice psychology in a home  
38 state that is a compact state;

39 D. Have no history of adverse actions that violate the rules;

40 E. Have no criminal history record that violates the rules;

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F. Possess a current, active interjurisdictional practice certificate;

G. Provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the commission; and

H. Meet other criteria as defined by the rules.

**3. Scope of practice.** A psychologist practicing in a distant state under the temporary authorization to practice shall practice within the scope of practice authorized by the distant state.

**4. Authority of distant state.** A psychologist practicing in a distant state under the temporary authorization to practice is 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 distant state shall promptly notify the home state and the commission.

**5. Revocation.** If a psychologist's license in any home state or another compact state or any temporary authorization to practice in any distant state is restricted, suspended or otherwise limited, the interjurisdictional practice certificate must be revoked and the psychologist is not eligible to practice in a compact state under the temporary authorization to practice.

**§3846. Conditions of telepsychology practice in receiving state - Article 6**

**1. Conditions of telepsychology practice.** 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, and under the following circumstances:

A. The psychologist initiates contact with a client in a home state via telecommunications technologies with a client in a receiving state; and

B. Other conditions regarding telepsychology as determined by rules promulgated by the commission.

**§3847. Adverse actions - Article 7**

**1. Authority of home state and distant state.** A home state has the power to impose adverse action against a psychologist's license issued by the home state. A distant state has the power to take adverse action on a psychologist's temporary authorization to practice within that distant state.

**2. Authority of receiving state and home state.** A receiving state may take adverse action on a psychologist's authority to practice interjurisdictional telepsychology within that receiving state. A home state may take adverse action against a psychologist based on an adverse action taken by a distant state regarding temporary in-person, face-to-face practice.

**3. Adverse action by home state.** If a home state takes adverse action against a psychologist's license, that psychologist's authority to practice interjurisdictional

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1 telepsychology is terminated and the e-passport is revoked. Furthermore, that  
2 psychologist's temporary authorization to practice is terminated, and the interjurisdictional  
3 practice certificate is revoked.

4 A. All home state disciplinary orders that impose adverse action must be reported to  
5 the commission in accordance with the rules promulgated by the commission. A  
6 compact state shall report adverse actions in accordance with the rules.

7 B. In the event discipline is reported on a psychologist, the psychologist is not eligible  
8 for telepsychology or temporary in-person, face-to-face practice in accordance with the  
9 rules.

10 C. Other actions may be imposed as determined by the rules promulgated by the  
11 commission.

12 4. Investigation by home state. A home state's state psychology regulatory authority  
13 shall investigate and take appropriate action with respect to reported inappropriate conduct  
14 engaged in by a licensee that occurred in a receiving state as it would if such conduct by a  
15 licensee had occurred within the home state. In such cases, the home state's law controls  
16 in determining any adverse action against a psychologist's license.

17 5. Investigation by distant state. A distant state's state psychology regulatory  
18 authority shall investigate and take appropriate action with respect to reported inappropriate  
19 conduct engaged in by a psychologist practicing under temporary authorization to practice  
20 that occurred in that distant state as it would if such conduct by a licensee had occurred  
21 within the home state. In such cases, the distant state's law controls in determining any  
22 adverse action against a psychologist's temporary authorization to practice.

23 6. Participation in alternative program in lieu of adverse action. Nothing in this  
24 compact overrides a compact state's decision that a psychologist's participation in an  
25 alternative program may be used in lieu of adverse action and that such participation must  
26 remain nonpublic if required by the compact state's law. Compact states shall require  
27 psychologists who enter any alternative program to not provide telepsychology services  
28 under the authority to practice interjurisdictional telepsychology or not provide temporary  
29 psychological services under the temporary authorization to practice in any other compact  
30 state during the term of the alternative program.

31 7. No additional judicial or administrative remedies. No other judicial or  
32 administrative remedies are available to a psychologist in the event a compact state imposes  
33 an adverse action pursuant to subsection 3.

