

INTERIM STUDY PROPOSAL 2021-146

State of Arkansas

93rd General Assembly

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A Bill

JMB/JMB

SENATE BILL

By: Senator K. Hammer

Filed with: Senate Committee on Public Health, Welfare, and Labor
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO ESTABLISH THE AUDIOLOGY AND SPEECH-LANGUAGE
PATHOLOGY INTERSTATE COMPACT IN ARKANSAS; AND FOR
OTHER PURPOSES.

Subtitle

TO ESTABLISH THE AUDIOLOGY AND SPEECH-
LANGUAGE PATHOLOGY INTERSTATE COMPACT IN
ARKANSAS.

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

SECTION 1. Arkansas Code Title 17, Chapter 100, is amended to add an
additional subchapter to read as follows:

Subchapter 4 – Audiology and Speech-Language Pathology Interstate Compact

17-100-401. Text of compact.

The Audiology and Speech-Language Pathology Interstate Compact is
enacted into law and entered into by this state with all states legally
joining therein and in the form substantially as follows:

Audiology and Speech-Language Pathology Interstate Compact

SECTION 1: PURPOSE

The purpose of this Compact is to facilitate interstate practice of audiology
and speech-language pathology with the goal of improving public access to

1 audiology and speech-language pathology services. The practice of audiology
2 and speech-language pathology occurs in the state where the
3 patient/client/student is located at the time of the patient/client/student
4 encounter. The Compact preserves the regulatory authority of states to
5 protect public health and safety through the current system of state
6 licensure. This Compact is designed to achieve the following objectives:

7 1. Increase public access to audiology and speech-language
8 pathology services by providing for the mutual recognition of other member
9 state licenses;

10 2. Enhance the states' ability to protect the public's health and
11 safety;

12 3. Encourage the cooperation of member states in regulating
13 multistate audiology and speech-language pathology practice;

14 4. Support spouses of relocating active duty military personnel;

15 5. Enhance the exchange of licensure, investigative and
16 disciplinary information between member states;

17 6. Allow a remote state to hold a provider of services with a
18 compact privilege in that state accountable to that state's practice
19 standards; and

20 7. Allow for the use of telehealth technology to facilitate
21 increased access to audiology and speech-language pathology services.

22
23 SECTION 2: DEFINITIONS

24 As used in this Compact, and except as otherwise provided, the
25 following definitions shall apply:

26 A. "Active duty military" means full-time duty status in the active
27 uniformed service of the United States, including members of the National
28 Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209
29 and 1211.

30 B. "Adverse action" means any administrative, civil, equitable or
31 criminal action permitted by a state's laws which is imposed by a licensing
32 board or other authority against an audiologist or speech-language
33 pathologist, including actions against an individual's license or privilege
34 to practice such as revocation, suspension, probation, monitoring of the
35 licensee, or restriction on the licensee's practice.

1 C. “Alternative program” means a non-disciplinary monitoring process
2 approved by an audiology or speech-language pathology licensing board to
3 address impaired practitioners.

4 D. “Audiologist” means an individual who is licensed by a state to
5 practice audiology.

6 E. “Audiology” means the care and services provided by a licensed
7 audiologist as set forth in the member state’s statutes and rules.

8 F. “Audiology and Speech-Language Pathology Compact Commission” or
9 “Commission” means the national administrative body whose membership consists
10 of all states that have enacted the Compact.

11 G. “Audiology and speech-language pathology licensing board,”
12 “audiology licensing board,” “speech-language pathology licensing board,” or
13 “licensing board” means the agency of a state that is responsible for the
14 licensing and regulation of audiologists and/or speech-language pathologists.

15 H. “Compact privilege” means the authorization granted by a remote
16 state to allow a licensee from another member state to practice as an
17 audiologist or speech-language pathologist in the remote state under its laws
18 and rules. The practice of audiology or speech-language pathology occurs in
19 the member state where the patient/client/student is located at the time of
20 the patient/client/student encounter.

21 I. “Current significant investigative information” means investigative
22 information that a licensing board, after an inquiry or investigation that
23 includes notification and an opportunity for the audiologist or speech-
24 language pathologist to respond, if required by state law, has reason to
25 believe is not groundless and, if proved true, would indicate more than a
26 minor infraction.

27 J. “Data system” means a repository of information about licensees,
28 including, but not limited to, continuing education, examination, licensure,
29 investigative, compact privilege and adverse action.

30 K. “Encumbered license” means a license in which an adverse action
31 restricts the practice of audiology or speech-language pathology by the
32 licensee and said adverse action has been reported to the National
33 Practitioners Data Bank (NPDB).

34 L. “Executive Committee” means a group of directors elected or
35 appointed to act on behalf of, and within the powers granted to them by, the
36 Commission.

