

SENATE BILL No. 77

By Committee on Public Health and Welfare

1-26

1 AN ACT concerning health professions and practices; relating to
2 audiologists and speech-language pathologists; licensure; enacting the
3 audiology and speech-language pathology interstate compact.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. This act shall be known and may be cited as the audiology
7 and speech-language pathology interstate compact.

8 AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY
9 INTERSTATE COMPACT

10 SECTION 1

11 PURPOSE

12 The purpose of this compact is to facilitate interstate practice of
13 audiology and speech-language pathology with the goal of improving
14 public access to audiology and speech-language pathology services. The
15 practice of audiology and speech-language pathology occurs in the state
16 where the patient or client or student is located at the time of the patient or
17 client or student encounter. The compact preserves the regulatory authority
18 of states to protect public health and safety through the current system of
19 state licensure. This compact is designed to achieve the following
20 objectives:

21 (a) Increase public access to audiology and speech-language
22 pathology services by providing for the mutual recognition of other
23 member state licenses;

24 (b) enhance the states' ability to protect the public's health and safety;

25 (c) encourage the cooperation of member states in regulating
26 multistate audiology and speech-language pathology practice;

27 (d) support spouses of relocating active duty military personnel;

28 (e) enhance the exchange of licensure, investigative and disciplinary
29 information between member states;

30 (f) allow a remote state to hold a provider of services with a compact
31 privilege in that state accountable to that state's practice standards; and

32 (g) allow for the use of telehealth technology to facilitate increased
33 access to audiology and speech-language pathology services.

34 SECTION 2

35 DEFINITIONS

36 As used in this compact, and except as otherwise provided, the

1 following definitions shall apply:

2 (a) "Active duty military" means full-time duty status in the active
3 uniformed service of the United States, including members of the National
4 Guard and Reserve on active duty orders pursuant to 10 U.S.C. chapters
5 1209 and 1211.

6 (b) "Adverse action" means any administrative, civil, equitable or
7 criminal action permitted by a state's laws which is imposed by a licensing
8 board or other authority against an audiologist or speech-language
9 pathologist, including actions against an individual's license or privilege to
10 practice such as revocation, suspension, probation, monitoring of the
11 licensee or restriction on the licensee's practice.

12 (c) "Alternative program" means a non-disciplinary monitoring
13 process approved by an audiology or speech-language pathology licensing
14 board to address impaired practitioners.

15 (d) "Audiologist" means an individual who is licensed by a state to
16 practice audiology.

17 (e) "Audiology" means the care and services provided by a licensed
18 audiologist as set forth in the member state's statutes and rules.

19 (f) "Audiology and speech-language pathology compact commission"
20 or "commission" means the national administrative body whose
21 membership consists of all states that have enacted the compact.

22 (g) "Audiology and speech-language pathology licensing board,"
23 "audiology licensing board," "speech-language pathology licensing board,"
24 or "licensing board" means the agency of a state that is responsible for the
25 licensing and regulation of audiologists or speech-language pathologists.

26 (h) "Compact privilege" means the authorization granted by a remote
27 state to allow a licensee from another member state to practice as an
28 audiologist or speech-language pathologist in the remote state under its
29 laws and rules. The practice of audiology or speech-language pathology
30 occurs in the member state where the patient or client or student is located
31 at the time of the patient or client or student encounter.

32 (i) "Current significant investigative information" means investigative
33 information that a licensing board, after an inquiry or investigation that
34 includes notification and an opportunity for the audiologist or speech-
35 language pathologist to respond, if required by state law, has reason to
36 believe is not groundless and, if proved true, would indicate more than a
37 minor infraction.

38 (j) "Data system" means a repository of information about licensees,
39 including, but not limited to, continuing education, examination, licensure,
40 investigative, compact privilege and adverse action.

41 (k) "Encumbered license" means a license in which an adverse action
42 restricts the practice of audiology or speech-language pathology by the
43 licensee and said adverse action has been reported to the national

1 practitioners data bank, NPDB.

2 (l) "Executive committee" means a group of directors elected or
3 appointed to act on behalf of, and within the powers granted to them by,
4 the commission.

5 (m) "Home state" means the member state that is the licensee's
6 primary state of residence.

7 (n) "Impaired practitioner" means individuals whose professional
8 practice is adversely affected by substance abuse, addiction or other
9 health-related conditions.