34 **§3848. Additional authorities invested in compact state's psychology regulatory**  
35 **authority - Article 8**

36 1. Authority under compact. In addition to any other powers granted under state  
37 law, a state psychology regulatory authority has the authority under this compact to:

38 A. Issue subpoenas, for both hearings and investigations, that require the attendance  
39 and testimony of witnesses and the production of evidence. Subpoenas issued by a  
40 state psychology regulatory authority for the attendance and testimony of witnesses or  
41 the production of evidence from another compact state are enforced in the latter state  
42 by any court of competent jurisdiction, according to that court's practice and procedure  
43 in considering subpoenas issued in its own proceedings. The issuing state psychology

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1 regulatory authority shall pay any witness fees, travel expenses, mileage and other fees  
2 required by the service statutes of the state where the witnesses or evidence is located;

3 B. Issue cease and desist or injunctive relief orders to revoke a psychologist's authority  
4 to practice interjurisdictional telepsychology or temporary authorization to practice;  
5 and

6 C. During the course of any investigation, deny a change in the psychologist's home  
7 state licensure. A home state psychology regulatory authority is authorized to complete  
8 any pending investigations of a psychologist and to take any actions appropriate under  
9 its law. The home state psychology regulatory authority shall promptly report the  
10 conclusions of such investigations to the commission. Once an investigation has been  
11 completed, and pending the outcome of said investigation, the psychologist may  
12 change the psychologist's home state licensure. The commission shall promptly notify  
13 the new home state of any such decisions as provided in the rules. All information  
14 provided to the commission or distributed by compact states about the psychologist  
15 must be confidential, filed under seal and used only for investigatory or disciplinary  
16 matters. The commission may create additional rules for mandated or discretionary  
17 sharing of information by compact states.

18 **§3849. Coordinated licensure information system - Article 9**

19 **1. Coordinated licensure information system.** The commission shall provide for the  
20 development and maintenance of a coordinated licensure information system and reporting  
21 system containing licensure and disciplinary action information on all licensees to whom  
22 this compact is applicable in all compact states as defined by the rules.

23 **2. Uniform dataset.** Notwithstanding any other provision of state law to the contrary,  
24 a compact state shall submit a uniform dataset to the coordinated database on all licensees  
25 as required by the rules, including:

26 A. Identifying information;

27 B. Licensure data;

28 C. Significant investigatory information;

29 D. Adverse actions against a psychologist's license;

30 E. An indicator that a psychologist's authority to practice interjurisdictional  
31 telepsychology or temporary authorization to practice is revoked;

32 F. Nonconfidential information related to alternative program participation  
33 information;

34 G. Any denial of an application for licensure and the reasons for such denial; and

35 H. Other information that may facilitate the administration of this compact, as  
36 determined by the rules.

37 **3. Notice of adverse action.** The coordinated database administrator shall promptly  
38 notify all compact states of any adverse action taken against or significant investigative  
39 information on any licensee in a compact state.

40 **4. Designation of nonpublic information.** Compact states reporting information to  
41 the coordinated database may designate information that may not be shared with the public  
42 without the express permission of the compact state reporting the information.

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5. Expunging of data pursuant to law of compact state. Any information submitted to the coordinated database that is subsequently required to be expunged under the law of the compact state reporting the information must be removed from the coordinated database.

**§3850. Establishment of the Psychology Interjurisdictional Compact Commission - Article 10**

1. Commission established. The compact states hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission.

A. The commission is a body politic and an instrumentality of the compact states.

B. Venue is proper and judicial proceedings by or against the commission must be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

C. Nothing in this compact may be construed to be a waiver of sovereign immunity.

2. Membership, voting and meetings. The commission must consist of one voting representative appointed by each compact state who serves as that state's commissioner. The state psychology regulatory authority shall appoint its delegate. This delegate is empowered to act on behalf of the compact state.