1 M. "Home state" means the member state that is the licensee's primary
2 state of residence.

3 N. "Impaired practitioner" means individuals whose professional
4 practice is adversely affected by substance abuse, addiction, or other
5 health-related conditions.

6 O. "Licensee" means an individual who currently holds an authorization
7 from the state licensing board to practice as an audiologist or speech-
8 language pathologist.

9 P. "Member state" means a state that has enacted the Compact.

10 Q. "Privilege to practice" means a legal authorization permitting the
11 practice of audiology or speech-language pathology in a remote state.

12 R. "Remote state" means a member state other than the home state where
13 a licensee is exercising or seeking to exercise the compact privilege.

14 S. "Rule" means a regulation, principle or directive promulgated by the
15 Commission that has the force of law.

16 T. "Single-state license" means an audiology or speech-language
17 pathology license issued by a member state that authorizes practice only
18 within the issuing state and does not include a privilege to practice in any
19 other member state.

20 U. "Speech-language pathologist" means an individual who is licensed by
21 a state to practice speech-language pathology.

22 V. "Speech-language pathology means the care and services provided by a
23 licensed speech-language pathologist as set forth in the member state's
24 statutes and rules.

25 W. "State" means any state, commonwealth, district or territory of the
26 United States of America that regulates the practice of audiology and speech-
27 language pathology.

28 X. "State practice laws" means a member state's laws, rules and
29 regulations that govern the practice of audiology or speech-language
30 pathology, define the scope of audiology or speech-language pathology
31 practice, and create the methods and grounds for imposing discipline.

32 Y. "Telehealth" means the application of telecommunication technology
33 to deliver audiology or speech-language pathology services at a distance for
34 assessment, intervention and/or consultation.

35
36 SECTION 3. STATE PARTICIPATION IN THE COMPACT

1 A. A license issued to an audiologist or speech-language pathologist by
2 a home state to a resident in that state shall be recognized by each member
3 state as authorizing an audiologist or speech-language pathologist to
4 practice audiology or speech-language pathology, under a privilege to
5 practice, in each member state.

6 B. A state must implement or utilize procedures for considering the
7 criminal history records of applicants for initial privilege to practice.
8 These procedures shall include the submission of fingerprints or other
9 biometric-based information by applicants for the purpose of obtaining an
10 applicant's criminal history record information from the Federal Bureau of
11 Investigation and the agency responsible for retaining that state's criminal
12 records

13 1. A member state must fully implement a criminal background
14 check requirement, within a time frame established by rule, by receiving the
15 results of the Federal Bureau of Investigation record search on criminal
16 background checks and use the results in making licensure decisions.

17 2. Communication between a member state, the Commission and among
18 member states regarding the verification of eligibility for licensure through
19 the compact shall not include any information received from the Federal
20 Bureau of Investigation relating to a federal criminal records check
21 performed by a member state under Public Law 92-544.

22 C. Upon application for a privilege to practice, the licensing board in
23 the issuing remote state shall ascertain, through the data system, whether
24 the applicant has ever held, or is the holder of, a license issued by any
25 other state, whether there are any encumbrances on any license or privilege
26 to practice held by the applicant, whether any adverse action has been taken
27 against any license or privilege to practice held by the applicant.

28 D. Each member state shall require an applicant to obtain or retain a
29 license in the home state and meet the home state's qualifications for
30 licensure or renewal of licensure, as well as, all other applicable state
31 laws.

32 E. For an audiologist:

33 1. Must meet one of the following educational requirements:
34 a. On or before, Dec. 31, 2007, has graduated with a
35 master's degree or doctorate in audiology, or equivalent degree regardless of
36 degree name, from a program that is accredited by an accrediting agency

1 recognized by the Council for Higher Education Accreditation, or its
2 successor, or by the United States Department of Education and operated by a
3 college or university accredited by a regional or national accrediting
4 organization recognized by the board; or

5 b. On or after, Jan. 1, 2008, has graduated with a doctoral
6 degree in audiology, or equivalent degree, regardless of degree name, from a
7 program that is accredited by an accrediting agency recognized by the Council
8 for Higher Education Accreditation, or its successor, or by the United States
9 Department of Education and operated by a college or university accredited by
10 a regional or national accrediting organization recognized by the board; or

11 c. Has graduated from an audiology program that is housed
12 in an institution of higher education outside of the United States (a) for
13 which the program and institution have been approved by the authorized
14 accrediting body in the applicable country and (b) the degree program has
15 been verified by an independent credentials review agency to be comparable to
16 a state licensing board-approved program.

17 2. Has completed a supervised clinical practicum experience from
18 an accredited educational institution or its cooperating programs as required
19 by the Commission;

20 3. Has successfully passed a national examination approved by the
21 Commission;

22 4. Holds an active, unencumbered license;

23 5. Has not been convicted or found guilty, and has not entered
24 into an agreed disposition, of a felony related to the practice of audiology,
25 under applicable state or federal criminal law;

26 6. Has a valid United States Social Security or National
27 Practitioner Identification number.