10 (o) "Licensee" means an individual who currently holds an
11 authorization from the state licensing board to practice as an audiologist or
12 speech-language pathologist.

13 (p) "Member state" means a state that has enacted the compact.

14 (q) "Privilege to practice" means a legal authorization permitting the
15 practice of audiology or speech-language pathology in a remote state.

16 (r) "Remote state" means a member state other than the home state
17 where a licensee is exercising or seeking to exercise the compact privilege.

18 (s) "Rule" means a regulation, principle or directive promulgated by
19 the commission that has the force of law.

20 (t) "Single-state license" means an audiology or speech-language
21 pathology license issued by a member state that authorizes practice only
22 within the issuing state and does not include a privilege to practice in any
23 other member state.

24 (u) "Speech-language pathologist" means an individual who is
25 licensed by a state to practice speech-language pathology.

26 (v) "Speech-language pathology" means the care and services
27 provided by a licensed speech-language pathologist as set forth in the
28 member state's statutes and rules.

29 (w) "State" means any state, commonwealth, district or territory of
30 the United States of America that regulates the practice of audiology and
31 speech-language pathology.

32 (x) "State practice laws" means a member state's laws, rules and
33 regulations that govern the practice of audiology or speech-language
34 pathology, define the scope of audiology or speech-language pathology
35 practice and create the methods and grounds for imposing discipline.

36 (y) "Telehealth" means the application of telecommunication
37 technology to deliver audiology or speech-language pathology services at
38 a distance for assessment, intervention and consultation.

39 SECTION 3

40 STATE PARTICIPATION IN THE COMPACT

41 (a) A license issued to an audiologist or speech-language pathologist
42 by a home state to a resident in that state shall be recognized by each
43 member state as authorizing an audiologist or speech-language pathologist

1 to practice audiology or speech-language pathology, under a privilege to
2 practice, in each member state.

3 (b) A state shall implement or utilize procedures for considering the
4 criminal history records of applicants for initial privilege to practice. These
5 procedures shall include the submission of fingerprints or other biometric-
6 based information by applicants for the purpose of obtaining an applicant's
7 criminal history record information from the federal bureau of
8 investigation and the agency responsible for retaining that state's criminal
9 records.

10 (1) A member state shall fully implement a criminal background
11 check requirement, within a time frame established by rule, by receiving
12 the results of the federal bureau of investigation record search on criminal
13 background checks and use the results in making licensure decisions.

14 (2) Communication between a member state, the commission and
15 among member states regarding the verification of eligibility for licensure
16 through the compact shall not include any information received from the
17 federal bureau of investigation relating to a federal criminal records check
18 performed by a member state under public law 92-544.

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

26 (d) Each member state shall require an applicant to obtain or retain a
27 license in the home state and meet the home state's qualifications for
28 licensure or renewal of licensure, as well as all other applicable state laws.

29 (e) An audiologist shall:

30 (1) Meet one of the following educational requirements:

31 (A) On or before December 31, 2007, have graduated with a master's
32 degree or doctorate in audiology or equivalent degree, regardless of degree
33 name, from a program that is accredited by an accrediting agency
34 recognized by the council for higher education accreditation, or its
35 successor, or by the United States department of education and operated by
36 a college or university accredited by a regional or national accrediting
37 organization recognized by the licensing board;

38 (B) on or after January 1, 2008, have graduated with a doctoral
39 degree in audiology or equivalent degree regardless of degree name from a
40 program that is accredited by an accrediting agency recognized by the
41 council for higher education accreditation, or its successor, or by the
42 United States department of education and operated by a college or
43 university accredited by a regional or national accrediting organization

1 recognized by the licensing board; or

2 (C) have graduated from an audiology program that is housed in an
3 institution of higher education outside of the United States for which: (i)
4 The program and institution have been approved by the authorized
5 accrediting body in the applicable country; and (ii) the degree program has
6 been verified by an independent credentials review agency to be
7 comparable to a state licensing board-approved program;

8 (2) have completed a supervised clinical practicum experience from
9 an accredited educational institution or its cooperating programs as
10 required by the commission;

11 (3) have successfully passed a national examination approved by the
12 commission;

13 (4) hold an active, unencumbered license;

14 (5) have not been convicted or found guilty, and have not entered into
15 an agreed disposition, of a felony related to the practice of audiology,
16 under applicable state or federal criminal law; and

17 (6) have a valid United States social security or national practitioner
18 identification number.