A. This delegate must be limited to:

- (1) An executive director, executive secretary or similar executive;
- (2) A current member of the state psychology regulatory authority of a compact state; or
- (3) A designee empowered with the appropriate delegate authority to act on behalf of the compact state.

B. Any commissioner may be removed or suspended from office as provided by the law of the state from which the commissioner is appointed. Any vacancy occurring in the commission must be filled in accordance with the laws of the compact state in which the vacancy exists.

C. Each commissioner is entitled to one vote with regard to the promulgation of rules and creation of bylaws and must otherwise have an opportunity to participate in the business and affairs of the commission. A commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for commissioners' participation in meetings by telephone or other means of communication.

D. The commission shall meet at least once during each calendar year. Additional meetings must be held as set forth in the bylaws.

E. All meetings are open to the public, and public notice of meetings must be given in the same manner as required under the rule-making provisions in section 3850-A.

F. The commission may convene in a closed, nonpublic meeting if the commission must discuss:

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- 1           (1) Noncompliance of a compact state with its obligations under the compact;
  - 2           (2) Employment, compensation, discipline or other personnel matters, practices or
  - 3           procedures related to specific employees or other matters related to the
  - 4           commission's internal personnel practices and procedures;
  - 5           (3) Current, threatened or reasonably anticipated litigation against the
  - 6           commission;
  - 7           (4) The negotiation of contracts for the purchase or sale of goods, services or real
  - 8           estate;
  - 9           (5) An accusation against any person of a crime or formally censuring any person;
  - 10          (6) Disclosure of trade secrets or commercial or financial information that is
  - 11          privileged or confidential;
  - 12          (7) Disclosure of information of a personal nature when disclosure would
  - 13          constitute a clearly unwarranted invasion of personal privacy;
  - 14          (8) Disclosure of investigatory records compiled for law enforcement purposes;
  - 15          (9) Disclosure of information related to any investigatory reports prepared by or
  - 16          on behalf of or for use by the commission or other committee charged with
  - 17          responsibility for investigation or determination of compliance issues pursuant to
  - 18          the compact; or
  - 19          (10) Matters specifically exempted from disclosure by federal and state statute.

20          G. If a meeting, or portion of a meeting, is closed pursuant to paragraph F, the

21          commission's legal counsel or designee shall certify that the meeting may be closed

22          and must reference each relevant subparagraph in paragraph F. The commission shall

23          keep minutes that fully and clearly describe all matters discussed in a meeting and shall

24          provide a full and accurate summary of actions taken and of any person participating

25          in the meeting, and the reasons therefor, including a description of the views expressed.

26          All documents considered in connection with an action must be identified in such

27          minutes. All minutes and documents of a closed meeting must remain under seal,

28          subject to release only by a majority vote of the commission or by order of a court of

29          competent jurisdiction.

30          **3. Bylaws.** The commission shall, by a majority vote of the commissioners, prescribe

31          bylaws and rules to govern its conduct as may be necessary or appropriate to carry out the

32          purposes and exercise the powers of the compact, including but not limited to:

33                A. Establishing the fiscal year of the commission;

34                B. Providing reasonable standards and procedures:

35                    (1) For the establishment and meetings of other committees; and

36                    (2) Governing any general or specific delegation of any authority or function of

37                    the commission;

38                C. Providing reasonable procedures for calling and conducting meetings of the

39                commission, ensuring reasonable advance notice of all meetings and providing an

40                opportunity for attendance of such meetings by interested parties, with enumerated

41                exceptions designed to protect the public's interest, the privacy of individuals attending

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1 such proceedings and proprietary information, including trade secrets. The  
2 commission may meet in closed session only after a majority of the commissioners  
3 vote to close a meeting to the public in whole or in part. As soon as practicable, the  
4 commission shall make public a copy of the vote to close the meeting, revealing the  
5 vote of each commissioner with no proxy votes allowed;