28 F. For a speech-language pathologist:

29 1. Must meet one of the following educational requirements:

30 a. Has graduated with a master's degree from a speech-
31 language pathology program that is accredited by an organization recognized
32 by the United States Department of Education and operated by a college or
33 university accredited by a regional or national accrediting organization
34 recognized by the board; or

35 b. Has graduated from a speech-language pathology program
36 that is housed in an institution of higher education outside of the United

1 States (a) for which the program and institution have been approved by the
2 authorized accrediting body in the applicable country and (b) the degree
3 program has been verified by an independent credentials review agency to be
4 comparable to a state licensing board-approved program.

5 2. Has completed a supervised clinical practicum experience from
6 an educational institution or its cooperating programs as required by the
7 Commission;

8 3. Has completed a supervised postgraduate professional
9 experience as required by the Commission

10 4. Has successfully passed a national examination approved by the
11 Commission;

12 5. Holds an active, unencumbered license;

13 6. Has not been convicted or found guilty, and has not entered
14 into an agreed disposition, of a felony related to the practice of speech-
15 language pathology, under applicable state or federal criminal law;

16 7. Has a valid United States Social Security or National
17 Practitioner Identification number.

18 G. The privilege to practice is derived from the home state license.

19 H. An audiologist or speech-language pathologist practicing in a member
20 state must comply with the state practice laws of the state in which the
21 client is located at the time service is provided. The practice of audiology
22 and speech-language pathology shall include all audiology and speech-language
23 pathology practice as defined by the state practice laws of the member state
24 in which the client is located. The practice of audiology and speech-language
25 pathology in a member state under a privilege to practice shall subject an
26 audiologist or speech-language pathologist to the jurisdiction of the
27 licensing board, the courts and the laws of the member state in which the
28 client is located at the time service is provided.

29 I. Individuals not residing in a member state shall continue to be able
30 to apply for a member state's single-state license as provided under the laws
31 of each member state. However, the single-state license granted to these
32 individuals shall not be recognized as granting the privilege to practice
33 audiology or speech-language pathology in any other member state. Nothing in
34 this compact shall affect the requirements established by a member state for
35 the issuance of a single-state license.

36 J. Member states may charge a fee for granting a compact privilege.

1 K. Member states must comply with the bylaws and rules and regulations
2 of the commission.

3
4 SECTION 4. COMPACT PRIVILEGE

5 A. To exercise the compact privilege under the terms and provisions of
6 the compact, the audiologist or speech-language pathologist shall:

7 1. Hold an active license in the home state;

8 2. Have no encumbrance on any state license;

9 3. Be eligible for a compact privilege in any member state in
10 accordance with Section 3;

11 4. Have not had any adverse action against any license or compact
12 privilege within the previous 2 years from date of application;

13 5. Notify the commission that the licensee is seeking the compact
14 privilege within a remote state(s);

15 6. Pay any applicable fees, including any state fee, for the
16 compact privilege;

17 7. Report to the commission adverse action taken by any non-
18 member state within 30 days from the date the adverse action is taken.

19 B. For the purposes of the compact privilege, an audiologist or speech-
20 language pathologist shall only hold one home state license at a time.

21 C. Except as provided in Section 6, if an audiologist or speech-
22 language pathologist changes primary state of residence by moving between
23 two-member states, the audiologist or speech-language pathologist must apply
24 for licensure in the new home state, and the license issued by the prior home
25 state shall be deactivated in accordance with applicable rules adopted by the
26 commission.

27 D. The audiologist or speech-language pathologist may apply for
28 licensure in advance of a change in primary state of residence.

29 E. A license shall not be issued by the new home state until the
30 audiologist or speech-language pathologist provides satisfactory evidence of
31 a change in primary state of residence to the new home state and satisfies
32 all applicable requirements to obtain a license from the new home state.

33 F. If an audiologist or speech-language pathologist changes primary
34 state of residence by moving from a member state to a non-member state, the
35 license issued by the prior home state shall convert to a single-state
36 license, valid only in the former home state.

1 G. The compact privilege is valid until the expiration date of the home
2 state license. The licensee must comply with the requirements of Section 4A
3 to maintain the compact privilege in the remote state.

4 H. A licensee providing audiology or speech-language pathology services
5 in a remote state under the compact privilege shall function within the laws
6 and regulations of the remote state.

7 I. A licensee providing audiology or speech-language pathology services
8 in a remote state is subject to that state's regulatory authority. A remote
9 state may, in accordance with due process and that state's laws, remove a
10 licensee's compact privilege in the remote state for a specific period of
11 time, impose fines, and/or take any other necessary actions to protect the
12 health and safety of its citizens.