19 (f) A speech-language pathologist shall:

20 (1) Meet one of the following educational requirements:

21 (A) Have graduated with a master's degree from a speech-language
22 pathology program that is accredited by an organization recognized by the
23 United States department of education and operated by a college or
24 university accredited by a regional or national accrediting organization
25 recognized by the licensing board;

26 (B) have graduated from a speech-language pathology program that is
27 housed in an institution of higher education outside of the United States
28 for which: (i) The program and institution have been approved by the
29 authorized accrediting body in the applicable country; and (ii) the degree
30 program has been verified by an independent credentials review agency to
31 be comparable to a state licensing board-approved program; or

32 (C) have completed a supervised clinical practicum experience from
33 an educational institution or its cooperating programs as required by the
34 commission;

35 (2) have completed a supervised postgraduate professional experience
36 as required by the commission;

37 (3) have successfully passed a national examination approved by the
38 commission;

39 (4) hold an active, unencumbered license;

40 (5) have not been convicted or found guilty, and have not entered into
41 an agreed disposition, of a felony related to the practice of speech-
42 language pathology, under applicable state or federal criminal law; and

43 (6) have a valid United States social security or national practitioner

1 identification number.

2 (g) The privilege to practice is derived from the home state license.

3 (h) An audiologist or speech-language pathologist practicing in a
4 member state shall comply with the state practice laws of the state in
5 which the client is located at the time service is provided. The practice of
6 audiology and speech-language pathology shall include all audiology and
7 speech-language pathology practice as defined by the state practice laws of
8 the member state in which the client is located. The practice of audiology
9 and speech-language pathology in a member state under a privilege to
10 practice shall subject an audiologist or speech-language pathologist to the
11 jurisdiction of the licensing board, the courts and the laws of the member
12 state in which the client is located at the time service is provided.

13 (i) Individuals not residing in a member state shall continue to be able
14 to apply for a member state's single-state license as provided under the
15 laws of each member state. However, the single-state license granted to
16 these individuals shall not be recognized as granting the privilege to
17 practice audiology or speech-language pathology in any other member
18 state. Nothing in this compact shall affect the requirements established by
19 a member state for the issuance of a single-state license.

20 (j) Member states may charge a fee for granting a compact privilege.

21 (k) Member states shall comply with the bylaws and rules and
22 regulations of the commission.

23 SECTION 4

24 COMPACT PRIVILEGE

25 (a) To exercise the compact privilege under the terms and provisions
26 of the compact, the audiologist or speech-language pathologist shall:

27 (1) Hold an active license in the home state;

28 (2) have no encumbrance on any state license;

29 (3) be eligible for a compact privilege in any member state in
30 accordance with section 3;

31 (4) have not had any adverse action against any license or compact
32 privilege within the previous two years from date of application;

33 (5) notify the commission that the licensee is seeking the compact
34 privilege within a remote state;

35 (6) pay any applicable fees, including any state fee, for the compact
36 privilege; and

37 (7) report to the commission any adverse action taken by a non-
38 member state within 30 days from the date the adverse action is taken.

39 (b) For the purposes of the compact privilege, an audiologist or
40 speech-language pathologist shall only hold one home state license at a
41 time.

42 (c) Except as provided in section 6, if an audiologist or speech-
43 language pathologist changes primary state of residence by moving

1 between two member states, the audiologist or speech-language
2 pathologist shall apply for licensure in the new home state, and the license
3 issued by the prior home state shall be deactivated in accordance with
4 applicable rules adopted by the commission.

5 (d) The audiologist or speech-language pathologist may apply for
6 licensure in advance of a change in primary state of residence.

7 (e) A license shall not be issued by the new home state until the
8 audiologist or speech-language pathologist provides satisfactory evidence
9 of a change in primary state of residence to the new home state and
10 satisfies all applicable requirements to obtain a license from the new home
11 state.

12 (f) If an audiologist or speech-language pathologist changes the
13 audiologist's or speech-language pathologist's primary state of residence
14 by moving from a member state to a non-member state, the license issued
15 by the prior home state shall convert to a single-state license, valid only in
16 the former home state.

17 (g) The compact privilege is valid until the expiration date of the
18 home state license. The licensee shall comply with the requirements of
19 section 4(a) to maintain the compact privilege in the remote state.

20 (h) A licensee providing audiology or speech-language pathology
21 services in a remote state under the compact privilege shall function within
22 the laws and regulations of the remote state.