6 D. Establishing the titles, duties, authority and reasonable procedures for the election  
7 of the officers of the commission;

8 E. Providing reasonable standards and procedures for the establishment of the  
9 personnel policies and programs of the commission. Notwithstanding any civil service  
10 or other similar law of any compact state, the bylaws must exclusively govern the  
11 personnel policies and programs of the commission;

12 F. Promulgating a code of ethics to address permissible and prohibited activities of  
13 commission members and employees;

14 G. Providing a mechanism for concluding the operations of the commission and the  
15 equitable disposition of any surplus funds that may exist after the termination of the  
16 compact after the payment or reserving of all of its debts and obligations;

17 H. Publishing its bylaws in a convenient form and filing a copy thereof and a copy of  
18 any amendment thereto with the appropriate agency or officer in each of the compact  
19 states;

20 I. Maintaining its financial records in accordance with the bylaws; and

21 J. Meeting and taking such actions as are consistent with the provisions of this compact  
22 and the bylaws.

23 **4. Powers of commission.** The commission has the following powers:

24 A. To promulgate uniform rules to facilitate and coordinate implementation and  
25 administration of this compact. The rules have the force and effect of law and are  
26 binding in all compact states;

27 B. To bring and prosecute legal proceedings or actions in the name of the commission,  
28 as long as the standing of any state psychology regulatory authority or other regulatory  
29 body responsible for psychology licensure to sue or be sued under applicable law is not  
30 affected;

31 C. To purchase and maintain insurance and bonds;

32 D. To borrow, accept or contract for services of personnel, including, but not limited  
33 to, employees of a compact state;

34 E. To hire employees, elect or appoint officers, fix compensation, define duties, grant  
35 such individuals appropriate authority to carry out the purposes of the compact and  
36 establish the commission's personnel policies and programs relating to conflicts of  
37 interest, qualifications of personnel and other related personnel matters;

38 F. To accept any appropriate donations and grants of money, equipment, supplies,  
39 materials and services and to receive, utilize and dispose of the same, as long as at all  
40 times the commission strives to avoid any appearance of impropriety or conflict of  
41 interest;

# COMMITTEE AMENDMENT

1 G. To lease, purchase, accept appropriate gifts or donations of or otherwise to own,  
2 hold, improve or use any property, real, personal or mixed, as long as at all times the  
3 commission strives to avoid any appearance of impropriety;

4 H. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose  
5 of any property, real, personal or mixed;

6 I. To establish a budget and make expenditures;

7 J. To borrow money;

8 K. To appoint committees, including advisory committees, composed of members,  
9 state regulators, state legislators or their representatives, consumer representatives and  
10 such other interested persons as may be designated in this compact and the bylaws;

11 L. To provide and receive information from, and to cooperate with, law enforcement  
12 agencies;

13 M. To adopt and use an official seal; and

14 N. To perform other functions as may be necessary or appropriate to achieve the  
15 purposes of this compact consistent with the state regulation of psychology licensure,  
16 temporary in-person, face-to-face practice and telepsychology practice.

17 **5. Executive board.** The elected officers shall serve as the executive board, which has  
18 the power to act on behalf of the commission according to the terms of this compact.

19 A. The executive board is composed of 6 members:

20 (1) Five voting members who are elected from the current membership of the  
21 commission by the commission; and

22 (2) One ex officio, nonvoting member from the Association of State and Provincial  
23 Psychology Boards.

24 B. The ex officio member must have served as staff or been a member of a state  
25 psychology regulatory authority and is selected by the member's respective  
26 organization.

27 C. The commission may remove any member of the executive board as provided in  
28 the bylaws.

29 D. The executive board shall meet at least annually.

30 E. The executive board has the following duties and responsibilities:

31 (1) To recommend to the entire commission changes to the rules or bylaws, this  
32 compact, fees paid by compact states such as annual dues and any other applicable  
33 fees;

34 (2) To ensure compact administration services are appropriately provided,  
35 contractual or otherwise;

36 (3) To prepare and recommend the budget;

37 (4) To maintain financial records on behalf of the commission;

38 (5) To monitor compact compliance of member states and provide compliance  
39 reports to the commission;



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(6) To establish additional committees as necessary; and

(7) To perform other duties as provided in the rules or bylaws.