13 J. If a home state license is encumbered, the licensee shall lose the
14 compact privilege in any remote state until the following occur:

- 15 1. The home state license is no longer encumbered; and
- 16 2. Two years have elapsed from the date of the adverse action.

17 K. Once an encumbered license in the home state is restored to good
18 standing, the licensee must meet the requirements of Section 4A to obtain a
19 compact privilege in any remote state.

20 L. Once the requirements of Section 4J have been met, the licensee must
21 meet the requirements in Section 4A to obtain a compact privilege in a remote
22 state.

23
24 SECTION 5. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

25 Member states shall recognize the right of an audiologist or speech-language
26 pathologist, licensed by a home state in accordance with Section 3 and under
27 rules promulgated by the commission, to practice audiology or speech-language
28 pathology in any member state via telehealth under a privilege to practice as
29 provided in the compact and rules promulgated by the commission.

30
31 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

32 Active duty military personnel, or their spouse, shall designate a home state
33 where the individual has a current license in good standing. The individual
34 may retain the home state designation during the period the service member is
35 on active duty. Subsequent to designating a home state, the individual shall

1 only change their home state through application for licensure in the new
2 state.

3
4 SECTION 7. ADVERSE ACTIONS

5 A. In addition to the other powers conferred by state law, a remote
6 state shall have the authority, in accordance with existing state due process
7 law, to:

8 1. Take adverse action against an audiologist's or speech-
9 language pathologist's privilege to practice within that member state.

10 2. Issue subpoenas for both hearings and investigations that
11 require the attendance and testimony of witnesses as well as the production
12 of evidence. Subpoenas issued by a licensing board in a member state for the
13 attendance and testimony of witnesses or the production of evidence from
14 another member state shall be enforced in the latter state by any court of
15 competent jurisdiction, according to the practice and procedure of that court
16 applicable to subpoenas issued in proceedings pending before it. The issuing
17 authority shall pay any witness fees, travel expenses, mileage and other fees
18 required by the service statutes of the state in which the witnesses or
19 evidence are located.

20 3. Only the home state shall have the power to take adverse
21 action against a audiologist's or speech-language pathologist's license
22 issued by the home state.

23 B. For purposes of taking adverse action, the home state shall give the
24 same priority and effect to reported conduct received from a member state as
25 it would if the conduct had occurred within the home state. In so doing, the
26 home state shall apply its own state laws to determine appropriate action.

27 C. The home state shall complete any pending investigations of an
28 audiologist or speech-language pathologist who changes primary state of
29 residence during the course of the investigations. The home state shall also
30 have the authority to take appropriate action(s) and shall promptly report
31 the conclusions of the investigations to the administrator of the data
32 system. The administrator of the coordinated licensure information system
33 shall promptly notify the new home state of any adverse actions.

34 D. If otherwise permitted by state law, the member state may recover
35 from the affected audiologist or speech-language pathologist the costs of

1 investigations and disposition of cases resulting from any adverse action
2 taken against that audiologist or speech-language pathologist.

3 E. The member state may take adverse action based on the factual
4 findings of the remote state, provided that the member state follows the
5 member state's own procedures for taking the adverse action.

6 F. Joint Investigations

7 1. In addition to the authority granted to a member state by its
8 respective audiology or speech-language pathology practice act or other
9 applicable state law, any member state may participate with other member
10 states in joint investigations of licensees.

11 2. Member states shall share any investigative, litigation, or
12 compliance materials in furtherance of any joint or individual investigation
13 initiated under the compact.

14 G. If adverse action is taken by the home state against an
15 audiologist's or speech language pathologist's license, the audiologist's or
16 speech-language pathologist's privilege to practice in all other member
17 states shall be deactivated until all encumbrances have been removed from the
18 state license. All home state disciplinary orders that impose adverse action
19 against an audiologist's or speech language pathologist's license shall
20 include a statement that the audiologist's or speech-language pathologist's
21 privilege to practice is deactivated in all member states during the pendency
22 of the order.

23 H. If a member state takes adverse action, it shall promptly notify the
24 administrator of the data system. The administrator of the data system shall
25 promptly notify the home state of any adverse actions by remote states.

26 I. Nothing in this compact shall override a member state's decision
27 that participation in an alternative program may be used in lieu of adverse
28 action.

29
30 SECTION 8. ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE
31 PATHOLOGY COMPACT COMMISSION

32 A. The compact member states hereby create and establish a joint public
33 agency known as the audiology and speech-language pathology compact
34 commission:

35 1. The commission is an instrumentality of the compact states.

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

7 3. Nothing in this compact shall be construed to be a waiver of
8 sovereign immunity.

9 B. Membership, voting and meetings

10 1. Each member state shall have two (2) delegates selected by
11 that member state's licensing board. The delegates shall be current members
12 of the licensing board. One shall be an audiologist and one shall be a
13 speech-language pathologist.