23 (i) A licensee providing audiology or speech-language pathology
24 services in a remote state is subject to that state's regulatory authority. A
25 remote state may, in accordance with due process and that state's laws,
26 remove a licensee's compact privilege in the remote state for a specific
27 period of time, impose fines or take any other necessary actions to protect
28 the health and safety of its citizens.

29 (j) If a home state license is encumbered, the licensee shall lose the
30 compact privilege in any remote state until the following occur:

31 (1) The home state license is no longer encumbered; and

32 (2) two years have elapsed from the date of the adverse action.

33 (k) Once an encumbered license in the home state is restored to good
34 standing, the licensee shall be required to meet the requirements of section
35 4(a) to obtain a compact privilege in any remote state.

36 (l) Once the requirements of section 4(j) have been met, the licensee
37 shall be required to meet the requirements in section 4(a) to obtain a
38 compact privilege in a remote state.

39 SECTION 5

40 COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

41 Member states shall recognize the right of an audiologist or speech-
42 language pathologist, licensed by a home state in accordance with section
43 3 and under rules promulgated by the commission, to practice audiology or

1 speech-language pathology in any member state via telehealth under a
2 privilege to practice as provided in the compact and rules promulgated by
3 the commission.

4 SECTION 6

5 ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

6 Active duty military personnel, or their spouse, shall designate a home
7 state where the individual has a current license in good standing. The
8 individual may retain the home state designation during the period the
9 service member is on active duty. Subsequent to designating a home state,
10 the individual shall only change their home state through application for
11 licensure in the new state.

12 SECTION 7

13 ADVERSE ACTIONS

14 (a) In addition to the other powers conferred by state law, a remote
15 state shall have the authority, in accordance with existing state due process
16 law, to:

17 (1) Take adverse action against an audiologist's or speech-language
18 pathologist's privilege to practice within that member state; and

19 (2) issue subpoenas for both hearings and investigations that require
20 the attendance and testimony of witnesses as well as the production of
21 evidence. Subpoenas issued by a licensing board in a member state for the
22 attendance and testimony of witnesses or the production of evidence from
23 another member state shall be enforced in the latter state by any court of
24 competent jurisdiction, according to the practice and procedure of that
25 court applicable to subpoenas issued in proceedings pending before it. The
26 issuing authority shall pay any witness fees, travel expenses, mileage and
27 other fees required by the service statutes of the state in which the
28 witnesses or evidence are located.

29 (3) Only the home state shall have the power to take adverse action
30 against an audiologist's or speech-language pathologist's license issued by
31 the home state.

32 (b) For purposes of taking adverse action, the home state shall give
33 the same priority and effect to reported conduct received from a member
34 state as it would if the conduct had occurred within the home state. In so
35 doing, the home state shall apply its own state laws to determine
36 appropriate action.

37 (c) The home state shall complete any pending investigations of an
38 audiologist or speech-language pathologist who changes primary state of
39 residence during the course of the investigations. The home state shall also
40 have the authority to take appropriate action and shall promptly report the
41 conclusions of the investigations to the administrator of the data system.
42 The administrator of the coordinated licensure information system shall
43 promptly notify the new home state of any adverse actions.

1 (d) If otherwise permitted by state law, the member state may recover
2 from the affected audiologist or speech-language pathologist the costs of
3 investigations and disposition of cases resulting from any adverse action
4 taken against that audiologist or speech-language pathologist.

5 (e) The member state may take adverse action based on the factual
6 findings of the remote state, provided that the member state follows the
7 member state's own procedures for taking the adverse action.

8 (f) *Joint Investigations.*

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

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

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

25 (h) If a member state takes adverse action, it shall promptly notify the
26 administrator of the data system. The administrator of the data system shall
27 promptly notify the home state of any adverse actions by remote states.

28 (i) Nothing in this compact shall override a member state's decision
29 that participation in an alternative program may be used in lieu of adverse
30 action.

31 SECTION 8

32 ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH- 33 LANGUAGE PATHOLOGY COMPACT COMMISSION

34 (a) The compact member states hereby create and establish a joint
35 public agency known as the audiology and speech-language pathology
36 compact commission.

37 (1) The commission is an instrumentality of the compact states.

38 (2) Venue is proper and judicial proceedings by or against the
39 commission shall be brought solely and exclusively in a court of
40 competent jurisdiction where the principal office of the commission is
41 located. The commission may waive venue and jurisdictional defenses to
42 the extent it adopts or consents to participate in alternative dispute
43 resolution proceedings.