**6. Financing of commission.** The commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

A. The commission may accept any appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services.

B. The commission may levy and collect an annual assessment from each compact state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which must promulgate a rule binding upon all compact states.

C. The commission may not incur obligations of any kind prior to securing the funds adequate to meet the same. The commission may not pledge the credit of any of the compact states, except by and with the authority of the compact state.

D. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the commission.

**7. Qualified immunity, defense and indemnification.** The members, officers, executive director, employees and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred or that the person against whom the claim is made had a reasonable basis for believing the alleged act, error or omission occurred within the scope of commission employment, duties or responsibilities. Nothing in this subsection may be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that person.

A. The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities or that the person against whom the claim is made had a reasonable basis for believing the alleged act, error or omission occurred within the scope of commission employment, duties or responsibilities if the actual or alleged act, error or omission did not result from that person's intentional, willful or wanton misconduct. Nothing in this paragraph may be construed to prohibit that person from retaining separate counsel.

B. The commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged

# COMMITTEE AMENDMENT

act, error or omission that occurred within the scope of commission employment, duties or responsibilities or that such person had a reasonable basis for believing the alleged act, error or omission occurred within the scope of commission employment, duties or responsibilities if the actual or alleged act, error or omission did not result from the intentional, willful or wanton misconduct of that person.

**§3850-A. Rulemaking - Article 11**

**1. Authority to adopt rules.** The commission may exercise its rule-making powers pursuant to the criteria set forth in this subchapter and the rules promulgated by the commission. Rules and amendments are binding as of the date specified in each rule or amendment.

**2. Rejection of rule.** If a majority of the legislatures of the compact states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule has no further force and effect in any compact state.

**3. Adoption required at regular or special meetings.** Rules or amendments to the rules must be adopted at a regular or special meeting of the commission.

**4. Notice of rulemaking.** Prior to promulgation and adoption of a final rule or rules by the commission, and at least 60 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

A. On the website of the commission; and

B. On the website of each state psychology regulatory authority or the publication in which each state would otherwise publish proposed rules.

The notice of proposed rulemaking must include the proposed time, date and location of the meeting in which the rule will be considered and voted upon; the text of the proposed rule or amendment and the reason for the proposed rule or amendment; a request for comments on the proposed rule from any interested person; and the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which must be made available to the public.

**5. Public hearing.** The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

A. At least 25 persons who submit comments independently of each other;

B. A governmental subdivision or agency; or

C. A duly appointed person from an association that has at least 25 members.

**6. Notice of public hearing.** If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time and date of the scheduled public hearing.

A. All persons wishing to be heard at the hearing must notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than 5 business days before the scheduled date of the hearing.

B. Hearings must be conducted in a manner that provides each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

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1 C. A transcript of the hearing is not required, unless a written request for a transcript  
2 is made. The person requesting the transcript shall bear the cost of producing the  
3 transcript. A recording may be made in lieu of a transcript under the same terms and  
4 conditions as a transcript. This paragraph does not preclude the commission from  
5 making a transcript or recording of the hearing if it so chooses.

6 D. Nothing in this subsection may be construed as requiring a separate hearing on each  
7 rule. Rules may be grouped for the convenience of the commission at hearings required  
8 by this subsection.

9 7. **Written comments.** Following the scheduled hearing date or by the close of  
10 business on the scheduled hearing date if the hearing was not held, the commission shall  
11 consider all written and oral comments received.

12 8. **Final action.** The commission shall, by majority vote of all members, take final  
13 action on the proposed rule and shall determine the effective date of the rule, if any, based  
14 on the rule-making record and the full text of the rule.