14 2. An additional five (5) delegates, who are either a public
15 member or board administrator from a state licensing board, shall be chosen
16 by the executive committee from a pool of nominees provided by the commission
17 at large.

18 3. Any delegate may be removed or suspended from office as
19 provided by the law of the state from which the delegate is appointed.

20 4. The member state board shall fill any vacancy occurring on the
21 commission, within 90 days.

22 5. Each delegate shall be entitled to one (1) vote with regard to
23 the promulgation of rules and creation of bylaws and shall otherwise have an
24 opportunity to participate in the business and affairs of the commission.

25 6. A delegate shall vote in person or by other means as provided
26 in the bylaws. The bylaws may provide for delegates' participation in
27 meetings by telephone or other means of communication.

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

30 C. The commission shall have the following powers and duties:

- 31 1. Establish the fiscal year of the commission;
32 2. Establish bylaws;
33 3. Establish a Code of Ethics;
34 4. Maintain its financial records in accordance with the bylaws;
35 5. Meet and take actions as are consistent with the provisions of
36 this compact and the bylaws;

1 6. Promulgate uniform rules to facilitate and coordinate
2 implementation and administration of this compact. The rules shall have the
3 force and effect of law and shall be binding in all member states;

4 7. Bring and prosecute legal proceedings or actions in the name
5 of the commission, provided that the standing of any state audiology or
6 speech-language pathology licensing board to sue or be sued under applicable
7 law shall not be affected;

8 8. Purchase and maintain insurance and bonds;

9 9. Borrow, accept, or contract for services of personnel,
10 including, but not limited to, employees of a member state;

11 10. Hire employees, elect or appoint officers, fix compensation,
12 define duties, grant individuals appropriate authority to carry out the
13 purposes of the compact, and to establish the commission's personnel policies
14 and programs relating to conflicts of interest, qualifications of personnel,
15 and other related personnel matters;

16 11. Accept any and all appropriate donations and grants of money,
17 equipment, supplies, materials and services, and to receive, utilize and
18 dispose of the same; provided that at all times the commission shall avoid
19 any appearance of impropriety and/or conflict of interest;

20 12. Lease, purchase, accept appropriate gifts or donations of, or
21 otherwise to own, hold, improve or use, any property, real, personal or
22 mixed; provided that at all times the commission shall avoid any appearance
23 of impropriety;

24 13. Sell convey, mortgage, pledge, lease, exchange, abandon, or
25 otherwise dispose of any property real, personal, or mixed;

26 14. Establish a budget and make expenditures;

27 15. Borrow money;

28 16. Appoint committees, including standing committees composed of
29 members, and other interested persons as may be designated in this compact
30 and the bylaws;

31 17. Provide and receive information from, and cooperate with, law
32 enforcement agencies;

33 18. Establish and elect an executive committee; and

34 19. Perform other functions as may be necessary or appropriate to
35 achieve the purposes of this Compact consistent with the state regulation of
36 audiology and speech-language pathology licensure and practice.

1 D. The Executive committee

2 The executive committee shall have the power to act on behalf of the
3 commission according to the terms of this compact:

4 1. The Executive Committee shall be composed of ten (10) members:

5 a. Seven (7) voting members who are elected by the
6 commission from the current membership of the commission;

7 b. Two (2) ex-officios, consisting of one nonvoting member
8 from a recognized national audiology professional association and one
9 nonvoting member from a recognized national speech-language pathology
10 association; and

11 c. One (1) ex-officio, nonvoting member from the recognized
12 membership organization of the audiology and speech-language pathology
13 licensing boards.

14 E. The ex-officio members shall be selected by their respective
15 organizations.

16 1. The commission may remove any member of the executive
17 committee as provided in bylaws.

18 2. The executive committee shall meet at least annually.

19 3. The executive committee shall have the following duties and
20 responsibilities:

21 a. Recommend to the entire commission changes to the rules
22 or bylaws, changes to this compact legislation, fees paid by compact member
23 states such as annual dues, and any commission compact fee charged to
24 licensees for the compact privilege;

25 b. Ensure compact administration services are appropriately
26 provided, contractual or otherwise;

27 c. Prepare and recommend the budget;

28 d. Maintain financial records on behalf of the commission;

29 e. Monitor compact compliance of member states and provide
30 compliance reports to the commission;

31 f. Establish additional committees as necessary; and

32 g. Other duties as provided in rules or bylaws.

33 4. Meetings of the commission

34 All meetings shall be open to the public, and public notice of meetings
35 shall be given in the same manner as required under the rulemaking provisions
36 in Section 10.