1 (3) Nothing in this compact shall be construed to be a waiver of
2 sovereign immunity.

3 (b) Membership, voting and meetings:

4 (1) Each member state shall have two delegates selected by that
5 member state's licensing board. The delegates shall be current members of
6 the licensing board. One shall be an audiologist and one shall be a speech-
7 language pathologist;

8 (2) an additional five delegates, who are either a public member or
9 board administrator from a state licensing board, shall be chosen by the
10 executive committee from a pool of nominees provided by the commission
11 at large;

12 (3) any delegate may be removed or suspended from office as
13 provided by the law of the state from which the delegate is appointed; and

14 (4) the member state board shall fill any vacancy occurring on the
15 commission, within 90 days.

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

19 (6) A delegate shall vote in person or by other means as provided in
20 the bylaws. The bylaws may provide for delegates' participation in
21 meetings by telephone or other means of communication.

22 (7) The commission shall meet at least once during each calendar
23 year. Additional meetings shall be held as set forth in the bylaws.

24 (c) The commission shall have the following powers and duties:

25 (1) Establish the fiscal year of the commission;

26 (2) establish bylaws;

27 (3) establish a code of ethics;

28 (4) maintain its financial records in accordance with the bylaws;

29 (5) meet and take actions as are consistent with the provisions of this
30 compact and the bylaws;

31 (6) promulgate uniform rules to facilitate and coordinate
32 implementation and administration of this compact. The rules shall have
33 the force and effect of law and shall be binding in all member states;

34 (7) bring and prosecute legal proceedings or actions in the name of
35 the commission, provided that the standing of any state audiology or
36 speech-language pathology licensing board to sue or be sued under
37 applicable law shall not be affected;

38 (8) purchase and maintain insurance and bonds;

39 (9) borrow, accept or contract for services of personnel, including, but
40 not limited to, employees of a member state;

41 (10) hire employees, elect or appoint officers, fix compensation,
42 define duties, grant individuals appropriate authority to carry out the
43 purposes of the compact and establish the commission's personnel policies

- 1 and programs relating to conflicts of interest, qualifications of personnel
2 and other related personnel matters;
- 3 (11) accept any and all appropriate donations and grants of money,
4 equipment, supplies, materials and services, and to receive, utilize and
5 dispose of the same, provided that at all times the commission shall avoid
6 any appearance of impropriety and conflict of interest;
- 7 (12) lease, purchase, accept appropriate gifts or donations of, or
8 otherwise to own, hold, improve or use, any property, real, personal or
9 mixed, provided that at all times the commission shall avoid any
10 appearance of impropriety;
- 11 (13) sell, convey, mortgage, pledge, lease, exchange, abandon or
12 otherwise dispose of any property, real, personal or mixed;
- 13 (14) establish a budget and make expenditures;
- 14 (15) borrow money;
- 15 (16) appoint committees, including standing committees composed of
16 members and other interested persons as may be designated in this
17 compact and the bylaws;
- 18 (17) provide and receive information from, and cooperate with, law
19 enforcement agencies;
- 20 (18) establish and elect an executive committee; and
- 21 (19) perform other functions as may be necessary or appropriate to
22 achieve the purposes of this compact consistent with the state regulation of
23 audiology and speech-language pathology licensure and practice.
- 24 (d) *Executive committee.*
- 25 (1) The executive committee shall have the power to act on behalf of
26 the commission according to the terms of this compact.
- 27 (2) The executive committee shall be composed of 10 members:
- 28 (A) Seven voting members who are elected by the commission from
29 the current membership of the commission;
- 30 (B) two ex-officio members, consisting of one nonvoting member
31 from a recognized national audiology professional association and one
32 nonvoting member from a recognized national speech-language pathology
33 association; and
- 34 (C) one ex-officio, nonvoting member from the recognized
35 membership organization of the audiology and speech-language pathology
36 licensing boards.
- 37 (e) The ex-officio members shall be selected by their respective
38 organizations.
- 39 (1) The commission may remove any member of the executive
40 committee as provided in the bylaws.
- 41 (2) The executive committee shall meet at least annually.
- 42 (3) The executive committee shall have the following duties and
43 responsibilities:

