PSYPACT: A PATHWAY TO INTERSTATE PRACTICE

When a patient relocates, a psychologist can’t simply move his or her practice. A new compact supported by the Practice Organization would establish clearer guidelines on practicing across state lines and providing telepsychological services.

By Deborah Baker, JD, and Alex Siegel, JD, PhD

Your office telephone rings, and it’s one of your patients calling you on his cell phone. Even though your patient is currently taking care of an ill family member who lives in another state, he doesn’t want to miss his weekly appointment with you. By calling you, your patient has indicated that he wants to use telehealth services for his appointments, but you’re not licensed to practice in the state where he is temporarily residing.

Situations like this are becoming more common with the growing popularity of telehealth. More patients are asking to communicate with their providers by phone, email, text or videoconferencing. But the reality is that a psychologist’s ability to provide telehealth services along with in-person services is limited to the state(s) where the provider is licensed.

In 2013, APA approved Guidelines for the Practice of Telepsychology. The last guideline – Guideline 8 – references interjurisdictional practice, cautioning the psychologist to “be familiar with and comply with all relevant laws and regulations” when providing telepsychological services across state lines or international borders. When drafting these guidelines, the task force acknowledged that “there are a number of jurisdictions without specific laws that govern the provision of psychological services utilizing telecommunication technologies” resulting in no clear legal mechanism for facilitating practice across state lines. The task force members understood that the psychology practice community and the patients served want clear guidance on how to engage in telepsychology practice across state lines.

The Association of State and Provincial Psychology Boards (ASPPB) – one of the three organizations represented on the Telepsychology Guidelines task force – began developing a regulatory proposal to facilitate interstate practice. The challenge in developing such a proposal is trying to balance the licensing board’s charge of protecting consumers against the need for flexibility for psychologists to better serve their patients.

The net result was ASPPB’s development of a multi-state licensure compact – the Psychology Interjurisdictional Compact (PSYPACT) – to provide psychologists with more clarity on practicing across state lines.

How does PSYPACT work?

PSYPACT requires that a doctoral-level psychologist be licensed in his/her own state (“Home State”) but allows a psychologist to practice telepsychology or conduct temporary in-person, face-to-face practice in another state without being licensed in that state. The psychologist’s Home State would continue to regulate the psychologist while allowing licensing boards in other states where the psychologist may be providing services to know who is practicing in their state and in what capacity. Psychologists would not be required to obtain and maintain a license in every PSYPACT state. The compact establishes minimum education and training requirements that psychologists must meet to be able to provide services.

PSYPACT is not yet in effect. It would become operational when a minimum of seven states pass legislation adopting the compact. At present, three states have approved PSYPACT – Arizona, Utah and Nevada. There are bills pending in four other states, and several other states have endorsed PSYPACT or indicated interest in pursuing PSYPACT legislation next year.

Once seven states have adopted PSYPACT, representatives from those states would form the PSYPACT Commission, the governing body of
PSYPACT. The Commission would be responsible for overseeing PSYPACT, creating the rules and bylaws, and setting up a real-time, searchable database of psychologists practicing across state lines. Once established, licensed psychologists would have to apply to the Commission for one or both of the credentials required to participate in PSYPACT:

- the E.Passport to practice telepsychology; and/or
- the Interjurisdictional Practice Certificate (IPC) for the temporary in-person, face-to-face practice of psychology.

The psychologist would then notify the Commission and ASPPB of his/her intent to practice either through the E.Passport and/or the IPC for each PSYPACT state. Each credential must be renewed annually. And the E.Passport credential requires a certain number of additional continuing education hours related to telehealth.

Why is PSYPACT important?

There is currently no uniform legal avenue for psychologists to practice across state lines without a license. Some states have a temporary practice provision, but each provision is different. Without a multi-state licensure compact or other similar proposal, a psychologist would have to research and understand each state’s requirements for temporary practice (if such exist) across state lines. Not only is this expectation very onerous on the individual psychologist, but a temporary practice provision does not resolve any potential conflict of laws that may arise. For example, states may differ on the rules surrounding a psychologist’s duty to warn or protect if a patient expresses an intent to harm himself or herself, or an identifiable victim.

PSYPACT seeks to reconcile those conflicts of laws by requiring states participating in PSYPACT to agree to the following conditions:

- For telepsychology, the psychologist will follow the laws and rules of his or her Home State.
- For in-person temporary practice, the psychologist must adhere to the laws of the distant state where he or she is temporarily practicing in-person.
- PSYPACT states would agree that psychologists who practice under the IPC credential may do so up to 30 days in a calendar year. As a result, the obligations to practice temporarily in-person are more consistent and create less anxiety for the psychologist who seeks to engage in temporary practice in another jurisdiction.

It is important to note, however, that PSYPACT does not serve as a substitute for licensure. If a psychologist seeks to practice beyond the limits of temporary, in-person practice or telepsychological practice in another state, he or she would need to obtain licensure in that state.

Perks for patients

Most importantly, PSYPACT offers consumer protections and improved patient access through a clear regulatory mechanism. This will allow psychologists to provide continuity of care as their patients move or travel out of state. Psychologists would also be able to reach patient populations in underserved or geographically isolated areas, or areas that lack specialty health care.

PSYPACT gives licensing boards a mechanism to allow them to ascertain who may be practicing or intending to practice either temporarily in-person or via technology in their state. Through the PSYPACT Commission’s database, licensing boards will have assurance that the psychologists meet certain defined standards and criteria, have had no disciplinary sanctions, and provide regular updates on their intended practice activities into the distant states. In addition, if there is a problem, the distant state would have the authority to revoke the psychologist’s ability to practice in that state whether via technology or temporary, in-person practice. PSYPACT clarifies that the psychologist’s Home State has authority to impose discipline for any actions or omissions that occur out-of-state.

Those interested in keeping abreast of the status of PSYPACT can find information at asppb.net/page/PSYPACT.

Deborah Baker, JD, is director of legal and regulatory policy for the Practice Organization’s Office of Legal and Regulatory Affairs.

Alex Siegel, JD, PhD, is director of professional affairs for the Association of State and Provincial Psychology Boards.