1 5. The commission or the executive committee or other committees
2 of the commission may convene in a closed, non-public meeting if the
3 commission or executive committee or other committees of the commission must
4 discuss:

5 a. Non-compliance of a member state with its obligations
6 under the compact;

7 b. The employment, compensation, discipline or other
8 matters, practices or procedures related to specific employees or other
9 matters related to the commission's internal personnel practices and
10 procedures;

11 c. Current, threatened, or reasonably anticipated
12 litigation;

13 d. Negotiation of contracts for the purchase, lease, or
14 sale of goods, services, or real estate;

15 e. Accusing any person of a crime or formally censuring any
16 person;

17 f. Disclosure of trade secrets or commercial or financial
18 information that is privileged or confidential;

19 g. Disclosure of information of a personal nature where
20 disclosure would constitute a clearly unwarranted invasion of personal
21 privacy;

22 h. Disclosure of investigative records compiled for law
23 enforcement purposes;

24 i. Disclosure of information related to any investigative
25 reports prepared by or on behalf of or for use of the commission or other
26 committee charged with responsibility of investigation or determination of
27 compliance issues pursuant to the compact; or

28 j. Matters specifically exempted from disclosure by federal
29 or member state statute.

30 6. If a meeting, or portion of a meeting, is closed pursuant to
31 this provision, the commission's legal counsel or designee shall certify that
32 the meeting may be closed and shall reference each relevant exempting
33 provision.

34 7. The commission shall keep minutes that fully and clearly
35 describe all matters discussed in a meeting and shall provide a full and
36 accurate summary of actions taken, and the reasons therefore, including a

1 description of the views expressed. All documents considered in connection
2 with an action shall be identified in minutes. All minutes and documents of a
3 closed meeting shall remain under seal, subject to release by a majority vote
4 of the commission or order of a court of competent jurisdiction.

5 8. Financing of the commission

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

9 b. The commission may accept any and all appropriate
10 revenue sources, donations, and grants of money, equipment, supplies,
11 materials, and services.

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

20 9. The commission shall not incur obligations of any kind prior
21 to securing the funds adequate to meet the same; nor shall the commission
22 pledge the credit of any of the member states, except by and with the
23 authority of the member state.

24 10. The commission shall keep accurate accounts of all receipts
25 and disbursements. The receipts and disbursements of the commission shall be
26 subject to the audit and accounting procedures established under its bylaws.
27 However, all receipts and disbursements of funds handled by the commission
28 shall be audited yearly by a certified or licensed public accountant, and the
29 report of the audit shall be included in and become part of the annual report
30 of the commission.

31 F. Qualified immunity, defense, and indemnification

32 1. The members, officers, executive director, employees and
33 representatives of the commission shall be immune from suit and liability,
34 either personally or in their official capacity, for any claim for damage to
35 or loss of property or personal injury or other civil liability caused by or
36 arising out of any actual or alleged act, error or omission that occurred, or

1 that the person against whom the claim is made had a reasonable basis for
2 believing occurred within the scope of commission employment, duties or
3 responsibilities; provided that nothing in this paragraph shall be construed
4 to protect any person from suit and/or liability for any damage, loss,
5 injury, or liability caused by the intentional or willful or wanton
6 misconduct of that person.

7 2. The commission shall defend any member, officer, executive
8 director, employee or representative of the commission in any civil action
9 seeking to impose liability arising out of any actual or alleged act, error,
10 or omission that occurred within the scope of commission employment, duties,
11 or responsibilities, or that the person against whom the claim is made had a
12 reasonable basis for believing occurred within the scope of commission
13 employment, duties, or responsibilities; provided that nothing herein shall
14 be construed to prohibit that person from retaining his or her own counsel;
15 and provided further, that the actual or alleged act, error, or omission did
16 not result from that person's intentional or willful or wanton misconduct.

17 3. The commission shall indemnify and hold harmless any member,
18 officer, executive director, employee, or representative of the commission
19 for the amount of any settlement or judgment obtained against that person
20 arising out of any actual or alleged act, error or omission that occurred
21 within the scope of commission employment, duties, or responsibilities, or
22 that person had a reasonable basis for believing occurred within the scope of
23 commission employment, duties, or responsibilities, provided that the actual
24 or alleged act, error, or omission did not result from the intentional or
25 willful or wanton misconduct of that person.

26

27 SECTION 9. DATA SYSTEM

28 A. The commission shall provide for the development, maintenance, and
29 utilization of a coordinated database and reporting system containing
30 licensure, adverse action, and investigative information on all licensed
31 individuals in member states.

32 B. Notwithstanding any other provision of state law to the contrary, a
33 member state shall submit a uniform data set to the data system on all
34 individuals to whom this compact is applicable as required by the rules of
35 the commission, including:

36 1. Identifying information;

1 2. Licensure data;

2 3. Adverse actions against a license or compact privilege;

3 4. Non-confidential information related to alternative program
4 participation;

5 5. Any denial of application for licensure, and the reason(s) for
6 denial; and

7 6. Other information that may facilitate the administration of
8 this compact, as determined by the rules of the commission.