- 1 (A) Recommend to the entire commission changes to the rules or
2 bylaws, changes to this compact legislation, fees paid by compact member
3 states such as annual dues and any commission compact fee charged to
4 licensees for the compact privilege;
- 5 (B) ensure compact administration services are appropriately
6 provided, contractual or otherwise;
- 7 (C) prepare and recommend the budget;
- 8 (D) maintain financial records on behalf of the commission;
- 9 (E) monitor compact compliance of member states and provide
10 compliance reports to the commission;
- 11 (F) establish additional committees as necessary; and
- 12 (G) other duties as provided in rules or bylaws.
- 13 (4) *Meetings of the commission.* All meetings shall be open to the
14 public, and public notice of meetings shall be given in the same manner as
15 required under the rulemaking provisions in section 10.
- 16 (5) The commission or the executive committee or other committees
17 of the commission may convene in a closed, non-public meeting if the
18 commission or executive committee or other committees of the
19 commission must discuss:
- 20 (A) Non-compliance of a member state with its obligations under the
21 compact;
- 22 (B) the employment, compensation, discipline or other matters,
23 practices or procedures related to specific employees or other matters
24 related to the commission's internal personnel practices and procedures;
- 25 (C) current, threatened or reasonably anticipated litigation;
- 26 (D) negotiation of contracts for the purchase, lease or sale of goods,
27 services or real estate;
- 28 (E) accusing any person of a crime or formally censuring any person;
- 29 (F) disclosure of trade secrets or commercial or financial information
30 that is privileged or confidential;
- 31 (G) disclosure of information of a personal nature where disclosure
32 would constitute a clearly unwarranted invasion of personal privacy;
- 33 (H) disclosure of investigative records compiled for law enforcement
34 purposes;
- 35 (I) disclosure of information related to any investigative reports
36 prepared by or on behalf of or for use of the commission or other
37 committee charged with responsibility of investigation or determination of
38 compliance issues pursuant to the compact; or
- 39 (J) matters specifically exempted from disclosure by federal or
40 member state statute.
- 41 (6) If a meeting, or portion of a meeting, is closed pursuant to this
42 provision, the commission's legal counsel or designee shall certify that the
43 meeting may be closed and shall reference each relevant exempting

1 provision.

2 (7) The commission shall keep minutes that fully and clearly describe
3 all matters discussed in a meeting and shall provide a full and accurate
4 summary of actions taken, and the reasons therefor including a description
5 of the views expressed. All documents considered in connection with an
6 action shall be identified in minutes. All minutes and documents of a
7 closed meeting shall remain under seal, subject to release by a majority
8 vote of the commission or order of a court of competent jurisdiction.

9 (8) *Financing of the commission.*

10 (A) The commission shall pay, or provide for the payment of, the
11 reasonable expenses of its establishment, organization and ongoing
12 activities.

13 (B) The commission may accept any and all appropriate revenue
14 sources, donations and grants of money, equipment, supplies, materials
15 and services.

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

24 (9) The commission shall not incur obligations of any kind prior to
25 securing the funds adequate to meet the same, nor shall the commission
26 pledge the credit of any of the member states, except by and with the
27 authority of the member state.

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

35 (f) *Qualified immunity, defense and indemnification.*

36 (1) The members, officers, executive director, employees and
37 representatives of the commission shall be immune from suit and liability,
38 either personally or in their official capacity, for any claim for damage to
39 or loss of property or personal injury or other civil liability caused by or
40 arising out of any actual or alleged act, error or omission that occurred, or
41 that the person against whom the claim is made had a reasonable basis for
42 believing occurred within the scope of commission employment, duties or
43 responsibilities; provided that nothing in this paragraph shall be construed

1 to protect any person from suit or liability for any damage, loss, injury or
2 liability caused by the intentional or willful or wanton misconduct of that
3 person.

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

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

24 SECTION 9

25 DATA SYSTEM

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

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

34 (1) Identifying information;

35 (2) licensure data;

36 (3) adverse actions against a license or compact privilege;

37 (4) non-confidential information related to alternative program
38 participation;

39 (5) any denial of application for licensure, and the reason for denial;
40 and

41 (6) other information that may facilitate the administration of this
42 compact, as determined by the rules of the commission.

43 (c) Investigative information pertaining to a licensee in any member

1 state shall only be available to other member states.

2 (d) The commission shall promptly notify all member states of any
3 adverse action taken against a licensee or an individual applying for a
4 license. Adverse action information pertaining to a licensee in any member
5 state shall be available to any other member state.