15 9. **Adoption of rule without hearing.** If no written notice of intent to attend the public  
16 hearing by interested parties is received, the commission may proceed with promulgation  
17 of the proposed rule without a public hearing.

18 10. **Emergency rules.** Upon determination that an emergency exists, the commission  
19 may consider and adopt an emergency rule without prior notice, opportunity for comment  
20 or hearing. The usual rule-making procedures provided in the compact and in this section  
21 must be retroactively applied to the rule as soon as reasonably possible and in no event later  
22 than 90 days after the effective date of the rule. For the purposes of this subsection, an  
23 emergency rule is one that must be adopted immediately in order to:

24 A. Meet an imminent threat to public health, safety or welfare;

25 B. Prevent a loss of commission or compact state funds;

26 C. Meet a deadline for the promulgation of an administrative rule that is established  
27 by federal law or rule; or

28 D. Protect public health and safety.

29 11. **Revisions.** The commission or an authorized committee of the commission may  
30 direct revisions to a previously adopted rule or amendment for purposes of correcting  
31 typographical errors, errors in format, errors in consistency or grammatical errors. Public  
32 notice of any revisions must be posted on the website of the commission. The revision is  
33 subject to challenge by any person for a period of 30 days after posting. The revision may  
34 be challenged only on grounds that the revision results in a material change to a rule.

35 A challenge must be made in writing and delivered to the chair of the commission prior to  
36 the end of the notice period. If a challenge is not made, the revision takes effect without  
37 further action. If the revision is challenged, the revision may not take effect without the  
38 approval of the commission.

39 **§3850-B. Oversight, dispute resolution and enforcement - Article 12**

40 1. **Oversight.** The executive, legislative and judicial branches of State Government  
41 in each compact state shall enforce this compact and take all actions necessary and

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1 appropriate to effectuate the compact's purposes and intent. The provisions of this compact  
2 and the rules promulgated hereunder have standing as statutory law.

3 A. All courts shall take judicial notice of the compact and the rules in any judicial or  
4 administrative proceeding in a compact state pertaining to the subject matter of this  
5 compact that may affect the powers, responsibilities or actions of the commission.

6 B. The commission may receive service of process in any proceeding under paragraph  
7 A and has standing to intervene in such a proceeding for all purposes. Failure to  
8 provide service of process to the commission renders a judgment or order void as to  
9 the commission, this compact or promulgated rules.

10 **2. Default, technical assistance and termination.** This subsection governs the  
11 default of a compact state.

12 A. If the commission determines that a compact state has defaulted in the performance  
13 of its obligations or responsibilities under this compact or the promulgated rules, the  
14 commission shall:

15 (1) Provide written notice to the defaulting state and other compact states of the  
16 nature of the default, the proposed means of remedying the default and any other  
17 action to be taken by the commission; and

18 (2) Provide remedial training and specific technical assistance regarding the  
19 default.

20 B. If a state in default fails to remedy the default, the defaulting state may be terminated  
21 from the compact upon an affirmative vote of a majority of the compact states and all  
22 rights, privileges and benefits conferred by this compact must be terminated on the  
23 effective date of termination. A remedy of the default does not relieve the offending  
24 state of obligations or liabilities incurred during the period of default.

25 C. Termination of membership in the compact may be imposed only after all other  
26 means of securing compliance have been exhausted. Notice of intent to suspend or  
27 terminate must be submitted by the commission to the Governor, the majority and  
28 minority leaders of the defaulting state's Legislature and each of the compact states.

29 D. A compact state that has been terminated is responsible for all assessments,  
30 obligations and liabilities incurred through the effective date of termination, including  
31 obligations that extend beyond the effective date of termination.

32 E. The commission may not bear any costs incurred by a state that is found to be in  
33 default or that has been terminated from the compact, unless agreed upon in writing  
34 between the commission and the defaulting state.