9 C. Investigative information pertaining to a licensee in any member
10 state shall only be available to other member states.

11 D. The commission shall promptly notify all member states of any
12 adverse action taken against a licensee or an individual applying for a
13 license. Adverse action information pertaining to a licensee in any member
14 state shall be available to any other member state.

15 E. Member states contributing information to the data system may
16 designate information that may not be shared with the public without the
17 express permission of the contributing state.

18 F. Any information submitted to the data system that is subsequently
19 required to be expunged by the laws of the member state contributing the
20 information shall be removed from the data system.

21
22 SECTION 10. RULEMAKING

23 A. The commission shall exercise its rulemaking powers pursuant to the
24 criteria set forth in this section and the rules adopted thereunder. Rules
25 and amendments shall become binding as of the date specified in each rule or
26 amendment.

27 B. If a majority of the legislatures of the member states rejects a
28 rule, by enactment of a statute or resolution in the same manner used to
29 adopt the compact within 4 years of the date of adoption of the rule, the
30 rule shall have no further force and effect in any member state.

31 C. Rules or amendments to the rules shall be adopted at a regular or
32 special meeting of the commission.

33 D. Prior to promulgation and adoption of a final rule or rules by the
34 commission, and at least thirty (30) days in advance of the meeting at which
35 the rule shall be considered and voted upon, the commission shall file a
36 notice of proposed rulemaking:

1 1. On the website of the commission or other publicly accessible
2 platform; and

3 2. On the website of each member state audiology or speech-
4 language pathology licensing board or other publicly accessible platform or
5 the publication in which each state would otherwise publish proposed rules.

6 E. The notice of proposed rulemaking shall include:

7 1. The proposed time, date, and location of the meeting in which
8 the rule shall be considered and voted upon;

9 2. The text of the proposed rule or amendment and the reason for
10 the proposed rule;

11 3. A request for comments on the proposed rule from any
12 interested person; and

13 4. The manner in which interested persons may submit notice to
14 the commission of their intention to attend the public hearing and any
15 written comments.

16 F. Prior to the adoption of a proposed rule, the commission shall allow
17 persons to submit written data, facts, opinions and arguments, which shall be
18 made available to the public.

19 G. The commission shall grant an opportunity for a public hearing
20 before it adopts a rule or amendment if a hearing is requested by:

21 1. At least twenty-five (25) persons;

22 2. A state or federal governmental subdivision or agency; or

23 3. An association having at least twenty-five (25) members.

24 H. If a hearing is held on the proposed rule or amendment, the
25 commission shall publish the place, time, and date of the scheduled public
26 hearing. If the hearing is held via electronic means, the commission shall
27 publish the mechanism for access to the electronic hearing.

28 1. All persons wishing to be heard at the hearing shall notify
29 the executive director of the Commission or other designated member in
30 writing of their desire to appear and testify at the hearing not less than
31 five (5) business days before the scheduled date of the hearing.

32 2. Hearings shall be conducted in a manner providing each person
33 who wishes to comment a fair and reasonable opportunity to comment orally or
34 in writing.

35 3. All hearings shall be recorded. A copy of the recording shall
36 be made available on request.

1 4. Nothing in this section shall be construed as requiring a
2 separate hearing on each rule. Rules may be grouped for the convenience of
3 the commission at hearings required by this section.

4 I. Following the scheduled hearing date, or by the close of business on
5 the scheduled hearing date if the hearing was not held, the commission shall
6 consider all written and oral comments received.

7 J. If no written notice of intent to attend the public hearing by
8 interested parties is received, the commission may proceed with promulgation
9 of the proposed rule without a public hearing.

10 K. The commission shall, by majority vote of all members, take final
11 action on the proposed rule and shall determine the effective date of the
12 rule, if any, based on the rulemaking record and the full text of the rule.

13 L. Upon determination that an emergency exists, the commission may
14 consider and adopt an emergency rule without prior notice, opportunity for
15 comment, or hearing, provided that the usual rulemaking procedures provided
16 in the compact and in this section shall be retroactively applied to the rule
17 as soon as reasonably possible, in no event later than ninety (90) days after
18 the effective date of the rule. For the purposes of this provision, an
19 emergency rule is one that must be adopted immediately in order to:

20 1. Meet an imminent threat to public health, safety, or welfare;
21 2. Prevent a loss of commission or member state funds; or
22 3. Meet a deadline for the promulgation of an administrative rule
23 that is established by federal law or rule.