6 (e) Member states contributing information to the data system may
7 designate information that may not be shared with the public without the
8 express permission of the contributing state.

9 (f) Any information submitted to the data system that is subsequently
10 required to be expunged by the laws of the member state contributing the
11 information shall be removed from the data system.

12 SECTION 10
13 RULEMAKING

14 (a) The commission shall exercise its rulemaking powers pursuant to
15 the criteria set forth in this section and the rules adopted thereunder. Rules
16 and amendments shall become binding as of the date specified in each rule
17 or amendment.

18 (b) If a majority of the legislatures of the member states rejects a rule,
19 by enactment of a statute or resolution in the same manner used to adopt
20 the compact within four years of the date of adoption of the rule, the rule
21 shall have no further force and effect in any member state.

22 (c) Rules or amendments to the rules shall be adopted at a regular or
23 special meeting of the commission.

24 (d) Prior to promulgation and adoption of a final rule or rules by the
25 commission, and at least 30 days in advance of the meeting at which the
26 rule shall be considered and voted upon, the commission shall file a notice
27 of proposed rulemaking:

28 (1) On the website of the commission or other publicly accessible
29 platform; and

30 (2) on the website of each member state audiology or speech-
31 language pathology licensing board or other publicly accessible platform
32 or the publication in which each state would otherwise publish proposed
33 rules.

34 (e) The notice of proposed rulemaking shall include:

35 (1) The proposed time, date and location of the meeting in which the
36 rule shall be considered and voted upon;

37 (2) the text of the proposed rule or amendment and the reason for the
38 proposed rule;

39 (3) a request for comments on the proposed rule from any interested
40 person; and

41 (4) the manner in which interested persons may submit notice to the
42 commission of their intention to attend the public hearing and any written
43 comments.

1 (f) Prior to the adoption of a proposed rule, the commission shall
2 allow persons to submit written data, facts, opinions and arguments, which
3 shall be made available to the public.

4 (g) The commission shall grant an opportunity for a public hearing
5 before it adopts a rule or amendment if a hearing is requested by:

6 (1) At least 25 persons;

7 (2) a state or federal governmental subdivision or agency; or

8 (3) an association having at least 25 members.

9 (h) If a hearing is held on the proposed rule or amendment, the
10 commission shall publish the place, time and date of the scheduled public
11 hearing. If the hearing is held via electronic means, the commission shall
12 publish the mechanism for access to the electronic hearing.

13 (1) All persons wishing to be heard at the hearing shall notify the
14 executive director of the commission or other designated member in
15 writing of their desire to appear and testify at the hearing not less than five
16 business days before the scheduled date of the hearing.

17 (2) Hearings shall be conducted in a manner providing each person
18 who wishes to comment a fair and reasonable opportunity to comment
19 orally or in writing.

20 (3) All hearings shall be recorded. A copy of the recording shall be
21 made available on request.

22 (4) Nothing in this section shall be construed as requiring a separate
23 hearing on each rule. Rules may be grouped for the convenience of the
24 commission at hearings required by this section.

25 (i) Following the scheduled hearing date, or by the close of business
26 on the scheduled hearing date if the hearing was not held, the commission
27 shall consider all written and oral comments received.

28 (j) If no written notice of intent to attend the public hearing by
29 interested parties is received, the commission may proceed with
30 promulgation of the proposed rule without a public hearing.

31 (k) The commission shall, by majority vote of all members, take final
32 action on the proposed rule and shall determine the effective date of the
33 rule, if any, based on the rulemaking record and the full text of the rule.

34 (l) Upon determination that an emergency exists, the commission
35 may consider and adopt an emergency rule without prior notice,
36 opportunity for comment or hearing, provided that the usual rulemaking
37 procedures provided in the compact and in this section shall be
38 retroactively applied to the rule as soon as reasonably possible, in no event
39 later than 90 days after the effective date of the rule. For the purposes of
40 this provision, an emergency rule is one that must be adopted immediately
41 in order to:

42 (1) Meet an imminent threat to public health, safety or welfare;

43 (2) prevent a loss of commission or member state funds; or

1 (3) meet a deadline for the promulgation of an administrative rule that
2 is established by federal law or rule.