35 F. The defaulting state may appeal the action of the commission by petitioning the  
36 United States District Court for the State of Georgia or the federal district where the  
37 compact has its principal offices. The prevailing member must be awarded all costs of  
38 such litigation, including reasonable attorney's fees.

39 **3. Dispute resolution.** Upon request by a compact state, the commission shall attempt  
40 to resolve disputes related to the compact that arise among compact states and between  
41 compact and non-compact states. The commission shall promulgate a rule providing for  
42 both mediation and binding dispute resolution for disputes that arise before the  
43 commission.

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**4. Enforcement.** This subsection governs the commission's enforcement of the compact.

A. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

B. By majority vote, the commission may initiate legal action in the United States District Court for the State of Georgia or the federal district where the compact has its principal offices against a compact state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing member must be awarded all costs of such litigation, including reasonable attorney's fees.

C. The remedies herein are not the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

**§3850-C. Date of implementation of Psychology Interjurisdictional Compact Commission and associated rules; withdrawal; amendments - Article 13**

**1. Effective date.** The compact comes into effect on the date on which the compact is enacted into law in the 7th compact state. The provisions, which become effective at that time, are limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rule-making powers necessary for the implementation and administration of the compact.

**2. New compact state; application of rules.** Any state that joins the compact subsequent to the commission's initial adoption of the rules is subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission has the full force and effect of law on the day the compact becomes law in that state.

**3. Withdrawal.** Any compact state may withdraw from this compact by enacting a statute repealing the same.

A. A compact state's withdrawal does not take effect until 6 months after enactment of the repealing statute.

B. Withdrawal does not affect the continuing requirement of the withdrawing state's psychology regulatory authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

**4. Construction.** Nothing contained in this compact may be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a compact state and a non-compact state that does not conflict with the provisions of this compact.

**5. Amendment of compact.** This compact may be amended by the compact states. An amendment to this compact is not effective and binding upon any compact state until it is enacted into the law of all compact states.

**§3850-D. Construction and severability - Article 14**

This compact must be liberally construed so as to effectuate the purposes thereof. If this compact is held contrary to the constitution of any state member thereto, the compact remains in full force and effect as to the remaining compact states.

**Sec. 2. Appropriations and allocations.** The following appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF  
Licensing and Enforcement 0352**

Initiative: Allocates ongoing funds for the cost of participating in the Psychology Interjurisdictional Compact.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2021-22</b>	<b>2022-23</b>
All Other	\$8,500	\$8,500
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$8,500</u>	<u>\$8,500</u>

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment replaces the bill, which is a concept draft. The amendment enacts the Psychology Interjurisdictional Compact, an interstate compact designed to facilitate the practice of telepsychology and the temporary in-person, face-to-face practice of psychology across state boundaries.

**FISCAL NOTE REQUIRED**

(See attached)



# 130th MAINE LEGISLATURE

LD 863

LR 1180(02)

## An Act To Have Maine Join the Interstate Psychology Interjurisdictional Compact To Improve Telehealth Options for Psychologists and Their Patients

Fiscal Note for Bill as Amended by Committee Amendment *A. (H-661)*  
Committee: Health Coverage, Insurance and Financial Services  
Fiscal Note Required: Yes

### Fiscal Note

Potential current biennium revenue decrease - Other Special Revenue Funds

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$8,500	\$8,500	\$8,500	\$8,500

#### Fiscal Detail and Notes

This bill includes ongoing Other Special Revenue Funds allocations of \$8,500 per year beginning in fiscal year 2021-22 to the Licensing and Enforcement program within the Department of Professional and Financial Services for the costs associated with joining and participating in the Psychology Interjurisdictional Compact. The State Board of Examiners of Psychologists has sufficient revenue to support these costs without raising fees. There is a potential that the board may see a decrease in revenue from licensing fees if participation in the compact results in fewer applications for a Maine license.