24 M. The commission or an authorized committee of the commission may
25 direct revisions to a previously adopted rule or amendment for purposes of
26 correcting typographical errors, errors in format, errors in consistency, or
27 grammatical errors. Public notice of any revisions shall be posted on the
28 website of the commission. The revision shall be subject to challenge by any
29 person for a period of thirty (30) days after posting. The revision may be
30 challenged only on grounds that the revision results in a material change to
31 a rule. A challenge shall be made in writing and delivered to the chair of
32 the commission prior to the end of the notice period. If no challenge is
33 made, the revision shall take effect without further action. If the revision
34 is challenged, the revision may not take effect without the approval of the
35 commission.

36

1 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

2 A. Dispute resolution

3 1. Upon request by a member state, the commission shall attempt
4 to resolve disputes related to the compact that arise among member states and
5 between member and non-member states.

6 2. The commission shall promulgate a rule providing for both
7 mediation and binding dispute resolution for disputes as appropriate.

8 B. Enforcement

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

11 2. By majority vote, the commission may initiate legal action in
12 the United States District Court for the District of Columbia or the federal
13 district where the commission has its principal offices against a member
14 state in default to enforce compliance with the provisions of the compact and
15 its promulgated rules and bylaws. The relief sought may include both
16 injunctive relief and damages. In the event judicial enforcement is
17 necessary, the prevailing member shall be awarded all costs of litigation,
18 including reasonable attorney's fees.

19 3. The remedies herein shall not be the exclusive remedies of the
20 commission. The commission may pursue any other remedies available under
21 federal or state law.

22
23 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR
24 AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE AND ASSOCIATED
25 RULES, WITHDRAWAL, AND AMENDMENT

26 A. The compact shall come into effect on the date on which the compact
27 statute is enacted into law in the 10th member state. The provisions, which
28 become effective at that time, shall be limited to the powers granted to the
29 commission relating to assembly and the promulgation of rules. Thereafter,
30 the commission shall meet and exercise rulemaking powers necessary to the
31 implementation and administration of the compact.

32 B. Any state that joins the compact subsequent to the commission's
33 initial adoption of the rules shall be subject to the rules as they exist on
34 the date on which the compact becomes law in that state. Any rule that has
35 been previously adopted by the commission shall have the full force and
36 effect of law on the day the compact becomes law in that state.

1 C. Any member state may withdraw from this compact by enacting a
2 statute repealing the same.

3 1. A member state's withdrawal shall not take effect until six
4 (6) months after enactment of the repealing statute.

5 2. Withdrawal shall not affect the continuing requirement of the
6 withdrawing state's audiology or speech-language pathology licensing board to
7 comply with the investigative and adverse action reporting requirements of
8 this act prior to the effective date of withdrawal.

9 D. Nothing contained in this compact shall be construed to invalidate
10 or prevent any audiology or speech-language pathology licensure agreement or
11 other cooperative arrangement between a member state and a non-member state
12 that does not conflict with the provisions of this compact.

13 E. This compact may be amended by the member states. No amendment to
14 this compact shall become effective and binding upon any member state until
15 it is enacted into the laws of all member states.

16
17 SECTION 13. CONSTRUCTION AND SEVERABILITY

18 This compact shall be liberally construed so as to effectuate the
19 purposes thereof. The provisions of this compact shall be severable and if
20 any phrase, clause, sentence or provision of this compact is declared to be
21 contrary to the constitution of any member state or of the United States or
22 the applicability thereof to any government, agency, person or circumstance
23 is held invalid, the validity of the remainder of this compact and the
24 applicability thereof to any government, agency, person or circumstance shall
25 not be affected thereby. If this compact shall be held contrary to the
26 constitution of any member state, the compact shall remain in full force and
27 effect as to the remaining member states and in full force and effect as to
28 the member state affected as to all severable matters.

29
30 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

31 A. Nothing herein prevents the enforcement of any other law of a member
32 state that is not inconsistent with the compact.

33 B. All laws in a member state in conflict with the compact are
34 superseded to the extent of the conflict.

35 C. All lawful actions of the commission, including all rules and bylaws
36 promulgated by the commission, are binding upon the member states.

1 D. All agreements between the commission and the member states are
2 binding in accordance with their terms.

3 E. In the event any provision of the compact exceeds the constitutional
4 limits imposed on the legislature of any member state, the provision shall be
5 ineffective to the extent of the conflict with the constitutional provision
6 in question in that member state.

7
8 17-100-402. Administration of compact – Rules.

9 (a) The Board of Examiners in Speech-Language Pathology and Audiology
10 is the Audiology and Speech-Language Pathology Interstate Compact
11 administrator for this state.

12 (b) The board may adopt rules that are consistent with the Audiology
13 and Speech-Language Pathology Interstate Compact necessary to implement this
14 subchapter.

15 (c) The board is not required to adopt the rules of the Audiology and
16 Speech-Language Pathology Interstate Compact Commission for those rules to be
17 effective in this state.

18
19
20 Referred by Senator K. Hammer

21 Prepared by: JMB/JMB
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