3 (m) The commission or an authorized committee of the commission
4 may direct revisions to a previously adopted rule or amendment for
5 purposes of correcting typographical errors, errors in format, errors in
6 consistency or grammatical errors. Public notice of any revisions shall be
7 posted on the website of the commission. The revision shall be subject to
8 challenge by any person for a period of 30 days after posting. The revision
9 may be challenged only on grounds that the revision results in a material
10 change to a rule. A challenge shall be made in writing and delivered to the
11 chair of the commission prior to the end of the notice period. If no
12 challenge is made, the revision shall take effect without further action. If
13 the revision is challenged, the revision may not take effect without the
14 approval of the commission.

15 SECTION 11

16 OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

17 (a) *Dispute Resolution.*

18 (1) Upon request by a member state, the commission shall attempt to
19 resolve disputes related to the compact that arise among member states and
20 between member and non-member states.

21 (2) The commission shall promulgate a rule providing for both
22 mediation and binding dispute resolution for disputes as appropriate.

23 (b) *Enforcement.*

24 (1) The commission, in the reasonable exercise of its discretion, shall
25 enforce the provisions and rules of this compact.

26 (2) By majority vote, the commission may initiate legal action in the
27 United States district court for the District of Columbia or the federal
28 district where the commission has its principal offices against a member
29 state in default to enforce compliance with the provisions of the compact
30 and its promulgated rules and bylaws. The relief sought may include both
31 injunctive relief and damages. In the event judicial enforcement is
32 necessary, the prevailing member shall be awarded all costs of litigation,
33 including reasonable attorney fees.

34 (3) The remedies herein shall not be the exclusive remedies of the
35 commission. The commission may pursue any other remedies available
36 under federal or state law.

37 SECTION 12

38 DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION 39 FOR AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY 40 PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND 41 AMENDMENT

42 (a) The compact shall come into effect on the date on which the
43 compact statute is enacted into law in the 10th member state. The

1 provisions, which become effective at that time, shall be limited to the
2 powers granted to the commission relating to assembly and the
3 promulgation of rules. Thereafter, the commission shall meet and exercise
4 rulemaking powers necessary to the implementation and administration of
5 the compact.

6 (b) Any state that joins the compact subsequent to the commission's
7 initial adoption of the rules shall be subject to the rules as they exist on the
8 date on which the compact becomes law in that state. Any rule that has
9 been previously adopted by the commission shall have the full force and
10 effect of law on the day the compact becomes law in that state.

11 (c) Any member state may withdraw from this compact by enacting a
12 statute repealing the same.

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

15 (2) Withdrawal shall not affect the continuing requirement of the
16 withdrawing state's audiology or speech-language pathology licensing
17 board to comply with the investigative and adverse action reporting
18 requirements of this act prior to the effective date of withdrawal.

19 (d) Nothing contained in this compact shall be construed to invalidate
20 or prevent any audiology or speech-language pathology licensure
21 agreement or other cooperative arrangement between a member state and a
22 non-member state that does not conflict with the provisions of this
23 compact.

24 (e) This compact may be amended by the member states. No
25 amendment to this compact shall become effective and binding upon any
26 member state until it is enacted into the laws of all member states.

27 SECTION 13

28 CONSTRUCTION AND SEVERABILITY

29 This compact shall be liberally construed so as to effectuate the
30 purposes thereof. The provisions of this compact shall be severable and if
31 any phrase, clause, sentence or provision of this compact is declared to be
32 contrary to the constitution of any member state or of the United States or
33 the applicability thereof to any government, agency, person or
34 circumstance is held invalid, the validity of the remainder of this compact
35 and the applicability thereof to any government, agency, person or
36 circumstance shall not be affected thereby. If this compact shall be held
37 contrary to the constitution of any member state, the compact shall remain
38 in full force and effect as to the remaining member states and in full force
39 and effect as to the member state affected as to all severable matters.

40 SECTION 14

41 BINDING EFFECT OF COMPACT AND OTHER LAWS

42 (a) Nothing herein prevents the enforcement of any other law of a
43 member state that is not inconsistent with the compact.

1 (b) All laws in a member state in conflict with the compact are
2 superseded to the extent of the conflict.

3 (c) All lawful actions of the commission, including all rules and
4 bylaws promulgated by the commission, are binding upon the member
5 states.

6 (d) All agreements between the commission and the member states
7 are binding in accordance with their terms.

8 (e) In the event any provision of the compact exceeds the
9 constitutional limits imposed on the legislature of any member state, the
10 provision shall be ineffective to the extent of the conflict with the
11 constitutional provision in question in that member state.

12 Sec. 2. This act shall take effect and be in force from and after its
13 publication in the statute book.